



CLEARING THE PATH

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A First Nations Tax Commission Quarterly Publication

Business Activity Tax

In June 2013, the FNTC approved changes to the Standards for First Nation Business Activity Tax (BAT) Laws to accommodate laws made for the taxation of oil and gas well drilling activity on First Nation lands in Alberta.

In Alberta, municipalities can levy a Well Drilling Equipment Tax (WDET) on companies drilling for oil and natural gas. The WDET is a one-time tax levied on the well drilling equipment and is calculated by multiplying the depth of the well by a provincially regulated rate. Under the changes approved by the Commission, the BAT Standards will now accommodate similar First Nation BAT laws, enabling Alberta First Nations to tax an operator's use and occupation on the reserve for the oil and gas well drilling activity.

The Standards require the BAT (Well Drilling) law to have similar rates as those currently levied by the Province of Alberta. The FNTC has developed a sample BAT (Well Drilling) Law to assist First Nations in establishing this revenue jurisdiction.

Currently, the FNTC is examining how a BAT law for oil and gas well drilling activity can be developed and applied by First Nations in other Provinces. For more information on the BAT (Well Drilling) Law or to download the sample law, please visit www.fntc.ca. ■

activities, this guide will provide an overview of the statutory and regulatory framework for First Nation property taxation in Canada. It will also provide an overview of local revenue account management and reporting requirements, budget setting, local revenue account reserves and local revenue account expenditures. The Guide is anticipated to be released this winter and will be published on the FNTC's website. ■

Property Taxation and Jointly-held Reserves

In Canada, there are approximately seventy reserves that are held jointly by First Nations. A "jointly-held reserve" means a reserve where more than one First Nation has an interest in the management, use and control of the reserve. Typically they involve two to four First Nations, but sometimes they can involve over twenty. For the last fifteen years, First Nation tax authorities with jointly-held reserves have attempted to exercise property tax jurisdiction over these lands. It has been challenging due to the need for a single property tax administration and the rules against sub-delegation of law making power.

(Continued on page 2)

Property Tax Expenditures and Local Revenue Account Management

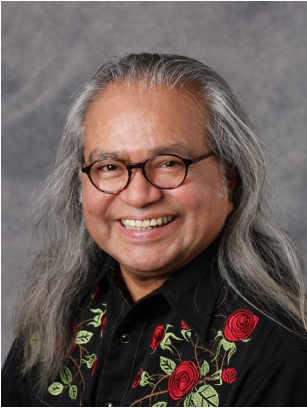
Transparency, accountability and understanding are critical elements in building a tax system that is credible, sustainable, and supported by taxpayers and First Nations. The First Nations Tax Commission is committed to assisting First Nations in building such systems. In keeping with these objectives we are developing a guide for property tax expenditures and local revenue account management. Developed to assist finance practitioners in carrying out their roles and responsibilities relating to the management and reporting of Local Revenue Account



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Message from the Chief Commissioner



Welcome to the Fall 2013 edition of Clearing the Path. September is the hardest working month of the year. It's the end of summer vacations. It's back to school for students. It's time to finish construction projects. For many of our communities it is the point of the tax cycle when we begin to plan for future expenditures, projects and assessments.

The first major event this fall is the First Nation Tax Administrators Association (FNTAA) 20th Annual National Forum. I am honoured to be recognized at this meeting and I would also like to congratulate the tax administrators who are accepted as *Certified Tax Administrators* by the FNTAA. Well done.

The FNTC annual general meeting is on September 26th, 2013 in Kamloops, BC. We also meet with the Canadian Property Tax Association at their annual general meeting on October 1st, 2013.

We are really looking forward to working with interested First Nations on a number of new local revenue options this fall. The FNTC is aware that the first development cost charge (DCC) law and system under the *First Nations Fiscal Management Act* (FMA) will soon be operational. We know there are other communities that are interested in establishing DCC systems. The Tzeachten FMA property transfer tax (PTT) law was approved in June. It is the first of its kind and other FMA First Nations have expressed an interest in implementing a similar system. The FNTC is continuing to work with interested First Nations to implement a FMA business activity tax on hotels and motels in BC. If any of these FMA revenue options interest your community, please contact us so we can continue to work together to assert and grow our revenue raising jurisdictions.

