

CLEARING THE PATH

First Nations Tax Commission

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BC Assessment Seeks to Improve Service to First Nations

For the majority of First Nations collecting property tax in British Columbia, BC Assessment is their assessor. CEO Connie Fair responded to questions from *Clearing the Path* on the ways in which BC Assessment is addressing the needs of its many First Nation clients throughout the province.



BC Assessment CEO Connie Fair

CTP: *Can you describe the role of BC Assessment in First Nations property taxation?*

Fair: BC Assessment currently provides property assessment services to 68 First Nations in British Columbia. Our role is to help individual Bands in achieving and maintaining independent taxation of their lands. We act as the assessor for each First Nation which means our primary responsibility is to prepare an assessment roll and defend it through an independent review process. We may also provide other services such as developing property and ownership records, reviewing and suggesting

by-laws or even handling inquiries. To provide the best services possible, it is very important for us to be working closely with FNTC and different levels of governments so that we can help address issues and find solutions as part of public policy development and, if needed, changes to legislation.

CTP: *How would you describe your relationship with FNTC?*

Fair: BC Assessment has always had a very strong and productive relationship with FNTC. My role as CEO is to ensure our relationship stays strong, so BC Assessment can be confident that it is meeting the customer service needs of our First Nation clients. Recently, our Board of Directors met with FNTC to discuss what is working well and what could be improved. One of our board members, Ernest Jack, is also the Surveyor of Taxes for the Westbank First Nation and so has first-hand knowledge of

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Message from the Chief Commissioner



The month of January 2013 saw First Nations take center stage in the national media. It seems like a time of great events and tumult, but through it all, we continue to work with First Nation tax authorities and focus on making government work for First Nations and their taxpayers.

The end of 2012 was busy for us. FNTC worked with the Province of British Columbia towards a resolution of the issues created by the use of property tax rebates as a method of providing relief from the Provincial carbon tax. In November the FNTC, Tk'emlúps and representatives from Sun Rivers met with Mike DeJong, the BC Minister of Finance, and Terry Lake, the BC Minister of the Environment to discuss this situation. They recognized the inequality of the carbon tax application. The Ministers of Finance and Aboriginal Affairs have been listening to our suggestions about how to ensure that all affected taxpayers get their fair share of carbon tax relief. We are looking forward to a resolution of this issue. We are particularly happy that in December, twelve more students completed the final course of the eight courses that make up the First Nation Tax Administration certificate program through the Tulo Centre of Indigenous Economics.

At the Commission we are dedicated to opening new avenues and expanding First Nation revenue options. In 2013 we expect First Nations to establish development cost charges laws and business activity taxes in addition to property tax. We are also working toward continued growth in property taxation, particularly in Saskatchewan, Ontario and the Maritimes. We are leading the research to create legislation to unlock revenue potential in our lands and we are expecting to work with Canada to explore legislative and regulatory options to facilitate the implementation of FSMA property taxation.

Throughout this year we will continue to meet the challenge of protecting and advancing First Nation jurisdiction while maintaining standards so that taxpayers receive quality services at a fair price. I look forward to working with First Nation tax authorities and their taxpayers to advance our agenda of being a greater part of the Canadian economy and federation.

Sincerely,

C.T. (Manny) Jules
Chief Commissioner

BC Ministers Respond to Taxpayer Petition

As a result of a petition from First Nation taxpayers on Tk'emlúps te Secwépemc (formerly the Kamloops Indian Band) lands, BC Environment Minister Terry Lake (who is also a local MLA in the Kamloops region), organized a meeting on October 2, 2012 with Finance Minister Mike DeJong to discuss the impact of the carbon tax relief measures on taxing First Nations, specifically Tk'emlúps te

Secwépemc and the Sun Rivers residential development community situated on Tk'emlups' lands.

Also attending the meeting were the Sun Rivers Owners' Association, Sun Rivers Development Corporation, Tk'emlúps te Secwépemc, and FNTC officials. The meeting largely focused on the uneven impact of the Northern and Rural Homeowner Benefit and the need for the province to ensure that taxpayers on reserve

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FSMA Workshop for Saskatchewan First Nations

On November 27, 2012, FNTC held a one-day workshop in Saskatoon for First Nations using the FSMA.

Aimed at informing and facilitating access to the full range of fiscal tools available under the FSMA, the workshop covered FSMA law development, taxation and Treaty Land Entitlement lands, revenue raising options, and emerging property taxation issues in Saskatchewan.

