



CLEARING THE PATH

VOLUME 07 | ISSUE 01 | SPRING 2013

A First Nations Tax Commission Quarterly Publication

Best Practices in Budgeting and Rate Setting

The months of April, May and June represent the beginning of the tax year for most First Nation property tax administrations, and for tax administrators it means the time when budgets and rates need to be finalized, and annual laws enacted. Indeed, over 50% of the 160 taxing First Nations will have enacted their annual laws before the end of June. Clearly it can be a hectic period. But as *Clearing the Path* found out, it's a period that can be easily managed with sound administrative tools and practices. We contacted two tax administrators: Ms. Katherine Stevens and Ms. Christina Clarke, who collectively have over 20 years of experience in property tax administration, and asked them to offer some of their thoughts on how they manage during this busy period in the tax calendar.

The **Shuswap Band** located in the Upper Columbia Valley, near Invermere, British Columbia has a vision to become economically strong and independent. They have a proactive approach to generating revenue which includes partnering with local businesses, building infrastructure, supporting investments, and creating both commercial and residential development opportunities. At the heart of their success has been their property taxation system which is now over 20 years old. Property tax has helped build infrastructure and expand into new tax revenue like FNGST.



Ms. Katherine Stevens, Surveyor of Taxes, Shuswap Band

Over the last ten years, the administration of this mature and diverse tax base has been the responsibility of Ms. Katherine Stevens. A graduate of the Tulo program, Ms. Stevens helped shepherd the Shuswap Band's transition to the *First*

Nations Fiscal Management Act (FMA) and is one of the most experienced First Nation tax administrators in the country.

Ms. Stevens, You have been with the Shuswap Band for about ten years. How did you first decide to become a tax administrator?

I graduated with an accounting diploma. The Shuswap Band was looking for an office manager for their Development Corporation. I was there under contract for one year and decided to stay. I began working in the accounting office, and was then trained to be the tax administrator. When I first started, they were collecting property tax under s.83 of the *Indian Act*. I was there to assist in the transition to taxing under the FMA. The Shuswap Band has a good mixture of commercial and residential properties and it has been rewarding to see growth in this tax base over the years.

Can you tell me about your process for completing the Rates and Expenditure Laws?

We start by receiving the assessment roll from BC Assessment on January 1st. The assessment roll has the assessment information for each property. I input this information into the Tax Administration Software (TAS) and compare the data to the previous year's data and to the reference jurisdiction data.

(Continued on page 6)



In This Issue

- **Requirements for Annual Expenditure Laws and By-laws**
- **Aboriginal Business Hall of Fame**
- **Commissioner Lafond**
- **FSMA changes to FMA**
- **Bill C-115 "Kamloops Amendment" 25th Anniversary**
- **Local Revenue Account and Audit Requirements**

Message from the Chief Commissioner



First Nations who recognize that the status quo is not good enough are advocates of change who continue to work together improving their economies and expanding their jurisdiction in the areas of taxation, financial management and governance.

This year First Nations with property taxation are celebrating the 25th anniversary of Bill C-115, the amendment to the *Indian Act* that expanded First Nations jurisdiction in the area of property taxation. While the step taken in 1988 is of historical significance, it is important to remember that in 1875, the Mohawks of Tyendinaga attempted to implement a property tax system but were turned down by the Department of Indian Affairs. In 1927, our ability to raise revenues was removed. While provinces and local governments used to collect property taxes on our lands most have vacated, although in some places like British Columbia and Quebec they still do. In the 1960s many of our leaders and now elders strongly advocated for our tax jurisdiction setting the first stones in the foundation of the modern tax movement.

Progress took a long time, it wasn't until the 1970s that a few First Nations in Ontario and Alberta implemented tax systems. In 1988 we amended the *Indian Act* to create First Nation property tax jurisdiction. In a challenge to our jurisdiction, the Supreme Court of Canada stated in 1995 that our tax jurisdiction was "an inherently governmental power". It was not until 2005 that we were able to formalize and expand our tax jurisdiction with the *First Nation Fiscal Management Act*. The success we have earned has come from the firm resolve that what we are doing is right and that it will benefit First Nations.