The Commission is also launching some new initiatives and projects this fall. Soon First Nations will be able to use the online Gazette for a number of notification services to fulfill requirements associated with contracts, employment and First Nation laws approval processes. The Tulo Centre and the FNTC are introducing a new regional workshop series to provide access to learning about First Nation tax jurisdiction based on the successful Tulo Centre courses. The first workshop is on October 22nd, 2013 in Toronto. Additionally, Tax Administration Software (TAS) is available for use in British Columbia, Alberta, Saskatchewan and Manitoba. Work on a TAS version for Ontario and New Brunswick is underway.

As we move into the second half of the fiscal year, I look forward to a productive and successful Fall. As always, I'm interested in hearing your view on how we could improve our services and I hope you enjoy this edition of Clearing the Path.

Sincerely,

C.T. (Manny) Jules
Chief Commissioner

(... Jointly-held Reserves, continued from page 1)

This changed with the 2005 passage of the *First Nations Fiscal Management Act* in which clear authority was provided for First Nations to delegate their law-making power. The FNTC developed a sample Delegation of Authority Law (DAL) and Standards supporting the

Law. Recently, several Sto:lo First Nations have been working to establish property taxation on their jointly-held reserve. Their work will be a prototype for First Nations wanting to unlock property tax revenue on jointly-held lands. ■

Development Cost Charges and the Importance of a Long-term Capital Plan

A Development Cost Charges (DCC) law is a law made in which one-time charges are levied against residential, commercial, industrial and institutional developments that impose a capital cost burden on the First Nation. The DCC is charged by the local government to share the cost of infrastructure with the individual or company that will benefit from the development of a site.

A DCC can assist a First Nation in building infrastructure. The provision of infrastructure reduces the cost of doing business and encourages economic development. Encouraging economic development has proven to be an effective instrument to raise the standard of living. A DCC law can reduce transaction costs with First Nation



jurisdictions. It will increase regulatory certainty for investors as well as increasing the potential rate of return on the investment.

The FNTC Standards For First Nation DCC Laws provide that, for almost all DCC laws, the law must be based on a Long-term Capital Plan (LTCP). Generally, there are three parts to a LTCP.

Tzeachten First Nation Property Transfer Tax Law

Tzeachten First Nation introduced a new Property Transfer Tax (PTT) Law. The Law imposes a tax on the transfer of residential properties leased on Tzeachten First Nation lands. Local revenues generated from the Law are expected to be invested in improving local community infrastructure such as roads, sidewalks, street lights and many community amenities.

On June 26, 2013 the Commission approved the Tzeachten First Nation PTT Law. The approval of the law followed a three month notification and consultation process that Tzeachten initiated with potential taxpayers.

The Plan

The plan is a narrative that clarifies the existing land development and describes the intended future land development. It compares the existing infrastructure with the future requirements as outlined in the plan. The plan considers land use, employment and economic development in the region. It discusses how land use will be controlled via zoning requirements and the provision of local services. It describes the optimum state of development on reserve that would exist at the end of the planning process. Most importantly, the plan identifies the shortfalls in capital infrastructure that would not allow the First Nation to achieve the optimum state of development.

Capital Project Listing and Rationale

This is a detailed rationale for the capital development projects (to be funded by DCC revenues) that must be undertaken in order to provide local services needed to support the planned optimum state of development. Each project must have a cost estimate that provides a reasonable degree of confidence. Consideration to the timing of the development must also be included.

Financial Plan and Cost Calculations

This contains the total costs of the required capital projects in relationship to the development. The DCC calculations and charges are included. The financial plan identifies and considers the financial implications of the plan, including assist factors, outside sources of funding, and most importantly, the amount of money to be collected from developers undertaking development during the timeframe provided. ■

Tzeachten Chief Glenda Campbell stated: "We appreciate all of the hard work by our staff and advisors and by the Commission as well as the extensive input from our taxpayers. Our Property Transfer Tax is a major milestone for Tzeachten and all First Nations. We realize that taxes are never popular. However, we look forward to working with our taxpayers, our members and our development partners to create a healthy, safe and sustainable community."

Over the course of the next several months, the Commission will be establishing a supporting framework for other First Nations interested in developing a property transfer tax. ■

Profile: Commissioner Ken Marsh

Commissioner Ken Marsh is a property tax manager from Alberta with more than 26 years experience managing property valuation and taxation. Mr. Marsh's background in property taxation includes technical expertise in the valuation of pipeline assets and negotiations with assessment authorities, at all levels of government in Canada and the United States. Mr. Marsh is a leading authority in assessing varying classes of properties for local taxation purposes (including oil and gas, commercial and industrial property interests), and promoting education in assessment and taxation.

Tell me about your background and experience in property taxation.