A series of FNTC presentations examined recent provincial changes to the provincial school tax rate, risks associated with tax exemption agreements, taxation of agricultural leases, Saskatchewan Crown corporations, and the need to examine how the selection of TLE land can impact property tax jurisdiction.

Over 20 delegates attended the workshop, including representatives from several First Nations: Saulteaux, Kahkewistahaw, Thunderchild, Yellow Quill, Whitebear, George Gordon, Muskeg Lake and Muskoday.



Neil Moccasin and Walter Lewis of Saulteaux First Nation attend FSMA workshop in Saskatoon.

Attendees also heard from Mr. Steve Suchan, Managing Director with the Saskatchewan Assessment Management Agency, who gave a presentation on assessment services.

Interest in First Nation property taxation has grown exponentially in Saskatchewan due to Treaty Land Entitlement lands, natural resource development, and innovative First Nation economic initiatives.

The workshop is one of a series of regional initiatives aimed at promoting the full benefits of the FSMA.

FNTC Holds Local Revenue Borrowing Workshop

On November 15th, 2012, FNTC held a borrowing workshop for First Nations anticipating developing borrowing laws under the *First Nations Fiscal and Statistical Management Act* (FSMA). The workshop was aimed at informing First Nations of the local revenue borrowing process under the FSMA and the types of eligible capital projects.

Approximately 20 delegates attended including representatives from Osoyoos Indian Band, Metlaklata First Nation, Tk'emlúps te Secwépemc, Tsawout First Nation, Tzeachten First Nation and We Wai Kai First Nation. Representatives from the

First Nation Finance Authority (FNFA) and the First Nations Financial Management Board also made presentations and discussed their roles in the borrowing process.

Under the FSMA, participating First Nations can use a portion of their property tax revenue to service the cost of financing capital over the long term.

First Nations must develop a borrowing agreement law, borrowing law, and a financial administration law before accessing the local revenue debenture financing system. The borrowing needs of each participating First Nation is pooled together in the form of a bond which is coordinated with the FNFA.

FSMA Key to Strengthening Local Economy: Ktunaxa Nation Economist

"To build a nation is to build a healthy and self-reliant economy, and since we engage in economic activities in everything we do in our day-to-day lives, we need to have systems in place that maximize the benefits of having our own economy," said Mr. Helder Ponte, the long-time director of the Economic Sector of Ktunaxa Nation Council, in his presentation on "Thirty Years in the Frontline of First Nations' Economy Building" at the First Nation Tax Administration Association annual forum.



Ktunaxa Nation Council Director Mr. Helder Ponte addressing delegates at FNTAA national forum.

Without appropriate systems in place, Mr. Ponte said, a First Nations' economic health is at risk. Similar to the experiences of other First Nations, Mr. Ponte says the absence of an infrastructure that should encourage the flow of money within the local economies of the Ktunaxa communities was one of the main challenges that faced the Ktunaxa Nation, which is comprised of seven First Nations communities spread throughout the Kootenay region of south-eastern British Columbia, north-western Montana and northern Idaho.

"Most First Nation citizens make all purchases outside their own communities because there aren't any First Nation owned businesses in their communities," said Mr. Ponte. On average, the Ktunaxa governments spending in the neighbouring municipalities exceeds \$36 million per year through payments to individuals, including salaries, and purchase of goods and services.

"As it happens, the money spent outside the communities is not circulated in the First Nations' economy - it leaks out immediately, contributing only to the welfare of other communities rather than the First Nation."

By increasing economic activity on reserve, Mr. Ponte said the *First Nations Fiscal and Statistical Management Act* can play a significant role in helping to keep the dollar longer within the local economy in order to maximize its contribution to the First Nations' economies.

"In order to fund the wide range of services that First Nations governments provide to their citizens, First Nation governments need autonomous sources of tax revenues," said Mr. Ponte. "And, only when wealth is created and circulated within the community can First Nations break from the cycle of poverty and set itself on a path of economic prosperity."

Among the first to exercise their authority to levy property taxes, each of the Ktunaxa community governments enacted property tax by-laws in 1993, benefitting from the assistance of the former Indian Taxation Advisory Board (today's First Nations Tax Commission). More recently in 2008, they joined the FSMA to access the fiscal and administrative tools available through FNTC, a move Mr. Ponte said "immediately made a difference in the autonomy of the Ktunaxa communities."

To date, each of the First Nations have their

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Ktunaxa Nation

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own tax administrators to manage the taxation process, which he described as "stable, predictable and transparent" and has helped them to "get a lot more done in a lot less time."

