

CLEARING THE PATH

FIRST NATIONS TAX COMMISSION

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Taxpayer Representation to Council Law Development

As part of its ongoing support of the 55 First Nations participating in the *First Nations Fiscal and Statistical Management Act* (FMSA), the First Nations Tax Commission (FNTC) has developed a taxpayer representation to council law. The sample law establishes procedures so that taxpayers can articulate their concerns to Council in an effective manner; and in doing so, the procedures establish a workable framework for the Council to articulate *its* concerns to taxpayers. The law is essential for good First Nation and taxpayer relations and consequently for long term economic growth, particularly for First Nations who have a significant residential tax base.

Over the last year, the FNTC has worked on developing the current working draft of the law and accompanying standards. The Commission has ensured that the sample law reflects best practices among First Nations and local governments. At this point in the development process, the FNTC will be incorporating participating First Nations' direct comments before seeking wider public input on the sample law and associated standards.

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Chief Commissioner Jules and Mr. Hernando DeSoto in Toronto before a debate earlier this year on the value of foreign aid. Mr. DeSoto invited Mr. Jules to Peru to appear in a film about indigenous property rights.

FNTC Working with Hernando De Soto

On July 21, 2009, the FNTC signed a Memorandum of Understanding (MOU) to establish a working relationship with the prestigious Institute of Liberty and Democracy (ILD) to improve the First Nation property right system.

The ILD will work with the FNTC to support the development of a legal and administrative framework to modernize the First Nation property right system. Mr. De Soto and the ILD are committed to improving indigenous property rights throughout the world. Mr. DeSoto recognizes that the proposal from the FNTC for First Nation Property Ownership legislation represents a model that could be applied to other indigenous populations.

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Message from the Chief Commissioner



In these uncertain economic times, I want to take this opportunity to discuss an emerging First Nation economic success story now developing in Manitoba. As a result of Treaty Land Entitlement (TLE) legislation and agreements, 23 First Nation communities have the opportunity to select and add to their reserves about one million acres of land. These First Nations are contemplating both rural and urban land acquisitions. In almost all cases, the primary consideration in their discussions is the land's economic development potential.

For over the past two years, the FNTC has been working with the Manitoba Treaty and Land Entitlement Committee (TLEC), the Manitoba Treaty Commission and some of their member First Nation communities. A number of information exchanges have taken place so the FNTC can better understand the TLE process and requirements in order to assist interested TLE communities to consider their economic and taxation potential. In particular, some communities are interested in working with the FNTC to establish tax systems and to negotiate fair and effective service agreements with other governments. The FNTC has begun to work with the Brokenhead Ojibway Nation on a pilot project to implement their tax system and negotiate a service agreement for the TLE lands near East St. Paul. We hope that in partnership with the strong leadership of the Brokenhead Ojibway Nation that we can develop a model that helps all Manitoba TLE communities maximize their potential benefits from the economic opportunities afforded by the organization of TLE lands.

In addition to our work in Manitoba, we continue to work with all current FSMA and s.83 First Nations with the view of expanding the family of tax collecting First Nations. In the last four months, we have made twelve presentations to First Nations interested in developing taxation systems.

I want to close by saying how much I am looking forward to the annual First Nations Tax Administrator's meeting. This annual event is an excellent opportunity for us to meet, share ideas, and discuss how we can improve the First Nation tax system so that it is a better model, not only for other indigenous populations throughout the Americas, but for all governments.

C.T. (Manny) Jules
Chief Commissioner

New Sample Law

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With this intent, the FNTC will be conducting a technical focus group meeting concerning the taxpayer representation to council law. The objective of the meeting is to ensure the sample law and standards are effective and responsive. The meeting will be attended by some First Nation tax administrators and taxpayer representatives. Input from the focus group will serve to inform the Commission before it approves a sample law and standards for the purpose of seeking general public input. Once the public input process concludes, the FNTC will review further commentary before giving final approval.

FNTC and De Soto

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As he stated in a recent debate about the value of foreign aid: "Canadians don't have to go to Peru to see dead capital, they can just look at the reserves outside their cities."

The Economist magazine stated that the ILD was the second most influential think tank in the world. Hernando DeSoto, the author of "The Other Path" and "Mystery of Capital", is President of the Institute and co-chair, with Madeline Albright, of the United Nations Committee for the Eradication of Poverty.

New Tax Administration Software Launch Successful

The Tax Administration Software (TAS) is currently being used by 27 First Nations in BC. Released in May 2009, TAS assists tax administrators through the annual cycle of property taxation including setting tax rates, printing tax notices and managing payment collection. The TAS development team has been working closely with tax administrators to ensure the software is easy-to-use, relevant and practical.