The purpose of this newsletter is to share information, insights and inspiration about how best to assert and implement First Nation tax jurisdiction. In this edition First Nation's tax administrators share their expertise and the success of their communities who are leading the way with excellence in tax administration. We also include a story about Commissioner Lester Lafond, our Commissioner from Saskatchewan who discusses the importance of business development and entrepreneurship in community economic development.

Our ancestors and leaders have fought hard for our jurisdiction. It is precious. We must assert it. We must protect it and we must continue to clear the path for others.

Sincerely,

C.T. (Manny) Jules
Chief Commissioner



Clearing the Path: New Design, New Interactive Form

The First Nations Tax Commission (FNTC) is pleased to present the inaugural publication of the newsletter redesign. The goal of the redesign is to improve readability while integrating a clean and modern look. The new design also incorporates the innovative multimedia direction of the FNTC communication strategy, featuring videos and other interactive elements.

The electronic version of this newsletter features three videos: Ms. Christina Clarke, Tax Administrator for

Songhees Nation discussing the annual rates and expenditures process and the Canadian Council for Aboriginal Business videos produced to honour Mr. Jim Thunder and Chief Commissioner Jules and their induction into the Aboriginal Business Hall of Fame. To view the videos, click on the photos that accompany the stories. If you are viewing the printed version, the links to the videos are provided in the caption.

The electronic newsletter is distributed via email or can be found on the FNTC website. To automatically receive the electronic newsletter directly to your email inbox, sign up on the FNTC website. ■

New Requirements for Annual Expenditure Laws and By-laws

In order to keep pace with the First Nation tax system requirements, the FNTC made several changes to their Standards and Policy for laws and by-laws governing annual expenditures effective for the 2013 tax year. These changes were announced in April under separate bulletins sent by the FNTC to First Nations taxing under the *First Nations Fiscal Management Act* and those taxing under section 83 of *Indian Act*. A summary of these changes is presented below.

Introduction of the Interim Budget

First Nation laws and by-laws will now have to reference two budgets: an annual budget for the current year (2013) and an interim budget for the following budget year (2014). This change was brought about to bring greater clarity to the First Nation's authority to make expenditures during the first part of the next taxation year, before a new

annual expenditure law or by-law is enacted. When the new expenditure law or by-law is enacted, the new annual budget will replace the interim budget, and make the necessary changes to both the revenues and expenditures. The FNTC sample expenditure law and expenditure by-law have been revised to incorporate the new requirements without the need to establish two separate budget schedules in the law or by-law. However, First Nations have the option to make a separate interim budget and attach that budget as Schedule B to the law or by-law.

Contingency Amounts

Previously, First Nation laws and by-laws were required to establish contingency amounts between 1% and 10% of total annual expenditures. The Standards and Policy were changed to require First Nations laws and by-laws to establish contingency amounts between 1% and 10% of

(Continued on page 4)

Aboriginal Business Hall of Fame honours Mr. Jim Thunder and Chief Commissioner Jules

Canadian Council for Aboriginal Business hosts the annual Aboriginal Business Hall of Fame (ABHF). The 2013 inductees included Mr. Jim Thunder of Buffalo Point, MB and Chief Commissioner Jules. The ABHF recognizes Aboriginal persons whose business leadership and commitment to community have made a substantive contribution to the economic and social well-being of Aboriginal people and communities. They are

chosen from across Canada and represent Metis, Inuit and First Nations.

Mr. Jim Thunder, hereditary Chief of Buffalo Point from 1967 to 1997, directed the implementation of a long-term economic development plan for his community. His vision helped to ensure long-term economic success for Buffalo Point First Nation.