I graduated in 1980 from the Northern Institute of Technology in Construction Engineering Technology and started working for the Provincial Government of Alberta in the area of industrial assessment. In 1985 I moved to the assessment department with the City of Edmonton. Since 1988 I've been employed by Trans Canada Pipelines Ltd., where currently I am the Director of Property Taxation. In my experience conferring with my peer group, assessment / taxation was an area that no one really chooses to get into; it happened by default. Now there are nationally recognized assessment / taxation programs offered at various institutions and I am encouraged to see graduates of these programs choosing property assessment / taxation as their career.

What is the Canadian Property Tax Association (CPTA)?

The CPTA was founded in 1967 as a national organization providing a forum for the exchange of ideas and information on property tax issues across Canada. Initially it was a gathering of tax professionals representing companies with different property types: utilities, commercial / retail, railways, pipelines, etc. The membership is now over 400 members. My involvement started at the local chapter level, serving as chapter chairman through to the national level in several positions on the executive committee including President of the CPTA in 2003.

The CPTA has been a supporter of First Nation property taxation and specifically the First Nations Fiscal Management Act. Why?

The CPTA supported the former Indian Taxation Advisory Board and continues to be a strong supporter of the

current First Nations Tax Commission. In 2011 CPTA and FNTC signed a Memorandum of Understanding agreeing to meet from time to time to maintain an open dialogue concerning First Nations property tax and property tax in general. The FMA ensures the integrity of the system of First Nations property taxation which builds capacity in First Nations to administer their taxation systems. CPTA supports the continued growth of property taxation on First Nations lands and the opportunity to exercise their jurisdiction of property taxation.



Commissioner Ken Marsh

You have a wealth of experience in assessment, Why is assessment important?

Property assessment is important as it creates the base upon which taxing authorities utilize to generate revenue for operating purposes. The most important aspect of property assessment is fairness and equity. Fairness in assessment leads to fairness in taxation.

You've been a great proponent of education in the area of assessment. Why do you feel education in this area is important?

I'm a very strong supporter of education in the assessment / taxation profession as it provides the platform for developing an understanding of the details of the assessment / taxation function. I have witnessed the development and implementation of the Tulo Centre program; it has been an incredible personal experience to see the graduates of the Tulo Centre program successfully achieve a nationally recognized diploma in the field of assessment / taxation.

You are currently a Commissioner on the First Nations Tax Commission. What has this experience been like?

It is a privilege and honour to serve on the First Nations Tax Commission. I believe that being the utility taxpayer representation on the FNTC highlights that First Nations recognize that transparency is an important part of the makeup of the FNTC in support of property taxation for First Nations. ■

Keeping Organized with TAS

Carlene George, Property Taxation Officer for the Penticton Indian Band, has been using the Tax Administration Software (TAS) since its first release in 2010. Carlene is responsible for the collection of property taxes from leased lands located on reserve.

In 2011 Carlene was part of the first graduating class of the Certificate in First Nation Taxation Administration program. She said she feels honored to be a part of the First Nation Property Taxation administration with the Penticton Indian Band.

Ms. George uses TAS to generate and print tax notices for each property, to search for historical information, to keep a precise account of payments and to track enforcement procedures. TAS also has a number of reports used throughout the year to provide accurate information for accounting purposes and to communicate with taxpayers.

Ms. George says that “the Taxation Administration Software is the most important tool in my office. The software allows me to keep track of each property taxpayer in an organized fashion using the vast amount of features it holds. I appreciate the advanced technology this software offers and would recommend it to all property taxation administrators.”

She emphasizes that property taxation is an important and interesting field and TAS gives her the confidence she requires when using or talking about data and information. “I want to help the Penticton Indian Band be the best it can be and following best practices in property taxation administration benefits my community as a whole.”

What is TAS?

TAS is a simple and powerful administrative tool designed to help tax administrators efficiently manage the complete annual tax cycle: assessments, budgeting, rate setting, preparing tax notices, collection and enforcement. TAS is compliant with the legislative requirements of the First Nation Financial Management Act (FMA) and policy and standards of the First Nations Tax Commission (FNTC), supporting best practices in property taxation administration.

Cloud Computing

TAS is delivered through an innovative cloud-based application on the internet. It is a secure site with

enhanced manageability allowing the developers to access and maintain TAS efficiently. TAS users have password protected access to their database from any device or platform providing security and greatly reducing costs.

