



CLEARING THE PATH

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FMA Amendments Empower First Nations

First Nation tax authorities are celebrating the amendments to the FMA that are effective April 1, 2016. These amendments provide certainty that First Nations will continue to create revenue now and for generations to come. The First Nation-led amendments address the needs and concerns voiced by First Nations and stakeholders. The changes will vastly improve the FMA by streamlining access, improving efficiencies, and expanding local revenue choices to create a stable resource and legacy for First Nation government. Below, we highlight how several amendments will positively impact the FMA property tax system.

Streamlining Access

Improved access to the FMA has been achieved by changing the way First Nations are added to the Act's Schedule of participating First Nations. Previously, the process was often time consuming for First Nation governments. The new process uses a Ministerial Order, thus eliminating the need for Cabinet decision-making and large amount of bureaucracy that follows. The Minister of Indigenous Affairs now has sole sign off on requests to be added to the FMA.

Improving Efficiencies

One of the more significant improvements in efficiencies is the change made on how First Nations must give notice prior to enacting a local revenue laws (e.g., a property tax law). The section 6 notification requirements were modified in three ways. First the length of notification was reduced from 60 days to 30. Second, the mail-out and newspaper publication requirement were eliminated. Finally, the FNTC was empowered with the ability to supplement the Act with additional notice requirements. Collectively these changes bring the Act in line with best practices in government notification.

Another efficiency-promoting measure deals with how First Nations must conduct audits of the local revenue account (i.e., property tax revenue account). Previously, First Nations were required to complete a separate audit. This meant in some cases the cost of the audit could exceed the amount of revenue generated through property taxation. For example a small number of First Nations raise less than \$10,000 a year. Amendments to section 14 provide a less costly alternative to a separate audit.

Enhancing Investor Confidence

Two key changes to the FMA will instill greater investor confidence and provide more choice for taxing First Nations: the expansion of the definition of "local revenues" and the addition of a law-making power for charging fees. Under the amendments, payments in lieu of tax (or PILTs) will now be included as a local revenue. The inclusion of PILTs, which are often paid by governments, Crown corporations, and other entities, will strengthen a First Nation's ability to provide local services and increase its capacity. Another new local revenue added with the FMA amendments is fees. Increasingly many First Nations are turning to cost-recovery fees to augment their revenue to help pay for local services. These include fees for the provision of water, sewer, garbage collection, recreation facilities, and transportation. Both PILTs and fees will improve First Nations' fiscal capacity to provide services and capital infrastructure that will attract greater private investment.

With these amendments, it is expected that participation in the FMA (currently at 177 First Nations) and local revenues raised (nearly \$50M annually) should significantly increase in the coming years. ■



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Chief Commissioner's Message



As we approach the start of our new fiscal year, we must also recognize the federal government is in the midst of a transition that has created a new sense of optimism for many First Nations leaders.

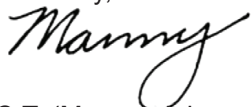
The federal government just released its budget for the next fiscal year. It includes an entire chapter committing substantial resources to First Nations to improve infrastructure, education, housing, health, economic development and the fiscal relationship. It represents a significant opportunity to advance our jurisdiction and economies. There were several items we were particularly interested to read, including:

- Over \$2 billion in extra resources is committed to First Nation infrastructure in the next four years. Priority infrastructure includes water and sewer systems, schools, health stations and recreation. It will be important this infrastructure investment is fiscally sustainable so operation, maintenance and replacement costs can be met. We will be working with First Nations and the federal government to ensure that.
- The federal government restated its commitment to a stable revenue-based fiscal relationship. As we know, the most stable source of revenue is our tax jurisdiction. We are looking forward to working with interested First Nations and the federal government to develop a tax-based fiscal relationship option.
- The federal budget also committed significant resources in the coming years to support consultations with First Nations and First Nation organizations to, among other things, develop options that could increase resource development support. The Aboriginal Resource Tax proposal the FNTC has developed with interested First Nations could be an option to ensure First Nations receive a fiscal benefit from resource development in their territories.
- The federal government is committed to supporting First Nation administrative capacity development. The FNTC will work with First Nations, the Tulo Centre of Indigenous Economics and the federal government to ensure some of these resources are used to expand tax administration and infrastructure planning and financing skills and capacity.

