



CLEARING THE PATH

VOLUME 10 | ISSUE 01 | SUMMER 2016

A First Nations Tax Commission Quarterly Publication

A new fiscal relationship for First Nations: Expanded jurisdiction for a nation-to-nation relationship

First Nations today simply do not have enough funding or power to solve the numerous difficult issues they are plagued with every day. Many First Nations across Canada are struggling to deliver the most basic services to their community members with meagre resources and little capacity. However, these First Nations want to provide more than just the basics to their communities. They aspire to lift their people out of poverty and provide opportunities for individual and community prosperity. Many First Nations are also looking to the future and want to lay the groundwork for the success of future generations.

As First Nations strive to find new and innovative ways to fix these issues, they are faced with many obstacles that can leave many frustrated and asking questions about why the system works the way it does. Why does economic development work differently on reserve? What is the difference between the funding a First Nation receives and the funding a municipality receives? Why do some communities seem to grow while others seem stuck?

The First Nations Tax Commission (FNTC) has been researching, applying and working toward improved solutions to these complex economic issues for over 25 years. However, many First Nations do not understand how the FNTC supports the governance and jurisdiction of First Nation governments and strives to see them flourish.

The current model of federal government programming provides First Nations with funding. While there are many great programs and opportunities for First Nations, especially when the federal government has specific mandates directed at improving life on reserve, relying on these programs means funds are always limited and will change with the federal government's mandate and objectives. This means two things for First Nations:

1. There is never enough funding to make a difference and
2. First Nation cannot make decisions or set directions independent from the federal government.

First Nations have also been working for decades toward solutions to these issues. One solution is for First Nation governments to raise their own revenues, independent from government programs, transfers and royalties. Almost 200 First Nation across Canada are implementing property taxation on reserve, with the support of the FNTC. This jurisdiction leads to First Nations collecting approximately \$80 million per year. That is \$80 million dollars spent on improving local services and building community infrastructure in First Nations across Canada. That is \$80 million dollars that First Nation leaders have added to their budgets with the power to decide where each dollar goes based on their own laws and strategic plans.

This trend is exciting and the increased capacity and strength is visibly evident in First Nation communities that have implemented property taxation. However, is it enough? Can we be satisfied with this glass ceiling and not seek more jurisdiction, more autonomy, and more independent revenue? Can a true nation-to-nation relationship be achieved when one government is dependent on transfers from another?

A new fiscal relationship between First Nations and the Government of Canada should be based on more than federal transfers and unpredictable agreements. First Nations funding should not be determined by a line in the federal budget. The new fiscal relationship should include full tax powers for First Nations, just as other governments have the ability to share portions of the tax revenue collected locally, provincially and federally. Different levels of government have the ability to operate and provide quality services to their citizens through this arrangement. Why are First Nations excluded from that relationship?

There is no question First Nations should have this same fiscal relationship. To receive tax revenue first hand, instead of down the line after administration costs and outside mandates are added on. This new fiscal relationship would provide First Nations the ability to generate revenues to protect their interests. First Nations are the best care-takers of their own people, lands and resources. First Nations should have the financial jurisdiction and power to choose.

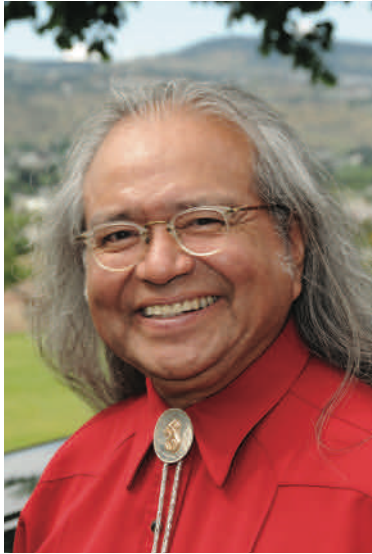
The future of our communities depends on the decisions we make today. The opportunity for our leadership to create this change is here now. 🌟



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Chief Commissioner's Message



We all know the story of what happened to our land. First Nation leaders have spent generations trying to regain land that was unjustly taken away. It is a shame that so many of us do not know the story of what happened to our tax jurisdiction as well. First Nations collected taxes in traditional times but during the period between 1885 and 1927, we were legislated out of tax fields and we have been fighting to restore those powers ever since.

