Written Submission for the Pre-Budget Consultations in Advance of the 2020 Budget

HOTEL ASSOCIATION OF CANADA
ASSOCIATION DES HÔTELS DU CANADA

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Recommendations

Recommendation 1: Ensure all corporations that operate in Canada through a digital presence pay corporate income tax on Canadian earnings.

Recommendation 2: Amend the Excise Tax Act to require offshore short-term rental platform companies operating in Canada to charge GST/HST to hosts and guests on all service fees.

Recommendation 3: Amend the Excise Tax Act to parallel the treatment for ride-sharing by eliminating the use of the small-supplier threshold for short-term rental accommodations.

Recommendation 4: Amend the Income Tax Act to require short-term rental platform companies to issue an annual information slip on gross earnings to hosts.

Recommendation 5: Develop and implement an information and enforcement program through the Canada Revenue Agency to encourage voluntary compliance for the short-term rental industry.

Recommendation 6: Provide sustainable, long term investment to support programs focused on connecting under-represented Canadians including youth, Indigenous Peoples and women, to available jobs in the accommodations sector.

Recommendation 7: In collaboration with the Hotel Association of Canada, develop and implement a program to address the seasonal shortages in the accommodation sector through intra-brand employee exchanges, or bilateral agreements with suitable countries.

Recommendation 8: Review and update the Temporary Foreign Worker Program through the lowering of application fees, streamlined re-application for workers and the establishment of a pathway to permanent residency.

Recommendation 9: Replicate the new three-year immigration pilot program for the agri-food sector – which provides temporary foreign workers the opportunity to become permanent residents - for the accommodation sector, to help alleviate the negative impacts of labour shortages in the industry.

Recommendation 10: Make Destination Canada a more competitive tourism marketing organization to ensure long-term sustainable funding by increasing base funding to $135 million annually.

About the Hotel Association of Canada

The Hotel Association of Canada (HAC) represents more than 8,200 hotels, motels and resorts that employ 306,600 people across Canada. Our industry generates revenues estimated at $9 billion for all three levels of government.

The Transformation of the Short-Term Rental Industry

Short-term rental operations provided by digital platforms like Airbnb continue to grow, while our laws remain outdated. According to a recent Statistics Canada report, revenue for the private short-term accommodation market in Canada is estimated at $2.8 billion in 2018.

While Airbnb was meant to be a platform for people to share rooms within their homes, it is now a multibillion-dollar corporation that has no responsibilities to federal taxation and other regulatory realities.

From 2015 to 2017, multi-unit entire-home hosts were the fastest growing segment compared to all other Airbnb host types, with revenues more than doubling from $71 million to $167 million – a 134% increase. These commercial operators are acting like hotels without the same responsibilities to taxation, health and safety standards, business licenses, and insurance. This means that community life is being impacted and long-term rental units are being repurposed for short-term rentals, exacerbating a shortage of affordable housing and driving up rental rates. In June, a McGill University study revealed that approximately 31,000 homes across Canada were likely taken off the long-term rental market due to Airbnb.

While hotels pay taxes to reinvest in and strengthen our communities, these digital platforms reap the benefits of our communities without paying their fair share. They currently exploit a pre-digital loophole in tax policy, in which they are exempt as they do not have any stores or offices here. All businesses operating in Canada, regardless if they have a physical presence or not, should be given the benefit of a level playing field.

The Auditor General of Canada's 2019 Spring Report on the Taxation of E-Commerce estimated losses of $169 million in sales tax revenues on foreign digital products and services sold in Canada in 2017. Furthermore, a 2017 CBRE Study revealed that Canada's Airbnb sector has the potential to contribute nearly $100 million annually in consumer taxes and fees to the Canadian economy.

Canadians agree that it's only fair that foreign e-commerce companies that conduct business here have the same tax obligations as Canadian companies. An Environics Research poll and separate study of Canada Revenue Agency (CRA) tax professionals revealed that almost 8-in-10 Canadians (77%) and almost 9-in-10 (87%) CRA tax professionals are in agreement that foreign e-commerce companies should be subject to Canadian taxes for business carried out in Canada.

Many jurisdictions around the world have modernized their laws to level the playing field, including the EU, UK, France, Australia, Japan, South Korea and multiple U.S. jurisdictions. Similarly, several municipalities and provinces in Canada have acted. Canada's federal government has fallen behind. In order to help Canadian businesses be more productive and competitive, the government must ensure tax fairness so that Canada's lodging sector can invest in a market with a level playing field.

Recommendation 1: Platform Providers to pay Corporate Income Tax on Canadian Profits

Canadian employers pay income tax on their profits while digital companies operating in Canada without employees and a permanent establishment legally pay nothing. Because the corporate offices of digital platform companies are located abroad, this shrouds the reality that they are operating a business in Canada and are competing with Canadian employers. Airbnb's website features many references about how to do business in Canada and they certainly have no shortage of Canadian lobbyists advocating on their behalf to protect their privileged status and unfair advantages. Yet, they get a pass on income tax.

It is not the Canadian "hosts" that the government is shielding from paying tax. Airbnb operates in 191 countries and has a company value in excess of $30 billion. Another platform behemoth, Homeaway Inc., operates in 190 countries with over 2 million listed properties. It functions as a conglomerate of over 25 companies, including such well-known names as VRBO and Booking.com. These are not entities who should be given a break on taxes that Canadian employers are obliged to pay.