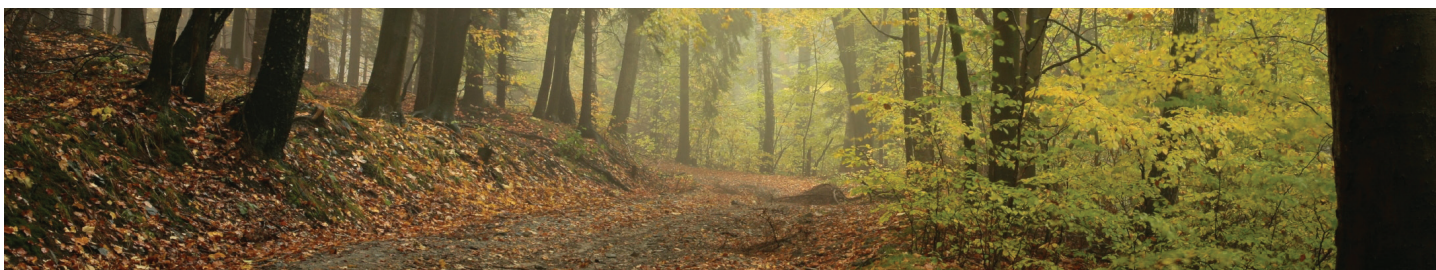
Perhaps the most important element of the federal budget, however, is the strong commitment to a nation-to-nation framework. Like you, I believe that our tax jurisdiction represents the foundation of a true nation-to-nation relationship. I was reminded of the importance of our work on a recent visit to the Ngai Tahu (Maori) in the South Island of New Zealand. I was struck by how similar their history and issues are to ours. Like us, they had title and tax and land jurisdiction before contact but their jurisdiction and title were removed by legislation and they have been working to restore their title and jurisdiction since that time.

The Ngai Tahu want to implement the tax jurisdiction that we enjoy. They want the ability to raise independent revenues to improve community services and infrastructure. They want to establish the certainty necessary to attract investment to their lands. They want to establish a nation-to-nation relationship based on tax jurisdiction. This serves as an important reminder that our work is not only important in our communities here but also serves as a model for our sisters and brothers in other countries.

Sincerely,



C.T. (Manny) Jules
Chief Commissioner



Taxation under section 83 of the *Indian Act* versus the FMA

ISSUE	SECTION 83 OF THE INDIAN ACT	FIRST NATIONS FISCAL MANAGEMENT ACT
Undertake basic property taxation regime?	✓ Yes	✓ Yes
Can you undertake immediately?	✓ Yes	✓ Yes
Responsive, comprehensive regulatory framework to support First Nation jurisdiction?	✗ No	✓ Yes
Allows for expanded First Nation tax powers? - Development Cost Charges - Service Taxes - Business Activity Taxes - Property Transfer Taxes - Fees for local services	✗ No	✓ Yes
Taxpayer Representation Laws?	✗ No	✓ Yes
Financial Administration Laws?	✗ No	✓ Yes
Possibility to participate in low-cost, First Nations pooled borrowing?	✗ No	✓ Yes
Eligible for law development grant funding?	✗ No	✓ Yes
Strengthened tax enforcement and lease cancellation powers in regards to non payment of taxes?	✗ No	✓ Yes
Authority to approve laws?	Minister	FNTC

19 more First Nations added to the FMA schedule

Congratulations to the 14 First Nations that were added to the Schedule of the *First Nations Fiscal Management Act* (FMA) through an amendment to the Act on January 29, 2016. There are now 177 FMA First Nations in Canada.