Our governments still live on tax revenues. That hasn't changed. What has changed is who collects the tax. For the most part, it is not our governments; it is the federal and provincial governments. The federal government in particular collects the tax and then decides how much we will receive. So you might say transfers from the federal government are second-hand taxes.

Getting our tax jurisdiction back can be as important as getting our land back. So long as we only get second-hand tax, we are going to be last in line for funds. We are going to be letting other people tell us what is and what isn't a priority and we are going to be subject to their conditions and reporting requirements.

The majority of our revenues should come from taxes we collect ourselves. As first peoples and original governments of these lands, we should be at the front, not the back of the line, for revenues. At the upcoming Assembly of First Nations (AFN) Annual General Assembly, some of you might notice our exhibit. It is a simple message. Right now our governments receive about \$12 billion in second-hand taxes each year and collect about \$250 million in tax. It sounds good, but if we had our share of the national tax jurisdiction we would collect about \$20 billion each year.

Tax jurisdiction is permanent but second-hand taxes, whether they are transfers or revenue sharing, are not. They are discretionary expenditures. Other governments can reduce them, and often have reduced them, when faced with financial trouble.

If we are ever to close the gaps in housing, infrastructure, and health, social services, education and child welfare, we need to first close the tax jurisdiction gap. If we collect our own taxes, we will be able to restore our institutions and jurisdictions. We will also be able to grow our economies, sustain our communities, cultures and identities, and raise the incomes of our citizens. We will be self-reliant. We will be responsible for our betterment.

This is why I was happy to recently meet the Minister of Finance and the Minister of Indigenous Affairs to discuss how to act on their recent commitment to the United Nations Declaration on the Rights of Indigenous Peoples. We talked about expanding our tax jurisdiction, restoring our institutions of government and moving from transfer-funded to tax-funded services. We discussed practical initiatives and options like the Aboriginal Resource Tax, expanded First Nation sales and tobacco taxation, a First Nation infrastructure institute, increased number of laws in the *First Nations Gazette*, the Tulo Centre of Indigenous Economics and the Indigenous land title proposal.

I believe we have an historic opportunity for positive change. We need the support of all of our institutions to implement our jurisdictions and build our capacity. We need practical First Nation-led proposals. Our communities and citizens need positive options to significantly close the gaps and "create a new and better memory for our children". 🌱

Sincerely,



C.T. (Manny) Jules
Chief Commissioner



Chippewas of Kettle and Stony Point First Nation: First to exercise FMA property tax jurisdiction in Ontario

The Chippewas of Kettle and Stony Point (CKSP) has recently become the first First Nation in Ontario to establish its property taxation jurisdiction under the FMA.

As part of rolling out its property tax regime, the CKSP has also formalized a working relationship with Municipal Property Assessment Corporation of Ontario (MPAC) resulting in contracted assessment services being provided to the First Nation.

The Kettle Point reserve is located in southwestern Ontario along the southeast shore of Lake Huron, 35 kilometres northeast of Sarnia and adjacent to the town of Forest. The Kettle Point reserve is approximately 1,100 hectares and includes 300 cottage leaseholds.