Advanced Tools

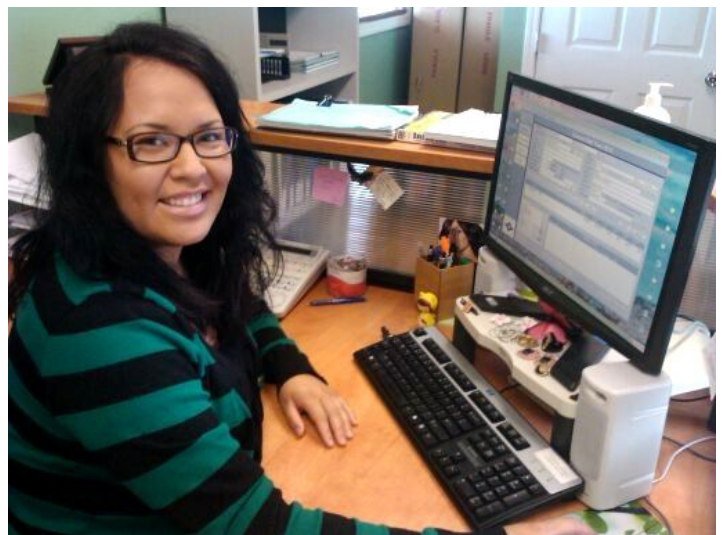
Essential TAS tools are available to First Nation property tax administrators supported by the Commission. Services include access to the basic budgeting and rate calculation procedures including a budget and tax rate editing tool, easy folio search, ability to manage multiple districts with multiple tax rates and seamless import of BC Assessment data.

Comprehensive System

Comprehensive TAS tools are available to First Nation property tax administrators for an annual fee. The cost of a First Nation’s annual service fee is based on the total assessed value of the First Nation’s taxable properties. This comprehensive toolkit steps you through the entire property taxation cycle with enhanced support and services. Comprehensive services include functional built-in reports, automatic tax notice generation and printing, access to historical data, access to collection and enforcement tools as well as live web support.

Training

Regularly scheduled monthly webinars are available free of charge. Join a webinar to see a demonstration on how TAS can assist in the tax administration process, to receive general training in the functions and procedures in TAS, and to connect with other tax administrators. ■



Carlene George, Penticton Indian Band Property Taxation Officer, working with TAS

Commission Honours Former Minister for Key Role in Passage of Bill C-115

On June 28, 1988, Bill C-115, known as the “Kamloops Amendment”, received Royal Assent, setting in motion a chain of events that has forever changed the economic landscape for First Nations across Canada.



Honourable Bill McKnight

The Honourable Bill McKnight, then Minister of Indian Affairs and Northern Development, was responsible for guiding Bill C-115, the first ever First Nation-led change to the *Indian Act*, through Parliament. As a true testament to Mr. McKnight’s skills and abilities as the Minister, C-115 was passed with all-party support.

On June 26, 2013, in recognition of that important milestone, the First Nations Tax Commission – the successor to the Indian Taxation Advisory Board, a unique institution established at that time to complement Bill C-115 – recently honoured Mr. McKnight in Saskatoon, Saskatchewan.

Chief Commissioner Jules, himself the driving force behind this First Nation-led legislation in 1988 (as Chief of the Kamloops Indian Band), said it was an opportunity for the Commission to officially recognize and thank the former Minister for the key role he played 25 years ago. Chief Commissioner Jules noted the far-reaching economic benefits of Bill C-115 continue to be enjoyed by First Nations in every region of Canada.

Mr. McKnight said that he was deeply touched by being honoured and noted his job in Parliament was made much easier due to the tireless work of Chief Jules in securing the First Nation support for the changes proposed in Bill C-115. ■

C-428 Indian Act Amendment Bill to Continue in New Session of Parliament

With the Prime Minister’s announcement in August to seek prorogation of Parliament, thereby ending the current parliamentary session, all government bills ceased. Legislation would have to be reintroduced in the new session. However, Private Member’s bills are unaffected and are restored to their most recent stage in the House of Commons. This includes Bill C-428, officially known as “An Act to Amend the Indian Act (Publication of By-laws) and to Provide for its Replacement”.

C-428 was at the report stage in the House of Commons in the last session of Parliament. The bill is sponsored by Member of Parliament Rob Clarke (Desnethé-Missinippi-Churchill River), himself a member of the Muskeg Lake First Nation. Mr. Clarke described the changes proposed in the bill as “housekeeping in nature and are designed to remove the underbrush from the (Indian) Act.”

Under Bill C-428, section 81 *Indian Act* by-laws could no longer be disallowed by the Minister of Aboriginal Affairs and Northern Development. Instead, First Nations would have the option of publishing their by-laws in a newspaper, on their own website, or in the First Nations Gazette.