The 19 First Nations added to the schedule are:

- Algonquins of Pikwakanagan First Nation, ON
- Anishnaabeg of Naongashiing, ON
- Bigstone Cree Nation, AB
- Chippewas of Rama First Nation, ON
- Enoch Cree Nation #440, AB
- Flying Dust First Nation, SK
- Fort William, ON
- Innue Essipit, QC
- The Key First Nation, SK
- Lhtako Dene Nation, BC
- Little Saskatchewan, MB
- Moosomin, SK
- Nazko First Nation, BC
- O'Chiese, AB
- Pheasant Rump Nakota, SK
- Quatsino, BC
- Sweetgrass, SK
- Waywayseecappo First Nation Treaty 4-1874, MB
- Xaxli'p, BC

AFOA Canada 2016 National Conference

The First Nations Tax Commission, along with the Tulo Centre of Indigenous Economics and the *First Nations Gazette*, teamed up this year to attend AFOA Canada's 2016 national conference in Montreal, QC from February 16 - 18. The organizations attended the conference to promote the programs and services available through each organization as well as to provide attendees with general information about property taxation and its potential to assist First Nations in economic development. The theme of this year's conference was "Leadership and Governance: Transformational Change through Education and Capacity Building"

Property tax jurisdiction has the ability to exemplify transformational change for communities and is a vital revenue stream for many First Nations across the country. First Nations that are collecting property tax are independently growing economies and creating stable revenue streams which amount to \$1 billion over the past 25 years.

This is revenue that First Nations are using to strengthen governance, build infrastructure, create communities and support economies. However, there is still a large number of First Nations in Canada that have yet to assert their property tax jurisdiction. It is estimated that First Nations across Canada that have potential to generate revenues through property tax, but are not, are collectively forgoing over \$200 million annually.

The FNTC, FNG and the Tulo Centre have many programs and service available to help First build the legal and administrative frameworks necessary for managing their systems and growing their economies.

There were over 150 visitors to the tradeshow booths to learn more about property taxation and what it could mean for communities. **The most asked questions included:**

Q1.

We don't have any residential or business developments on reserve land. How could this help us?

First Nations that lack residential or business opportunities on their reserve lands usually have utilities interests on their land that can be taxed. There are many First Nations across Canada who only have utility taxpayers. First Nations might also want to establish their jurisdiction and/or set the groundwork to allow for property taxation once a residential or business development is established.

Q2.

Why should all First Nations collect property tax?

First Nation property taxation is an optional fiscal power. Over 25% of First Nations have chosen to exercise that power for several reasons. Property taxes provide an independent, stable and flexible source of revenue, which can be reinvested to build economic infrastructure, attract investment, and promote economic growth. Property taxation also establishes jurisdiction and provides First Nations with improved powers to control land development.



The FNTC and FNG are pleased to announce with winners of the door prize draws:

**First Nations Tax Commission – Smart Watch.
Winner: Kirbi Paypompee**

Kirbi Paypompee is from Northwest Angle #33 First Nation, located in Northwestern Ontario. She is a program assistant/receptionist at the Anishinaabeg of Kabapikotawangag Resource Council Inc. She graduated with Office Administration Diploma in June 2015, but is planning on furthering her education in Finance/Accounting. Kirbi attended the AFOA Conference to better understand the different aspects of Finance/Accounting and enjoyed the conference very much.



**First Nations Gazette – Smart Watch.
Winner: Marilyn Jacko**

Marilyn Jacko is from the Odawa Nation of Wiikwemkoong Unceded Territory and was born in Chicago, Illinois, USA. Marilyn works at the Wikwemikong Unceded Indian Reserve as the Executive Administrative Assistant to Chief and Council. She has a Bachelor of Arts in Law and Justice, Comprehensive Arbitration training from the ADR Institute of Ontario and is currently taking CAPA courses through AFOA Canada and will be certified in December 2016.