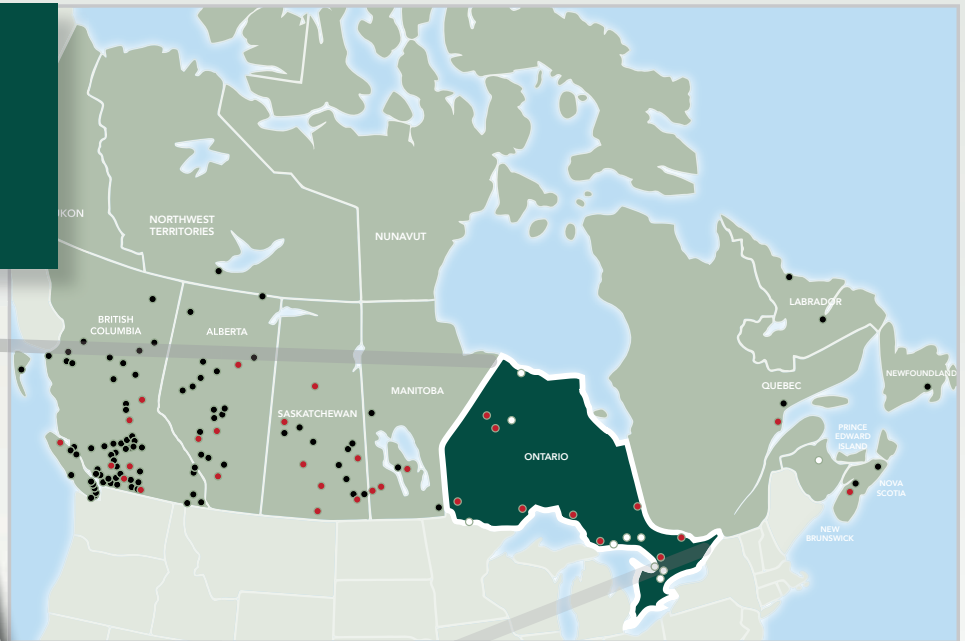
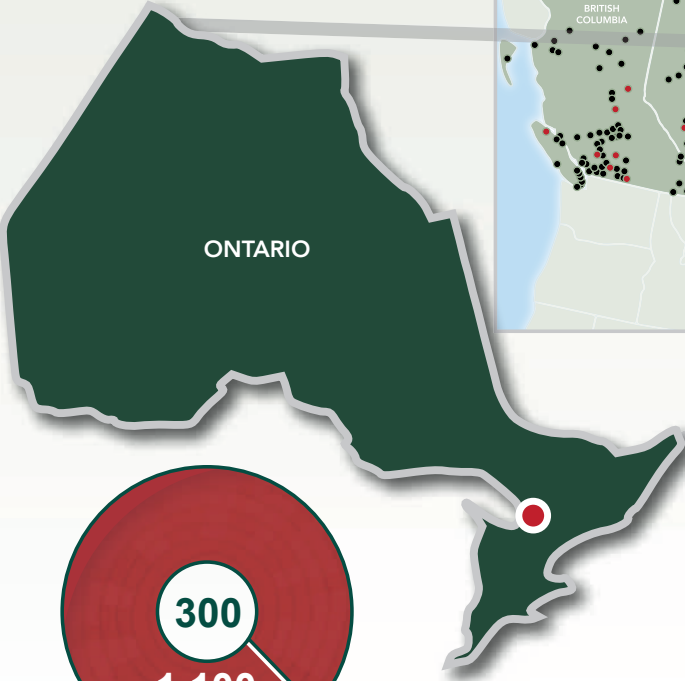
The CKSP has invested many years into the establishment of their property taxation regime. The work included developing their annual laws, registering their tax administrator Stephanie Bressette in Tulo's First Nation Tax Administrator certificate program and working with FNTC to modify the Tax Administration Software (TAS) to support their tax administration. The software modification was necessary to support a First Nation property tax system in Ontario, as well as to

meet CKSP's specific tax administration and reporting needs. FNTC also facilitated work with the Ontario assessor, MPAC, who agreed to provide assessment services for the new tax system.

CKSP has extensive plans for development of their lands that highlight the need for increased services being requested by leaseholders and member residents. It is clear property taxation under the FMA will lead to more revenue for the CKSP community, provide formal mechanisms to address taxpayer concerns regarding assessed values and lead to increased land values and associated leasehold revenues for the locatee landlords.