Chief Commissioner Jules was recognized for his dedication to the betterment of First Nations, devoting his full attention to leading the drive to establish legislative change to help First Nations achieve sustainable economic development. ■



CCAB Hall of Fame Laureate for 2013, Mr. Jim Thunder.
Video Link: http://www.youtube.com/watch?v=f1DDzi_WNu8



CCAB Hall of Fame Laureate for 2013, Chief Commissioner Jules.
Video Link: http://www.youtube.com/watch?v=wOR_guksrqk

(Continued from page 3)

the total local revenues (i.e., revenues raised through property tax) excluding revenues transferred to reserve funds in the fiscal year (for FMA taxing First Nations, reserve funds include DCC reserve funds). Therefore contingency amounts should be calculated based on revenue generated from property tax revenue.

Contingency Reserve Funds

The Standards and Policy were changed to accommodate the use of contingency reserve funds. Contingency reserve funds are used by governments to cover unforeseen expenditures, or to stabilize the temporary impacts of cyclical local revenue decreases. First Nations who have established contingency reserve funds, or who wish to establish these reserve funds, must consider the following requirements:

- New contingency reserve funds must be established in the expenditure law or by-law.
- Only unexpended contingency amounts from the previous budget year may be transferred into the reserve fund.
- A maximum of 10% of local revenue in the current budget year can be transferred into the contingency reserve fund.
- Contingency reserve funds can grow over time but it can never exceed more than 50% of the current budget year's local revenues.

Reserve Fund Purposes Statement

If a First Nation is establishing a reserve fund in its law or by-law, the expenditure law or by-law must contain a statement of the purposes of the new reserve fund. For example:

- *The Terrapin First Nation Economic Development Reserve Fund is hereby established to provide a source of funds for capital projects that relate to, or help promote economic development on TFN lands.*
- *The Meductic First Nation Multipurpose Centre Equipment and Infrastructure Fund is hereby established to provide funding for equipment replacement and maintenance of the MFN Multipurpose Centre.*

For more information on the changes to the Annual Expenditures Law Standards and Expenditure By-law Policy, please go to www.fntc.ca or contact the FNTC at mail@fntc.ca ■

Commissioner Lester Lafond: Building Saskatchewan First Nation Economies

In recent years, interest in First Nation property taxation has grown significantly across the country, and no other province exemplifies that more than Saskatchewan. With



Commissioner Lester Lafond

approximately 20% of Saskatchewan's 75 First Nations developing or having developed property tax systems, Saskatchewan now ranks third in the number of First Nations who have entered into property tax. A key part of that growth has been the efforts of Commissioner Lester Lafond who has worked on the evolution of property tax in Saskatchewan from the ground up. For over 20

years, Mr. Lafond has been promoting the importance of taxation and its strong link to economic revitalization of First Nation economies. His diverse background of experience with First Nation governments in the areas of business and property management, insurance, and economic development has served the Commission well since his inaugural appointment in 2007.

Apart from his duties as an FNTC Commissioner, Mr. Lafond is the President of Lafond Insurance and Financial Services Ltd., which is a wholly owned First Nation insurance brokerage company, providing insurance and advisory services.

In 2006, Mr. Lafond received the Saskatchewan Order of Merit, a recognition of excellence, achievement and contributions to the social, cultural and economic well-being of the province and its residents. Commissioner Lafond was also named in the University of Saskatchewan's 100 Alumni of Influence.

Clearing the Path sat down with Commissioner Lafond to talk about his experience and work with the First Nations Tax Commission.

You have a strong background in business and entrepreneurship. Can you tell us about how you

started in business and why it is important for First Nations people to be involved in business?

I come from a family of entrepreneurs. I started out in the 70's and 80's and always believed that we need a middle class of entrepreneurship in the First Nation community. I found myself assisting other individuals in getting involved and to take advantage of opportunities and resources that are available.

What changes have you seen in Saskatchewan First Nations over the past 10-20 years?

Most notable are the changes in opportunities in growth and expansion. Communities have incorporated oil and gas, potash, forestry and tourism into their economic development plans. The acquisition of nearly 30 urban reserves for commercial and industrial park development has also provided good opportunities for individual businesses.

What changes have you seen over the past 10-20 years regarding First Nation property taxation?

I have seen it change from great fear to great interest. First Nations are very interested and open to property taxation. They are interested to see how it works and how it could generate revenue for their communities.