Profile: Commissioner Terry Babin



Mrs. Latrica (Terry) Babin is the Director of Operations for the Shuswap Indian Band in Invermere, BC. She has over 25 years' experience in First Nations Property Taxation and Aboriginal Financial Administration, and extensive experience in First Nations GST and Aboriginal land management.

In 2012, Commissioner Babin completed the Professional Land Management Certification Program and was one of the inaugural graduates from the Tulo Centre of Indigenous Economics. She serves as the President of the BC Aboriginal Land Managers Association as well as serving as the Director of the First Nations Tax Administrators Association for the past 18 years. Her experience in Aboriginal developmental lending is derived from having served as a Director of All Nations Trust Company for the past 19 years.

What has your experience as a Commissioner for the FNTC been like?

I thoroughly enjoy my role as a Commissioner. The combined experience of tax administration and land management enable me to understand and relate to the unique circumstances of each First Nation and the land regime they operate under. Through our work on the Commission, I feel I am contributing to the success of every First Nation that has assumed taxation authority.

Under the guidance and leadership of Chief Commissioner Manny Jules, and with the expertise of my fellow Commissioners along with the dedicated staff of FNTC, I truly believe the Commission provides the economic strategies and fiscal tools required to “clear the path” for a successful economic future for the First Nations in Canada.

In what ways, does a sound land management system support property taxation and how do the regimes work together to strengthen the future for First Nations?

First Nations management of lands and taxation jurisdiction are the foundation of economic stability and the cornerstones of sustainable economic success. Investment on First Nations land is severely restricted within the restraints of the *Indian Act*. The provision of a secure, legitimate land regime allows the First Nation to realize economic opportunities as they become available and the

ability to maintain control over their land and resources. Investment climates require credible administration, solid financial management and an independent revenue stream. The revenue stream provided through property taxation gives the community the ability to provide the infrastructure required to attract investment. The certification of the Lands Manager and the Tax Administrator establishes the professional credibility of the First Nation and provides security and stability to investors on First Nation lands.

Associations such as the First Nations Tax Administrators, National Aboriginal Land Managers and First Nations 4 Land Management provide exceptional service, products and support to the taxation and land regimes. They play an integral part in providing assistance and guidance on new and relevant information, regulatory requirements, training, information updates and AGMs with topics pertaining to the most recent developments in lands and taxation.

What changes have you noticed in the field of tax administration since you began your role as an FNTC Commissioner?

First Nations are taking advantage of the benefits of the enhanced fiscal powers introduced by the *First Nations Fiscal Management Act*. The FMA strengthens tax and financial management regimes, provides increased revenue raising ability, access to capital funding and allows for borrowing for on-reserve infrastructure.

The Tax Administrator must be aware of the specific legislation, laws and regulations the First Nation operates under. The role of the tax administrator is one of the most important roles in the Band Office, and capacity development has always been greatly supported by the FNTC. Tulo has played a very prominent role through the development and delivery of two certification programs, one in First Nation Tax Administration and another in First Nations Applied Economics. The FNTC also led the development of the Tax Administrator Software (TAS), as well as the redesign and accessibility of the *First Nations Gazette*, which are tools available for the Tax Administrator to build competencies and contribute to the stability and credibility of a tax regime. ■



Tulo graduate Wendy Ham



Sumas First Nation's tax administrator Wendy Ham attended Tulo from 2014-2015 and will be graduating with her certificate in First Nation Tax Administration this year. Prior to entering the field of tax administration, Wendy worked in post-secondary education and in the not-for-profit (NFP) sector and received her CGA designation in 2001. After spending seven years in NFP, Wendy was hired as a consultant at Sumas First Nation (SFN) in April 2013, eventually

assuming the permanent Finance Manager position in January 2014. Wendy has also recently applied to receive her certified Aboriginal Finance Manager designation.