CKSP has many local attractions for visitors to enjoy including its famous "kettles," recreational beach, golf course, shopping plaza, veteran's memorial, and annual pow wow. Now the First Nations has a property tax system to generate stable local revenues to ensure the provision of quality local services and further infrastructure and community development. The CKSP property tax system, supported by TAS and the authoritative assessment services provided by MPAC, can serve as a model of best practices for other First Nations in Ontario. 🌐

The Kettle Point reserve is approximately 1,100 hectares and includes 300 cottage leaseholds ■



cottage leaseholds



MPAC representatives with CKSP tax administrator Stephanie Bressette and FNTC Chief Commissioner Jules during an MPAC senior leadership meeting. From left to right: Chris Fusco (MPAC); Stephanie Bressette (CKSP tax administrator); Antoni Wisniowski (MPAC president and chief administrative officer); Chief Commissioner Jules (FNTC); Lee Taylor (MPAC).

Opening the door to real property taxation powers for Ontario First Nations: Historical note

As the Chippewas of Kettle and Stoney Point First Nation move forward as the first First Nation in Ontario to implement FMA property taxation, the Commission also looks back on the evolution of real property taxation powers for Ontario First Nations to better understand the history of First Nation property tax in that province.

Prior to the 1970s, municipalities in Ontario could and did tax leasehold properties on reserve. At that time, the Ontario Assessment Act (R.S.O. 1960) exempted “property held in trust for a tribe or body of Indians, but not if occupied by a person who is not a member of a band or body of Indians”. In other words, the Ontario assessment legislation of the day provided for the assessment for taxation purpose of non-Indian lessees of reserve lands in the same way as if the land was owned and held by any other person. Consequently, municipalities collected property taxes from reserves, but in almost all cases, delivered very little, if any, services within the reserves in return.

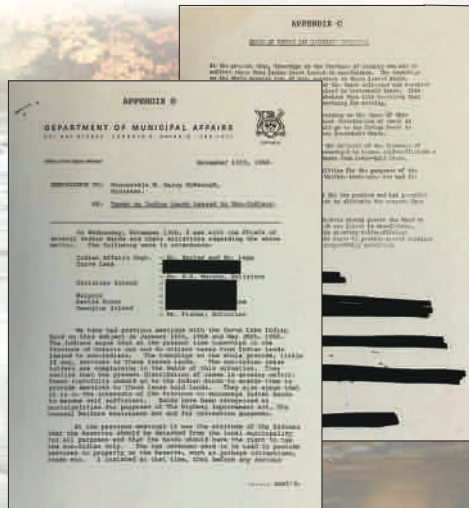
In 1968 and 1969, Chiefs of the Curve Lake, Christian Island, Walpole Island, Chippewas of Sarnia, Kettle and Stony Point and Georgina Island formed an “Indian Taxation Grievance Committee” (ITGC) and met with officials of the Ontario Ministry of Municipal Affairs. The Chiefs’ position was that while they could not commit all First Nations in Ontario to support an initiative to remove the reserve taxation provisions, the removal of reserve lands from municipal taxation could be made optional and with this change, the taxes previously paid to municipalities by the lessees on reserve lands could go to the First Nations in order to ensure that the necessary services previously lacking on reserve are provided.

These discussions led the Ontario government to review its taxation practices and eventually decide to stop the assessment, and thereby the taxation, of real property interests located on reserve. Bill 107, *An Act to Amend the Assessment Act* was passed by the Ontario legislature and became law on May 18, 1973. Bill 107, in effect, repealed municipal taxation powers in relation to First Nation lands and left the property taxation field open for First Nations to exercise their jurisdiction pursuant to the *Indian Act*.

Last year, the FNTC commissioned a report to examine the circumstances under which the province of Ontario decided to forego tax jurisdiction on reserve lands. One aspect of the report was to consider “whether the reasons behind that decision bear on the reluctance of some Ontario First Nations to engage in real property taxation today.” The report’s author Paul Salembier is a former general counsel with the federal Department of Justice who provided advice on legislative and regulatory issues affecting First Nations.

The report found the fundamental issue in 1973 in Ontario was the disconnection between the collection of property taxes from the non-status holders of interests in Indian reserve lands and the non-provision of local services by the municipalities/province to those non-status taxpayers.