What do you see for the future of economic development for First Nations?

The continued development and management of urban reserves will become central. Implementing property taxation will be needed to ensure that assessment values are similar both on and off reserve and are presented in a way that tenants are familiar with and understand.



You have been involved with the First Nations Gazette (FNG) and expanding its services. Can you tell us about the FNG?

The FNG provides public notice of First

Nation laws and by-laws and serves as the authoritative reference for First Nation law in Canada. I have seen the evolution of FNG from a traditional printed book published semi-annually to a 21st century state-of-the-art electronic delivery and services.

You have certainly been a part of many advances in First Nation economic development. How do you see

property taxation as strengthening the future of First Nations?

Taxation is part of the system for First Nation self-government. There is a greater understanding of the relationship between taxation and revenue generation. Communities now recognize that taxation is a requirement to generate increased revenues. ■

Local Revenue Account and Audit Requirements

We are entering into the time of year when First Nations begin to prepare their audits. For taxing First Nations, this includes preparing for an audit of the local revenue account. The local revenue account is a separate account where all of the First Nation's property tax revenue is placed.

First Nations conduct a separate audit of the local revenue account annually. Given that auditors or the personnel involved in preparing the annual financial statements will change from time to time, tax administrators will typically meet with the auditor annually to familiarize the auditor with the local revenue account, and ensure revenue and expenditures in their local revenue account are reported properly.

While the audit of the local revenue account and ensuring the audit report availability are legal requirements for First Nations taxing under the FMA, they are widely practiced by all taxing First Nations because they reflect sound financial management policy.

Members, taxpayers, and potential investors need to have confidence in the management of the First Nation tax system, and access to the audit of the local revenue account is a fundamental pillar in instilling that confidence. ■

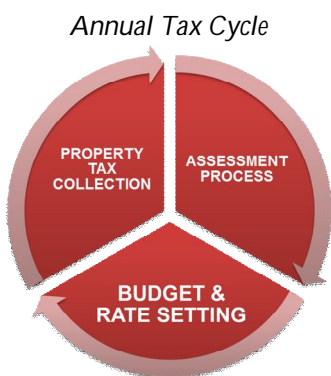


(Continued from page 1)

The Shuswap Band uses the Reference Jurisdiction method for setting tax rates which we think is important from a market perspective. This means that our rates mirror the adjacent municipality. In BC, municipalities set their rates by May 15th. We must wait until May 15th before we can set our rate, but we are working with our council on preliminary budgets and rates up until that time so we are ready. Once the rate is set and our budget confirmed, we work with the FNTC on the drafts of both annual laws. The final laws are then presented to Chief and Council for approval. Once the laws are approved locally, they are sent to the Registrar at FNTC for presentation to the Commission. The turnaround is quick, just a few days and we know when the FNTC will meet and review our laws.

Do you have any advice for a tax administrator who might be going through this process for the first time?

From the beginning, work with the FNTC on setting the rates and getting the laws ready for Chief and Council approval. This is important! Also, crunch time is in May. There is a two week period in which most activities must take place. From confirming the reference jurisdiction rate on May 15th to sending tax notices out on June 1st, there is a lot that happens.



Draft laws have to be compiled and then approved by Chief and Council, and reviewed by the FNTC. I would also advise tax administrators to be open to meeting taxpayers and to keep the lines of communication open and transparent. I always try to be available for meetings and telephone calls from taxpayers to listen to any concerns and answer questions. Talking to taxpayers is an important part of the job.

What tools do you have to help you manage the process?

I use TAS to help in the administrative process. I use TAS which is available on the "cloud" (the internet) and it is secure and accessible from anywhere. TAS has been an advance and a great help in getting laws approved and printing tax notices. Derek Zienowicz, the developer of the TAS software and service provider, listens to tax administrators and has adapted the software to users

advice. It is a good exercise to go through the tax cycles with TAS.

Ms. Stevens, you are a graduate of the Tulo Centre program "Certificate in First Nation Tax Administration." How has graduating from this program helped in your job today?