Today, 171 First Nations use the Gazette, where approximately 2,300 by-laws, laws and land codes are published, providing direct access to First Nation citizens, leasehold and other residents living on reserve lands, electors, legal practitioners and those with commercial and other interests in reserve land and the public.

Parliament is not expected to be recalled until after the throne speech, likely after the Thanksgiving holiday. However no official date has been set. Once Parliament resumes, the next stage for C-428 is third reading in the House of Commons and then referral to the Senate for its consideration. ■

Graduation Class of 2013

The second graduating class of the *Certificate in First Nation Tax Administration* program had their convocation on Friday June 14, 2013. The graduating students:

- Arnold Baptiste, Simpcw First Nation
- Dean Bear, Muskoday First Nation
- Gordon Bluesky, Brokenhead Ojibway Nation
- Leanne Bradbury, Comox Indian Band
- Nicole Calver, First Nations Tax Commission
- Bonnie English, T'Souke Nation
- Kerri-Jo Fortier, Simpcw First Nation
- Lynn Gottfriedson, Tk'emlúps Indian Band
- Jordan Joe, Shackan Indian Band
- Elise Petersen, Westbank First Nation
- Kalulani Pyper, Tk'emlúps Indian Band
- Sandra Sprinkling, T'Souke Nation
- Lise Steele, We Wai Kai Nation

Benefits of becoming a CFNTA graduate are:

- Meets one criteria for *Certified Tax Administrator* membership status with the First Nations Tax Administrators Association.
- Leads to potential career advancement, personal development and expands your professional network.
- Excel at property tax administration and contribute to the success of your community. ■

"Before this course I saw taxation as a fundraiser but now I can appreciate the political, legal and economic importance. The program gave me confidence to take on tax administration and most of all connected me to the FNTC and other First Nations. Advice and support (and answers to questions!) have always been just an email or phone call away."

- Leanne Bradbury
Tulo Graduate



Regional Workshops provide access to Learning: Workshop Series

This year, the First Nations Tax Commission is working with the Tulo Centre of Indigenous Economics to debut its new workshop series. The series is targeted to professionals, First Nation leaders and staff, potential business partners and other interested participants.

The workshops will become part of regular education programming, giving participants access to focused topics and subject-matter experts. The workshops will also assist Tax Administrators in keeping current in the field.

The one day regional sessions will introduce the participants to property taxation and to the current issues facing First Nation jurisdictions in a specific region. Topics include:

- What is taxable and how to generate First Nation tax revenues during decline of federal transfers.
- How to implement First Nation tax jurisdiction using the *Indian Act* or the *First Nations Fiscal Management Act*.
- How taxation supports First Nation economic development and improves community services and infrastructure.
- The history of First Nation property tax jurisdiction.

The three regional workshops are scheduled as follows:

- *Exercising First Nation Taxation Jurisdiction in Ontario*: Toronto, Ontario
Tuesday October 22, 2013
- *Exercising First Nation Taxation Jurisdiction in Manitoba*: Winnipeg, Manitoba
Tuesday November 19, 2013
- *Exercising First Nation Taxation Jurisdiction in Saskatchewan*: Regina, Saskatchewan
Tuesday February 18, 2014

Visit www.tulo.ca for more information and to register.

Congratulations to Sakej Henderson and Marie Battiste on being elected to the Royal Society of Canada, one of Canada's highest academic honours.

Sakej Henderson, Director of the Native Law Centre, was instrumental in the development the First Nations Gazette and is a long-standing member of the First Nations Gazette Editorial Board.

Property Tax Word Search

I U Y G R S K T H Y A M Q J T
C N E M Y I A O T P D A U E N
T E F S O X A I D B M R E F E
C N T R P N N F E B I K U F M
P E E A A U O E A S N E N I S
M R Y M M S C C D X I T E C S
H E O M N I T I E A S G V I E
R S O P V R C R G T T B E E S
W C R R R T E P U W R E R N S
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T S X O Q C Y I O I T F F P H
O T N S E T A R K G I U P O E
A U T H O R I T Y K O Y R P C
T I F E N E B O D M N M S E Z
E R U T I D N E P X E Z X W I

ADMINISTRATION	INFRASTRUCTURE
ASSESSMENT	JURISDICTION
AUTHORITY	MARKET
BENEFIT	PROPERTY
COMMUNITY	RATES
ECONOMY	REVENUE
EFFICIENT	SERVICE
EXPENDITURE	SYSTEM
FAIR	TAX
GOVERNMENT	TAXPAYER



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