While the report didn’t directly connect the 1973 changes to any ongoing reluctance by Ontario First Nations in regard to property taxation, clearly the First Nations who formed the ITGC in 1968 were opposed to municipalities collecting taxes on reserve lands and not providing services. ☺



Bill 107, An Act to Amend the Assessment Act - May 18, 1973

FNTC presents to BC Chapter of the Canadian Property Taxation Association

The First Nations Tax Commission (FNTC) presented at a May 6, 2016 seminar organized by the BC Chapter of the Canadian Property Tax Association (CPTA). Held in Vancouver, the one-day session was attended by over 60 tax professionals, legal practitioners and assessment service providers.

Among the assessment issues discussed were: highest/best use, restricted use, contaminated sites, and assessment on First Nations lands. FNTC’s Chief Operating Officer Ken Scopick and Director of Policy and Law Review Trenton Paul provided an overview of the history of First Nation property tax, explained the similarities and differences between the FMA and section 83 taxation, described assessment service arrangements on First Nation lands in each province, and briefly examined development issues on First Nation lands. In September 2016, the FNTC will be presenting at the national meeting of the CPTA to be held in Vancouver. ☺

Minister of Finance Morneau seeks views of FMA institutions

On April 27, 2016, Chief Commissioner Jules and the heads of the other FMA institutions were invited to meet with federal Minister of Finance William Morneau in Vancouver, BC. The meeting was called by the minister as part of his cross-country post-budget tour.

The hour-long meeting provided an opportunity for the institutions to outline the genesis of the *First Nations Fiscal Management Act* (FMA), the collective results to date, the work of each institution and their respective plans going forward.



FMA institution heads after meeting with the finance minister. From left to right: Ernie Daniels (FNFA); Harold Calla (FMB); Minister of Finance William Morneau; Chief Commissioner Jules (FNTC)

The institutions, representing more than 180 First Nations using the FMA, stated they could greatly assist the minister, who has been tasked with the establishment of a new fiscal relationship with Canada's First Nations. Each institution offered to work with the finance minister to achieve these objectives and sought his support for their work in that regard.

In addition, the federal "Budget 2016 – Growing the Middle Class," also committed to a series of significant investments in infrastructure to support a better future for Indigenous Peoples. Almost \$4.7 billion in planned infrastructure investments over the next five years include education infrastructure (\$969 million), social infrastructure (\$1.2 billion), green infrastructure (\$2.2 billion), and community infrastructure (\$255 million). These investments are a key component of the federal government's strategy for inclusive economic growth.

Chief Commissioner Jules outlined the vision for an FMA-based First Nations infrastructure institute which, he said, could assist First Nations close the "capacity gap" and provide higher value for money in view of the significant investments to be made by the federal government. The Chief Commissioner also discussed the work done to date by the Commission on the proposed Aboriginal Resource Tax.

At the conclusion of the meeting, Minister Morneau thanked the institutions for meeting with him and helping him understand their work. He described the meeting as a start, and commented that the parties would meet again in the future. 🌐

FMA institutions host presentation at United Nations

The FNTC, along with the First Nations Financial Management Board (FMB) and the First Nations Finance Authority (FNFA) hosted a side event presentation on May 12, 2016, as part of the 15th session of the United Nations Permanent Forum on Indigenous Issues, held in New York during May 9 to 20, 2016. The side event, "A Successful Model of Indigenous Governance Through an Indigenous-led Institutional Framework," was an opportunity to share the success of First Nations who supported the development of the *First Nations Fiscal Management Act* with the international community and to enhance the profile of the regime.

The 90-minute panel discussion focused on three themes:

- The First Nations Fiscal Management Act as a successful model of Indigenous governance.
- Asserting jurisdiction leads to better economic development outcomes and improved social well-being.
- This successful model can be replicated to support Indigenous self-sufficiency and greater self-reliance.

Chief Commissioner Jules, Mr. Harold Calla (Executive Chair, FMB) and Mr. Ernie Daniels (President and CEO, FNFA) each made brief presentations followed by a question and answer session. The event served to position the work of the institutions within the global discourse on Indigenous economic development.