Recently *Clearing the Path* had the opportunity to sit down with Wendy to learn more about her experience as a tax administrator and as a student at the Tulo Centre of Indigenous Economics.

How did you get into tax administration?

When I started working on Sumas First Nation's audit, I began touching on the tax side of things and was trying to understand the complexity of taxation. Prior to my involvement, tax administration was being done off the side of someone's desk, so I spearheaded the process of reviewing SFN's tax laws and identified areas to work on so the laws better reflected the needs of the community and connected with FNTC for support. From there, I was contacted by Tulo to see if I was interested in doing the program and once I took a look at the curriculum, I realized it was a great opportunity to expand my limited knowledge and understanding.

What did you enjoy most about your program?

I loved meeting tax administrators from other nations. There's nothing better than the opportunity to brainstorm and find out what others are doing, to get to the issues and share concerns. It was a really great experience. I enjoyed that it was practical knowledge you could take and put to work right away. It also gave me the opportunity to be proactive instead of reactive - that was huge. In tax administration, the key to having a good program is being proactive with taxpayers. Taxation weaves into so many areas of First Nation administration, including land and resource management and working on infrastructure. It really is a cornerstone of sound First Nation governance.

What did you learn from your fellow tax administrator graduates?

I learned leaseholders across the nation are the same and we all have similar issues and we can really learn from each other. I also learned that property tax is more complicated than one might initially think and having a group to reach out to and work with is truly great.

Do you keep in touch with the other graduates from your cohort?

I do. I run into them at conferences. We all have each other's contact information so it's easy to connect and discuss issues we encounter. One of my cohort members is also in finance and tax administration so we try to keep in touch.

Through all the material covered during your program, what stood out the most?

One of the biggest things is the complexity, there is so much more to think about than just collecting taxes. There's the potential of development cost charges, service taxes and other ways to raise capital to make your First Nation better. It's not just about collecting tax dollars, it's about using those dollars in the best way possible for your First Nation. It really impacted how I thought about how we deal with property tax and made me change the way we administer our property tax system.

How has the successful completion of the program impacted your work at SFN?

It's definitely a lot more work initially but again that ties into being proactive. It's a matter of meeting early on with potential taxpayers or leaseholders to build those relationships so they know what they are getting into and helping them understand the process. It is so important to have good long term relations with leaseholders. It may be a lot more work up front, but it saves so much time and energy in the long run because the tax appeal process is long, stressful and expensive. By taking a proactive approach and focusing on good taxpayer relations, First Nations can avoid many of those problems.

What would you say to a fellow tax administrator who has not yet had the opportunity to attend Tulo?

I would definitely tell them it's the best year and half that they could spend to get good, sound knowledge of what it means to be a tax administrator because I think there's a lot of people who have no idea how deep that role is in the organization and how beneficial the education is.

The program Tulo offers is really great and is set up in a good way that works with the busy schedule of tax administrators. This education is a cornerstone that we can all use so we don't waste time trying to reinvent the wheel. Tax administrators can go into this and gain so much in such a short time. Doing the program does nothing but bring credibility to our role within our First Nations. ■

International Tribal Economic Conference keynote address

Chief Commissioner Jules traveled to the south island of New Zealand from February 14 - 28 at the invitation of to the University of Canterbury Ngāi Tahu Research Centre to participate in their international conference regarding what is needed to create a tribal economy where he was the recipient of the Erskine visiting scholar fellowship.

The Chief Commissioner was invited to visit a number of Ngai Tahu villages and present a keynote address at the Kai hiku, kai ūpoko: Tribal Economic Wānanga (conference). In Maori, Kai hiku, kai ūpoko is meant to 'serve as a reminder that we are strongest when we ensure that everyone has enough, and in the context of a tribal economy, has the means and self-determination to take care of their whānau (extended family)."