It has bolstered confidence across the board. Chief and Council have confidence in me. Taxpayers have confidence that there is a graduate from the program running their property taxation system. Also, I have more confidence in myself. I have an accounting background; however the Tulo program is focused on property taxation so I now have a deeper understanding of First Nations property taxation and how it contributes to a healthy economy overall. Since graduating, other First Nations have sought my advice and assistance in setting up and maintaining their property taxation systems.

I also got to know and keep in touch with other tax administrators from the Tulo program. We all came from varied backgrounds, locations and circumstances, but it was great to hear about what other First Nations are doing and we help each other through questions or concerns that might come up.

Do you also have a working relationship with tax administrators from adjacent municipal governments?

Yes, absolutely. We are in touch in May when we are setting the tax rates for the year. We also keep each other informed on other activities that come up throughout the tax year.

Thank you Ms. Stevens. You have great enthusiasm for your profession! It's great to see.

Thank you and yes, tax administration can be very busy and also very fulfilling. The Tulo program helped me to see that there are many different sides to property taxation and I look forward to learning more everyday. I am interested in learning more about assessments and having an in-depth understanding of how assessments



Tulo Chair Chief Michael LeBourdais and Ms. Katherine Stevens at Tulo graduation

are determined. I also look forward to learning more about the First Nations Tax Administrators Association and how to assist other tax administrators. I understand that my contribution to managing the property taxation system at the Shuswap Band will ultimately help in creating a better quality of life for the community. And lastly, I hope that taxpayers, band members or anyone who has questions about taxation knows that I have an open door and am available to discuss property taxation.

The **Songhees Nation**, located on Vancouver Island, near Victoria, BC, has been exercising property tax jurisdiction since 1995, when it first enacted its property taxation and assessment by-laws under the *Indian Act*. In 2007, it moved to the *First Nations Fiscal Management Act* positioning itself to be better able to respond to the demands of a growing and evolving tax base. With a large residential tax base, Songhees Nation uses a budget-based tax rate system to calculate their tax rates. In this system, the budget is established and then the First Nation determines the amount of revenue required to operate their services. While the tax rates must meet FNTC Standards, they are not tied to the adjacent municipality's rates which gives the First Nation flexibility in connecting revenues raised to expenditures required for service provision.

Ms. Christina Clarke, Songhees Nation Property Tax Administrator, has played a lead role in transitioning the Songhees Nation property tax system to the FMA, establishing a first of its kind Taxpayer Representation to Council Law, and helping to establish a financial administration law. For Songhees Nation, tax rate setting starts three months before the taxation year. Early planning provides Ms. Clarke adequate time to examine the current year's budget to see if it is sufficient. It also gives ample time to meet with service providers to discuss any planned changes in service costs, and to consult with the Songhees Nation finance department on emerging budgetary needs. This information helps formulate the



Ms. Christina Clarke, Property Tax Administrator. Link for video: http://barabus.tru.ca/apec162/apec162_cc05.html

total budgetary requirement for the upcoming year. Ms. Clarke then examines the assessment base to determine the planned tax rate, and



Songhees Nation Development

ensures that this rate is consistent with the FNTC Standards. A comparison with the neighbouring jurisdiction's rates (which are posted in mid-May) is an important element of the process. Timing is critical, as Songhees Nation has only a few weeks to finalize the budget and rates, enact and submit annual laws, and send out tax notices before June 1st.

For well-maintained property tax systems like the Shuswap Band and Songhees Nation, the start of the tax season starts long before annual laws are enacted and tax notices are issued. Both demonstrate the importance of proper planning, organization and consultation in the First Nation budget and rate setting process. ■

FSMA changes to the FMA

The *First Nations Fiscal and Statistical Management Act* (FSMA), which assented on March 23, 2005, has been renamed the *First Nations Fiscal Management Act* (FNFMA) effective April 1, 2013.