In attendance were a number of Indigenous representatives, as well as the Minister of Indigenous and Northern Affairs Canada, Ms. Carolyn Bennett, and her officials.



..... *The Permanent Forum on Indigenous Issues*

The Permanent Forum on Indigenous Issues was attended by 292 organizations and 1,002 individuals (from Indigenous organizations and civil society). Over 100 countries were represented. Canada had the highest-level delegation with two cabinet ministers in attendance (Indigenous Affairs and Justice). 🌐

Profile: Commissioner Bill McCue



Commissioner Bill McCue is a councillor and former Chief of the Chippewas of Georgina Island First Nation, and served as South East Regional Grand Chief for the Union of Ontario Indians from 1994 to 2003. He was also a member of the Indian Taxation Advisory Board (ITAB) from 1997 to 2007. As Chief of his community, Commissioner McCue was an original signatory to the Framework Agreement on First Nations Lands Management (FNLMI) and his community ratified the first Land Code in

1997. He is currently on the FNLMI board of directors, as well as the finance committee for the Lands Advisory Board. Commissioner McCue has also served as president of the Ogemawahj Tribal Council and chairman of their economic development board.

Bill McCue is a firm believer in the importance of local economic development. He has helped his community develop a large number of cottage leases and improve local services and infrastructure. He was also chairman of the Casino Rama revenue sharing committee, which developed a revenue-sharing formula to share gaming revenues with all Ontario First Nations. Last year, the Chippewas of Georgina Island First Nation also opened a new business plaza and restaurant across from their marina. There are now approximately 75 new on-reserve jobs, with half being filled by members and half by people from the surrounding area. This is creating a significant impact in a community of approximately 200 residents.

Clearing the Path recently had the opportunity to sit down with Commissioner McCue to talk about his experience and involvement with the FNTC and his thoughts on property taxation in Ontario.

What has your experience as a Commissioner for the FNTC been like and how has it changed since your role with FNTC's predecessor ITAB?

One of the biggest changes for the Commissioners has been the responsibility for approving First Nation laws directly rather than recommending them to the Minister for approval as we did with ITAB. Another change has been having taxpayers on the Commission, which brings additional perspectives to our discussions. I feel privileged to have helped First Nations exercise their tax jurisdiction. I'm deeply honoured to be part of such a diverse and knowledgeable group of people. I especially want to acknowledge the leadership and vision of Chief Commissioner Jules, without him this would not have happened.

Recently the federal government has emphasized nation-to-nation relationships. How does taxation fit into the emphasis on this relationship?

Revenue jurisdictions such as taxation are key to a nation-to-nation relationship. Although the federal government will always have core funding obligations, First Nations need to have their own revenue sources to be equal partners in confederation.

In BC, approximately 50% of First Nations have implemented property taxation. What are your thoughts on the traction of property taxation in Ontario? What do you see as the difference?

There are fewer First Nations with residential and commercial leaseholders on Ontario reserves. There also hasn't been the history of local governments collecting taxes on reserve lands without providing services as has happened elsewhere. Where there have been on-reserve residents, in many cases the First Nation implemented service fees rather than property tax. In our community we have utility taxation and service fees for cottagers.

Recently the Chippewas of Kettle and Stony Point First Nation (CKSP) became the first First Nation in Ontario to adopt FMA property taxation. In your view, what impacts or affects will this have for other First Nations in the province?

CKSP's property tax law will be a good example for other First Nations in Ontario. It will help reduce the subsidization of local services to leaseholders and reduce collection issues. I think it will show taxing non-member interests on First Nation lands doesn't infringe on treaty rights. Hopefully it dispels the misnomer that property taxation is tied to PST exemptions. It also demonstrates leadership and good communications can overcome fear of taxation among community members.

Looking back to the early days of ITAB, what were your expectations of property taxation at that time? How has your view changed now with the current state of property taxation?