Recommendation 2: Platform Companies to Charge HST/GST on Service Fees

The same antiquated regime that exists on corporate income tax also applies to sales tax. Because platform companies have no permanent establishment in Canada, they are excused from levying the GST/HST on the fees charged to hosts and guests. A Canadian company operating a reservation system enjoys no such benefit.

According to the Airbnb website, it charges consumption taxes on its service fees for customers from countries such as Albania, Belarus, Iceland, Norway, Russia, Switzerland, Taiwan, the Bahamas, Japan, and the European Union. Additionally, some provinces have moved to capture tax from short-term rental platforms for their provincial portions. The Federal Government should do the same.

Recommendation 3: Charge GST/HST for Hosts at the Platform Level

It is the responsibility of businesses to collect tax on behalf of the government and yet short-term rental platforms and hosts are not doing so consistently, transparently, or in some cases, at all.

Canada's practice of requiring consumers to self-asses the GST/HST is at odds with the OECD, which recommends that when required, digital product vendors collect and remit the sales tax on behalf of consumers.

It's almost impossible to tell at the time of booking on Airbnb whether a host is registered to collect GST or not. There is no mechanism on the Airbnb booking system for property owners to assess the tax.

To alleviate concerns that rectifying this would be complicated for small operators, one only needs to look at the precedent set in 2017 for ride sharing services and taxis. Similar to taxis, the easiest solution for the short-term rental industry would be for platform companies to assess the GST/HST at the time of booking on all reservations. Doing so would be straightforward for the platform companies and would make the system consistent for hosts and guests.

Recommendation 4: Require Platform Companies to Issue Tax Information Slips to Hosts

Airbnb states that in many jurisdictions it sends reminder notices to its hosts about tax issues, but it does not routinely share this data with government authorities. This makes it difficult to detect non-compliance.

Some American jurisdictions (Massachusetts and Vermont) obligate rental platform companies to issue official tax information slips to any host with revenues above $600. Airbnb is also required to share its data with Danish tax authorities.

The Auditor General's Spring Report on the Taxation of E-Commerce recommends that the Canada Revenue Agency expand its compliance activities and leverage available third-party data to enhance its ability to direct and deter non-compliance for the GST/HST in e-commerce, including accommodation sharing.

An industry-wide reporting requirement would not only be an effective and inexpensive tool to achieve voluntary tax compliance; it would also simplify the accounting for hosts.

Recommendation 5: Implement Information and Compliance Program for Short-Term Rental Industry

The introduction of tax information slips would provide the Canada Revenue Agency with a simple tool to determine if rental income is being reported on individual tax returns. There is also information becoming available from municipal registries of those who are renting out their home and investment properties. Some non-compliance may be unintentional, so an information campaign would be beneficial in this period of transition.

Recommendations 6, 7, 8 and 9: Addressing Labour Shortages

Hotels across Canada continue to face critical labour shortages, both year-round and during peak periods. This shortage will become more acute as the available pool of employees continues to steadily decline. Over the next 16 years, we anticipate a labour shortage of over 10,000 employees. The ability of Canada's hotel industry to promote economic growth and remain competitive will be threatened if this downward trend continues.

Hoteliers are committed to hiring Canadians first and have gone to great lengths with recruitment efforts, including its recent partnership with IRCC to mobilize new Canadians into available hotel jobs. However, further mechanisms and resources are needed to help attract, support and retain under-represented groups. We therefore recommend that the government develop and implement industry specific programs to connect under-represented Canadians including youth, Indigenous Peoples and women, to available jobs in the accommodations sector.

The above efforts will assist with the chronic, year-round labour shortage, but will not address the seasonal periods where additional workers are required on a temporary basis. The reality is the labour pool is thin and finite. The workers that can work on a temporary basis in Canada don't always line up with the tourism season. For the ones that are available, there are many industries competing for the same worker pool. Simply put, there are not enough workforce entrants to fill seasonal or entry level occupations, especially in rural and remote communities.

We encourage the government to recognize this seasonal aspect and develop a program focused on mobility or exchange with suitable foreign countries. This could be achieved through intra-brand hotel companies who operate world-wide, or bilaterally with other countries.

Further, the roles Temporary Foreign Workers (TFW) fill are essential, as they provide immense value to help our hotels run and serve visitors. Due to the immediate and significant impacts of labour shortages, an effective, streamlined and balanced TFW Program is urgently needed.

Finally, we recommend that the new three-year immigration pilot program for the agri-food sector – which provides temporary foreign workers the opportunity to become permanent residents – be replicated for the accommodation sector.

Recommendation 10: Improve Tourism Marketing

Current funding levels for Destination Canada significantly impact our ability to maximize Canada's potential to reach and appeal to potential international visitors in an increasingly competitive global marketplace. Canada's hotel sector was pleased to see funding recently stabilized at $95.5M a year. However, base funding should be increased to $135 million annually, which will ensure that Canada remains innovative and competitive in its approach to marketing performance.

Conclusion

The Government of Canada can encourage investment, growth and employment in the tourism and hospitality sectors —while also sustaining the digital economy for short-term rental accommodations — by modernizing its tax policies, supporting programs to address labour shortages, and providing continued support for tourism marketing funding.