In March 2012, the Government of Canada announced (as part of Bill C-38, the *Jobs, Growth and Long-term Prosperity Act*) that the First Nations Statistical Institute (FNSI) would cease operations. The name of the FSMA was also changed, and all references to FNSI were removed (FNSI officially closed on March 31, 2013). As a result, all FMA laws enacted by First Nations after April 1, 2013, must use the current citation of the Act.

The FMA expands local revenue jurisdiction and provides financial management certification and expertise. It also improves the private sector investment climate on reserves, and provides access to debenture markets.

As an alternative to section 83 of the *Indian Act*, the FMA provides a comprehensive regulatory framework to support First Nation economic growth. It provides First Nations with the ability to build their economy to attract investment and to create jobs. ■

Bill C-115 “Kamloops Amendment” 25th Anniversary

On June 28, 1988, the “Kamloops Amendment” (Bill C-115) received Royal Assent. With the full support of all parties in Parliament, it was the first ever First Nation-led change to the *Indian Act*, and clearly established the power of First Nation governments to levy property taxes on reserve, including leasehold developments. It also replaced the term “conditional surrender” with the then new concept of “designated lands”. Through the designation process, First Nation governments could set lands aside for leasing and economic development *without* losing its reserve status.



Kamloops Indian Band Chief and Council, 1988

The Kamloops Amendment was the result of the tireless efforts of the then Chief of the Kamloops Indian Band, C.T. (Manny) Jules. Over a three year period, he sought and obtained a very broad-based mandate to lead this change, both from the

grassroots level of 115 band councils and from First Nation political organizations at the national and provincial level.

Chief Jules was clear that he did not see his proposed amendments as an endorsement of the *Indian Act* nor a substitute for more fundamental change, such through the Constitution or land claims. He saw his amendments as an interim measure, but that as long as it was still around, the *Indian Act* should be made to work for First Nations, rather than against them. From Chief Jules testimony before the Senate hearings on C-115: “This amendment is a minor splinter in the work that has to be undertaken. It addresses one small aspect of what Indian people are asking for. With regard to amending the *Indian Act*, at the Confederacy of Chiefs meeting in March, Chief Mike Mitchell from Akwesasne said to me, ‘Manny, we have an Edsel. It needs to be badly overhauled. The motor is just about finished. The paint job is really bad, but we will let you have a new set of tires.’ That is what I am asking for here. This does not answer all our hopes and aspirations.”

At the time of the passage of C-115, the federal government also announced its intention to create the Indian Taxation Advisory Board (ITAB). On July 4, 1988, Kamloops Indian Band Chief Jules was appointed its first

Chairman. Bill McKnight, then Minister of Indian Affairs and Northern Development, said “What we must concentrate on now is the future implementation of this legislation. The next few months will be an important planning period in setting up the Indian Taxation Advisory Board, which I would like to see have a majority of Indian members. I believe the role of the Board will be the key to ensuring that new band taxation systems will be effective and fair.” The ten-member Board convened its first meeting in February 1989 and within three years the Squamish Nation, Westbank First Nation, Musqueam First Nation and the Kamloops Indian Band were collecting property taxes under the new authority.

In 2005, seventeen years after the passage of the Kamloops Amendment, First Nations would again support the passage of the *First Nations Fiscal and Statistical Management Act* – again with all-party support in Parliament - and the creation of the statute based successor to ITAB, the First Nations Tax Commission.

Today, 164 First Nations are collecting over \$70 million annually in property taxes, through the *Indian Act* and the *First Nations Fiscal Management Act*, creating jobs, attracting investment, and building their economies. A remarkable achievement in itself, made possible by events 25 years ago. ■



First Nations Tax Commission

Head Office

321-345 Chief Alex Thomas Way
Kamloops, BC V2H 1H1

Telephone: (250) 828-9857 Fax: (250) 828-9858

National Capital Region Office
202-190 O'Connor Street
Ottawa, ON K2P 2R3

Telephone: (613) 789-5000 Fax: (613) 789-5008

Toll free: 1-855-682-3682

www.fntc.ca | mail@fntc.ca

Aussi offert en français sous le titre *Ouvrir le Sentier*

© FNTC 2013