In the early days, people thought very few First Nations would participate in property tax — maybe 20 across Canada. However, as First Nation property tax was implemented, it soon became apparent that many more First Nations had taxable property on their reserves, including utility properties and railway properties. With the FMA, First Nation property tax now includes a more complete range of local revenue options such as Development Cost Charges and local revenues can be leveraged to finance local infrastructure. There are now 177 FMA First Nations across Canada generating millions of dollars for their local economies each year. 🌟



Saddle Lake Cree Nation

Clearing the path to a stronger future with property taxation

Saddle Lake Cree Nation (SLCN) is a rapidly growing community with a demographic that continues to get younger and a population that is expected to pass 25,000 by 2025. The community is excited about what the future has in store for them, but they also have to prepare for such rapid growth.

SLCN understands the need for long-term solutions for the growing service needs and to attract their members back to the community and for the growing service needs. This includes planning for a transfer facility for garbage, upgrading the new water treatment plant, adding new water lines for the parts of the community not currently served and building new homes.

As with most nations, historically SLCN has depended on federal funding for the majority of their program and service needs. SLCN realized in order to develop their independence, they needed to shift their mindset and take a proactive approach to their growing community and look for opportunities to create their own source revenue.

With the help of the FNTC, Saddle Lake began to assess the benefits of taxation and addressed questions and concerns from the community. Ken Large, an SLCN tax administrator, said, "The mindset is that we don't do tax as First Nations," so community engagement was critical to ensure taxation would be welcome and that the community understood the long-term benefits taxation would bring.

In June 2015, SLCN leadership took the crucial first step and formally implemented taxation. Leadership realized this must be done as a way of creating further own source revenue and exercising their jurisdiction as a government rather than relying on what's trickled down to them through funding from other governments. Today, First Nation communities must manage their land, resources, and infrastructure just as any government does. Taxation is an essential and important part of self-governance.

Winston Lapatak, one of SLCN's tax administrators said, "We want to increase our skills broaden our hopes and horizons and move toward strong fiscal independence, and taxation is a crucial component. We need to comprehend and master the intricacies of the tax system so we can benefit from what is rightly ours to manage."

The implementation of SLCN's taxation does not mean they are taxing their members. Rather, the community is charging property tax to companies with land-based interests on their reserve lands, including businesses, pipelines, transmission lines, communication towers, etc. For years, companies have not been subject to taxation on SLCN lands but as SLCN continues to build its governance, this will be the cost of doing business on their lands.

Funds raised through taxation stay in the community and can be used to resolve problems that are under-funded. Taxation revenues will be used to maintain existing infrastructure and build new infrastructure to attract new residents and outside developers. SLCN will have proper facilities, decent roads, clean water and are working toward an effective waste management system. They are also assessing opportunities to use funds to raise cultural awareness and language, reinstate tribal police and provide opportunities for sports facilities and training.

SLCN continues to work hard to build tax administration capacity, including training through the Tulo Centre of Indigenous Economics. This training is critical to their success so they can effectively create

laws and budgets that will work for their nation and continue to grow their tax base opportunities. SLCN also recognized the need for this improved administration to be better equipped for future potential opportunities under the *First Nations Fiscal Management Act*.

The FNTC and the FMA offer many benefits and SLCN plans on taking full advantage of them. Governance of their tax jurisdiction builds the community, ensures longevity and creates community pride. Implementing and controlling tax jurisdiction allows them to plan for a prosperous future, protects resources, and creates a safe and happy community for generations to come. 🌟

First Nations Gazette: Online access to s.81 and s.85.1 By-laws



The *First Nations Gazette* (FNG) has recently completed an intensive project digitizing close to 3,000 First Nation by-laws, currently in force, and passed pursuant to s.81 and s.85.1 of the *Indian Act*. By-laws passed under s.81 provide powers to band councils for the governance of their community while by-laws passed under s.85.1 provide for the regulation of intoxicants.

The digitization project, which took eight months to complete, required the collaboration of Indigenous and Northern Affairs Canada officials and the FNG publication team. The completion of this project means for the first time, we now have quick and easy access to these by-laws.