Having contributed to the growth of Ktunaxa from six to 500 staff since he started over three decades ago, Mr. Ponte said strategic planning by the Ktunaxa Nation Council, such as making decisions to access the

fiscal tools available through FNTC, has allowed them to carve out a new economic path of self-reliance for their citizens.

"For us, our property taxation system is necessary because it creates a foundation for building economic capacity that we're in control of. We needed to make sure we have the tools that enable us to compete effectively with the municipality next door, resulting in not only us having a better government, but ultimately in the Ktunaxa citizens having a better life."

BC Assessment

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the services required by BC Assessment. I also maintain regular contact with Ken Scopick, FNTC Chief Operating Officer, and we have a group of staff from each organization that meet regularly to implement improvements.

CTP: What is your vision of the future concerning First Nations property taxation in BC?

Fair: BC Assessment is not only happy to provide services to First Nations but also supportive in principle of the ability of First Nations to be able to raise revenue through independent taxation so they can provide services needed by their members. A former CEO of BC Assessment, Tom Johnstone, committed BC Assessment to providing assessment services to First Nations in the early 1990's and our commitment has not wavered since these assurances were initially made. My vision is that we can be the first choice for assessment services for every First Nation in BC and that we will continue to be helpful to FNTC. I am very encouraged to see the positive developments that are taking place in BC with seven First Nation communities taking charge of their local taxation affairs and pleased with the role we are able to play.

CTP: How do you measure these results?

Fair: Providing exceptional customer service is one of BC Assessment's most important goals. We set specific performance targets within our public service plan for the level of customer satisfaction for each customer group. Every two years, we survey our First Nations clients to ask them detailed questions on how we are doing, and where we can improve. This input is important to us to fully understand the needs of each First Nation client. In 2011, we achieved an overall customer satisfaction measure of 90 percent, meaning 90 percent of our First Nations clients were either very satisfied or satisfied with the level of service they are receiving from us. There's always room for us to improve.

CTP: How are you planning to promote and strengthen these partnerships?

Fair: Each of our field offices is required to maintain contact with their local First Nations clients. I believe this direct contact with customers is very important. My personal goal is to spend more time in 2013 talking with all of our key customer groups, including First Nations. It's important for me to hear first-hand from the decision-makers so that I can understand their needs and how we can help our customers achieve their goals.

For more info, visit www.bcassessment.bc.ca.

Update: Changes to Expenditure Laws

In December 2012, the FNTC approved several changes to the FNTC Expenditure Law Standards for expenditure laws made under the FSMA. The changes are intended to improve transparency, provide clarity and facilitate best practices in property tax administration.

Annual and Interim Budgets

A new requirement involves First Nations to prepare an annual budget in their First Nation Expenditure Law that applies to the current year and following budget year. Once the First Nation's annual Expenditure Law is in force, the annual budget will replace the previous interim budget. This change will provide greater certainty for First Nation expenditures throughout the calendar year.

Contingency Amounts

Under the Standards, First Nations are required to set contingency amounts between 1% and 10% of the total local service annual expenditures. The change to the Standards would place the contingency amount requirement on total local revenues (i.e., revenues raised under a section 5 law), excluding revenues transferred to reserve funds (including Development Cost Charge revenue).

Contingency Reserve Funds

Contingency Reserve Funds are used by local governments to offset cyclical downturns in revenue, and to minimize rate increases. The changes clarify that First Nations can establish these types of reserve funds by transferring in each year any surplus from the contingency amount in the previous year's annual budget. First Nations

would be able to transfer contingency amount surpluses to a contingency reserve fund, provided that the amount transferred in does not exceed 10% of the current year's total local revenue, and the fund does not exceed 50% of the current year's total local revenue. In instances where a contingency reserve fund exceeds 50% of the current year's total local revenue, the Law would preclude any transfers in and would require a transfer from the reserve fund to reduce its balance to not more than 50% of the current year's total local revenue.

Reserve Fund Reporting

The First Nation Expenditure Laws contain Appendices "A" and "B". Appendix A is a reserve fund balance report showing opening balance, planned transfers in/out, and projected closing balance for each reserve fund. Appendix B is a similar report for the Development Cost Charge reserve fund. A change to the Standards requires Appendices A and/or B to be submitted with the Law if the First Nation has established reserve funds or DCC reserve funds, respectively.