"It's been wonderful to have an opportunity to help shape the new tax administration software. Tax administrator feedback has been used to develop a product designed for our unique needs. I found the software extremely easy to learn. We entered our tax payments at record speed this year. TAS has already become a critical tool which I keep open on my desktop all day long. I'd like to thank the FNTC for creating TAS and for providing the resources and direction to the team. Sarah, Mark and Derek have been very responsive and dedicated to the project."

- Christina Clarke, Tax Administrator for Songhees First Nation

The next TAS release will include many improvements and new functions such as a module to manage the enforcement process, as well as full integration with accounting software. This release will have incorporated all feedback from the first release (which was fully tested by all users) and will be available by the end of January 2010. With a goal to make TAS self-sustaining, it will also mark the beginning of user payment for the software. Annual payment schedules will include the latest version of TAS and technical support throughout the year.

Tulo Centre Update

The Tulo Centre is working to complete the curriculum for the *Certificate in First Nation Tax Administration* (CFNTA). The eight on-line courses will be showcased by the university for their cutting edge technology. The courses will both address a unique subject and utilize innovative multi-media presentations.

The Tulo Centre has also been working on strengthening existing and new partnerships. The university has met with the *Consensus Building Institute* (CBI) and the *M.I.T. - Harvard Public Disputes Program*. The Tulo Centre has worked with CBI in the past to create role-play games for use in the classroom. The games were highly effective as a learning tool and both institutions wish to continue working together on similar collaborations. On May 27th, 2009, the Tulo Centre signed a Memorandum of Understanding with CBI and the M.I.T.-Harvard Public Disputes Program to work together to develop an innovative curriculum that supports the development of First Nation administrations and economies.

The Tulo Centre has focused on the requirements for on-line learning such as video interviews, media, animated slideshows, interactive spreadsheets and software to ensure its classes are innovative and effective social learning environments. The on-line classes will be ready for a Fall 2009 roll-out. For information on courses, visit www.tulo.ca.

With Growth Comes the Need for More Fiscal Tools

Three years ago, Westbank First Nation became the first to have a local improvement tax by-law enacted under the *Indian Act*. Now Shuswap First Nation (near Invermere, BC) may become the first to have one enacted under the *First Nations Fiscal and Statistical Management Act*. Shuswap First Nation intends to enact a *Taxation for the Provision of Services Law* in order to have about 40 benefitting taxpayers pay the cost of construction for a new sewer system. Shuswap is responding to a request made by their taxpayers that a new sewer system replace aging septic tanks.

While First Nation governments are new to this form of taxation, taxation for the provision of services laws, or local improvement taxes, have been around for a long time. They are typically driven by a group of taxpayers who recognize that property values can significantly increase if certain enhancements are made in their neighbourhood.

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FNTAA Annual National Forum

The First Nations Tax Administrators Association (FNTAA) will be holding its 16th Annual National Forum on First Nations Property Taxation on September 22-24, 2009. The forum will be held at Spririt Ridge, Osoyoos, BC.

The FNTAA is inviting First Nation tax administrators to the "KEYS to Success" forum to learn about the latest developments in the field. The agenda will include presentations on new specialized software, the Tulo Centre, sales tax opportunities for First Nations, certification by the Financial Management Board, implementing a financial administration law, the art of handling difficult clients, Saskatchewan school tax issue, and an update from the FNTC. The FNTAA Annual General Meeting will also be held on the morning of September 24, 2009.



CPTA 43rd Annual National Workshop

The Canadian Property Tax Association (CPTA) will hold its 43rd Annual National Workshop, entitled "Valuation and Taxation in Uncertain Times" in Whistler, BC on October 4-7, 2009.

The workshop will include information sessions on staying on course, the taxpayers' perception of justice, industrial valuation in a volatile climate, considerations for boards, legal challenges, and a Canadian market update. The CPTA will also have their annual general meeting on October 6, 2009.

Founded in 1967, the CPTA is a national organization providing a forum for the exchange of ideas and information relating to both commercial and industrial property tax issues arising across Canada.

Need for More Fiscal Tools

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Agreeing to pay the cost of the improvement, they will approach the government with a project proposal (e.g., water systems improvements, paving of streets and lanes, curbs or sidewalks and street lighting). The property owners who benefit from such work pay the tax that serves to partially or fully service the debt incurred in funding the project.

The cost for each benefitting taxpayer is determined by dividing the cost of the project by a variety of measures: frontage, per parcel, per sq.ft, etc. Sometimes these projects are initiated by petition, and sometimes they are mandated by governments to address health and safety concerns.

For communities facing the often challenging demands of economic growth, exploring a wide variety of revenue options to finance infrastructure is essential. Westbank and Shuswap are proving that First Nations are responding to that challenge.



FNTC Annual General Meeting

The First Nations Tax Commission will be holding its second annual general meeting at its head office in Kamloops, BC. The meeting will be held on the morning of October 22, 2009. The FNTC Annual Report and audit will be presented.

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