“Creating an electronic version of these s.81 and s.85.1 by-laws that could be made available online was a critical achievement for the *First Nations Gazette* as the voice for First Nation laws and notices in Canada,” said Sakej Henderson of the *Native Law Centre*. “The *Gazette* continues to be an indispensable tool for everyone involved with or affected by First Nation legislation”

In December 2014, the *Indian Act Amendment and Replacement Act* was passed. As a result First Nations can now bring their s.81 and s.85.1 by-laws into force by publishing them in the *First Nations Gazette*. Alternatively, they may post them on their own website or in a local newspaper. This provides First Nations with autonomy over the enactment and coming into force of by-laws and the day-to-day governance of their communities.

By-laws passed pursuant to s.83 of the *Indian Act* have been published in the *Gazette* since it was launched on Aboriginal Day in 1997, under the joint auspices of the Indian Taxation Advisory Board (the predecessor to the FNTC) and the Native Law Centre, University of Saskatchewan. 🌟

To view these by-laws and to learn more about the cost-free services offered by the *First Nations Gazette*, please visit:
www.fng.ca



www.fng.ca

Payments in lieu of taxation (PILTs)

An important step to expanding FMA taxation revenues

In April of this year, an amendment to the *First Nations Fiscal Management Act* (FMA) came into force which added “payments in lieu of taxation” (PILTs) to the definition of local revenues under the FMA. This is an important step in expanding First Nations tax-related revenues. The amendment ensures these revenues can now be included as a part of the First Nation’s local revenue account, and perhaps more importantly, it may assist in encouraging provinces to change current policies to enable these types of payments to First Nations.

Each year over \$1.7 billion is paid by governments or government organizations to other governments in lieu of property tax. For the federal government, over \$500 million in PILTs, are made by the Public Works Canada or Crown corporations to provinces, local governments and taxing First Nations for federally-owned properties (e.g., RCMP buildings, border facilities, Canada Post, CMHC). First Nations who have property tax laws and federal property on their lands are eligible to receive PILTs; but must complete an application each year for the PILT (for more information visit the PILT website at <http://www.tpsgc-pwgsc.gc.ca/biens-property/peri-pilt/index-eng.html>).

In the case of provinces, similar payments are made by the province or provincial Crown organizations to local governments for provincially-owned properties (e.g., provincial office buildings, SaskPower, BC Ferries, LCBO, Manitoba Hydro). These provincial payments are often termed “grants in lieu of taxation” (GILTs).

PILTs and GILTs evolved because of the “Crown immunity” reflected in section 125 of the Constitution. Section 125 provides an intergovernmental immunity from taxation on “...lands or property belonging to Canada or any province...”. PILTs and GILTs therefore

enable the federal and provincial governments to contribute to the cost of local services while ensuring section 125 is not contravened. Most PILTs and GILTs are based on legislation (e.g., the federal *Payments in Lieu of Taxation Act* or *Ontario’s Electricity Act*), but in some cases are based on provincial policy.

While the vast majority of local governments receive PILTs and GILTs for federally-owned and provincially-owned properties situated in their jurisdictions, only a small fraction of the Canada’s First Nations receive these payments (currently four First Nations receive federal PILTs, despite the fact that there are over 100 federal properties on reserve across the country.). Though there are several reasons for this disparity (e.g., not all First Nations have tax regimes, and the amount of federal and provincial property on reserve is less than off-reserve), the most noteworthy reason is nearly all provincial governments and their Crown corporations have not extended PILTs to First Nation governments. For example, legislation supporting BC Hydro empowers the company to pay GILTs to BC cities and towns, but not to First Nation governments in BC. The same is true for SaskPower, NB Power, SaskTel, and Manitoba Hydro. All of these provincial Crown corporations occupy interests on reserve, but do not pay GILTs to First Nations.

To get a better appreciation of the PILT and GILT revenue loss experienced by First Nations, the FNTC recently commissioned economic research on federal and provincial PILT and GILT programs. This research, along with recent changes to the FMA, will greatly assist the FNTC in increasing awareness, and supporting First Nations who are taking their case for fairness to provincial policy-makers. Provincial governments will need to change their current approach to GILTs so First Nation governments are treated equally in the application of GILT programs. 🗳️



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