Reserve Fund Purposes Statement

Standards now require that First Nations must submit a reserve fund balance report for any reserve fund or DCC established under a local revenue law. Reserve fund balance reports are attached to the Annual Expenditure Law.

Update: FNG Website

The *First Nations Gazette* (FNG) will be launching its newly-designed website that will include a new notification feature in April 2013.

www.fng.ca

Highlights: FNTC's 5th Annual AGM

In October 2012, the First Nations Tax Commission held its 5th Annual General Meeting at the Chief Louis Centre located on Tk'emlúps te Secwépemc.

The AGM involved discussions of the 2011/2012 annual report, including the successful completion of the FSMA Seven Year Review, which was tabled last year in both Houses of Parliament. FNTC's work has helped to support First Nation economic growth in improving investment climate, develop national standards for First Nation governments, expand revenue options, and build capacity for First Nation governments.

During the 2011/2012 fiscal year, 20 First Nations were added to the FSMA Schedule. The Commission approved 105 laws and recommended 75 by-laws for ministerial approval. The total revenue raised through First Nations property taxation exceeds \$70-million.



Commissioners address attendees at the 2012 AGM.

As FNTC looks to the future, the main initiatives will be focused on the implementation of the Seven Year Review recommendations, helping First Nations implement business activity taxes related to hotels, and well-drilling. FNTC will continue to support the transition of First Nations transition to implementing their FSMA property tax and assessment laws.

The 2011/2012 annual report is available on the FNTC website at www.fntc.ca

BC Carbon Tax

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receive the same carbon tax relief as taxpayers receive off reserve.

FNTC summarized its submission to the carbon tax review held in the summer, provided statistics on how many First Nations and First Nation taxpayers are affected, and what areas in the province are most affected. Minister DeJong requested information on the estimated total financial impact and the ways in which First Nation taxpayers could receive the Northern and Rural Homeowner Benefit.

Minister Lake expressed a clear recognition of the issue and agreed to work towards a resolution with taxpayer advisory groups at

Tk'emlúps te Secwépemc and Westbank First Nation. The carbon tax issue is expected to be addressed as the province completes its budgetary consultations and any changes will be reflected in the 2013 provincial budget.

Last summer, the BC Government completed a full review of its BC Carbon Tax Program including its carbon tax relief measures introduced in 2011. For over two years, the FNTC, several First Nations, and on-reserve taxpayer representatives have met with provincial officials to explain the adverse impact of these measures on about 35 taxing First Nations. The FNTC submitted written comments to the BC Minister of Finance during the review period.

FNTAA National Forum

On September 26-27, 2012, the First Nations Tax Administrators Association (FNTAA) held its 19th Annual National Forum on First Nations property taxation at Osoyoos First Nation.

Representatives of FNTC presented on new developments in FSMA implementation, property taxation and lands management to Chief and Council members and colleagues in attendance. For the keynote address, BC Assessment's founding member Stan Hamilton talked about the history of assessment.

In a special ceremony, Dr. Andre LeDressay was awarded with a certificate to recognize his contributions as an educator at the Tulo Centre



Tulo Director Dr. Andre LeDressay is presented an award from FNTAA Chair Ernest Jack.

In Memoriam: Calvin George

December 20, 1957 - October 11, 2012

FNTC notes the passing of Calvin George.

Calvin was the First Nations tax administrator for Tsleil-Waututh Nation (TWN) and was part of the team that brought taxation to TWN.

Over the years, FNTC had the pleasure of working with him as he helped shepherd the growth of the Tsleil-Waututh Nation's property taxation system into what it is today. Most recently, FNTC staff worked with Calvin on the expansion of tax application and the strategic planning for service agreement negotiations with North Vancouver.

There is no question Calvin was a true ambassador for First Nation property tax and for the Tsleil-Waututh Nation. For those who were fortunate to meet him, he will always be remembered for his wisdom, commitment, and especially the graciousness he imparted each day.

He will be sadly missed by his many friends at the First Nations Tax Commission.

of Indigenous Economics and his continued commitment to inspiring students studying in the field of First Nations property tax administration.

At the meeting, re-elected board members, FNTAA President Ernest Jack, FNTC Commissioner Terry Nicholas, Vice President Freda Jules, Secretary Christina Clarke and Treasurer Jim Prodger, welcomed two new members, Tulo graduates Lise Steele (2013) and Carlene George (2011).

For 2013, the FNTAA Board approved a special resolution to create a new membership category specifically designated for Certified First Nation Tax Administrators.



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Commission de la fiscalité des premières nations

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