The purpose of the visit was to exchange ideas and develop a more formal working relationship between the Ngai Tahu Research Centre, the Tulo Centre of Indigenous Economics and the FNTC. Director of the Ngāi Tahu Research Centre, Associate Professor Te Maire Tau said the discussion is a vital one to have in New Zealand as tribal economies have a larger impact than just financially.

“ Culture and wealth go hand in hand. Our rūnanga were really designed to have the same powers as provincial government. It's about generating wealth on our reserves and our villages and creating economic conditions to allow our people to flourish.”

Chief Commissioner Jules visited four marae (village centres) throughout the south island to discuss culture, language, economic development and Ngai Tahu tax jurisdiction and title. His presentations at the marae and the conference were very well received and formed the basis of a potentially strong working relationship based on the success of each party and in support of the United Nations Declaration on the Rights of Indigenous Peoples.

The Ngai Tahu tribal council has been exceedingly successful in growing its economy base. It began with a settlement of \$170 million in 1996 and now has an asset base of \$1.2 billion. Revenues from its diverse group of companies and projects support Ngai Tahu language, culture, governments, economic development and members. The Ngai Tahu tribal council has begun to expand its land and resource base and some of the communities may be interested in working with the FNTC to implement tax jurisdiction and title on their lands.

Gifts were exchanged to confirm the partnership and working relationship and the Tulo Centre has also signed an MOU with the Ngai Tahu Research Centre. The research centre is interested in working with the Tulo Centre on student and researcher exchanges, joint research projects, taxation and title curriculum development, a possible joint course and sharing lessons and case studies in support the Tulo Centre open textbook. ■



Call for Submissions

The FNTC publishes the latest news regarding First Nations growing their economies and expanding their jurisdiction as it happens to the FNTC website and mobile app, as well as quarterly in its newsletter *Clearing the Path*, which is mailed directly to every First Nation in Canada.

The FNTC welcomes article submissions and story ideas for publication in each of these communications channels. Of particular interest are articles and story ideas that focus on First Nation economies and jurisdiction, community building, community-based projects and best practices. This could include community success stories, interviews with First Nation leaders, and articles from experts.

FNTC reserves the right to determine which articles will be published. All copyrights for submitted stories will remain with the author, however the FNTC will request to be credited as the original publisher should the article be republished.

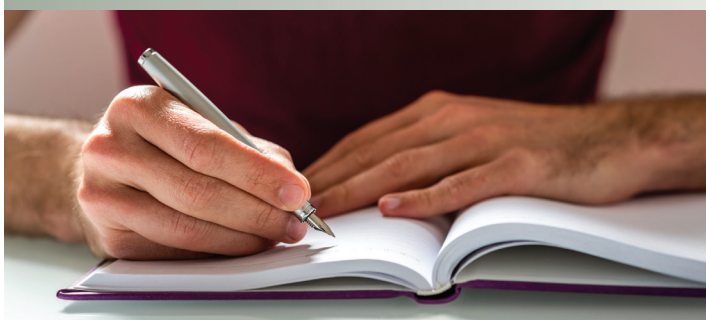
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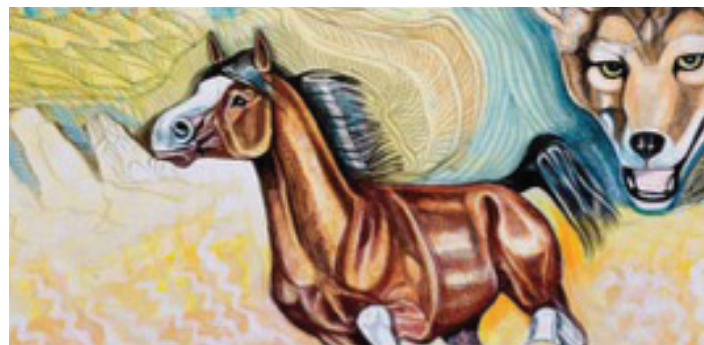
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