

FIRST NATIONS TAXPAYER RELATIONS POLICY

PART I

PREAMBLE

WHEREAS:

- A. Section 83 (1) of the *Indian Act* recognizes First Nation jurisdiction to raise revenue through property tax;
- B. A Memorandum of Understanding between the First Nations Tax Commission and the Minister of Indian Affairs and Northern Development provides for the FNTC to review and recommend section 83 By-laws for ministerial approval; and
- C. Policies are established by the Commission to further the policy objectives expressed in the Memorandum of Understanding, including to ensure the integrity of the First Nations property taxation system and to assist First Nations to achieve economic growth through the generation of stable local revenues.

PART II

INTRODUCTION

The First Nation property taxation system must ensure that First Nations promote and protect jurisdiction and taxpayers are treated with fairness in accordance with principles of natural justice.

The Taxpayer Relations Policy establishes a framework for identifying and implementing approaches to provide for the effective coordination of interests among First Nation governments, their taxpayers, and the First Nation Property Taxation system.

The Taxpayer Relations Policy meets FNTC policy objectives.

PART III

PURPOSE

As part of the taxation by-law review and approval process, this policy will assist FNTC in reviewing First Nation processes for coordination with taxpayer interests on reserve land.

The Taxpayer Relations Policy is needed to ensure that the broad policy objectives of FNTC are achieved by:

- (a) Promoting and protecting jurisdiction by ensuring that responsibility for taxpayer relations rests with First Nation governments.
- (b) Balancing interests by providing opportunities for taxpayers to be heard and influence First Nation taxation decisions that significantly and directly affect them.
- (c) Expanding revenue jurisdiction by creating the necessary trust and capacity in First Nation property tax systems by taxpayers.
- (d) Encouraging economic development by promoting a stable environment for investors and maintaining and increasing the economic value of residential interests on reserve land for the mutual benefit of their taxpayers and First Nations.
- (e) Protect tax system integrity by establishing processes which minimize disputes and manage effectively, early, locally, and equitable those that do arise.
- (f) Promoting efficiencies by effective and efficient mechanisms for coordination, communication, input, and dispute prevention and resolution.

PART IV AUTHORITY

FNTC's policy is governed by subsection 83(1) of the *Indian Act*.

The policy implements objectives set out in the Memorandum of Understanding between the Minister of Indian Affairs and Northern Development and FNTC signed in July 2007 (available on the FNTC website). The MOU and current FNTC policy documents contain a number of interdependent objectives to guide policy evolution and should be read in conjunction with one another.

This policy is developed in accordance with, and consistent with, legal foundations for First Nation property taxation.

PART V DEFINITIONS

“by-law” means a by-law as defined and enacted pursuant to section 83 of the *Indian Act*;

“dispute” means a difference, disagreement, or conflict arising between a First Nation government and one or more of its taxpayers;

“First Nation” means a band as defined in subsection 2(1) of the *Indian Act*;

“taxation by-law” means an assessment by-law or taxation by-law made pursuant to paragraph 83(1)(a) of the *Indian Act*;

“taxpayer” means a person who has an interest in a reserve, including a right to occupy, possess or use reserve lands and is subject to property taxes levied by the First Nation in respect of those interests.

PART VI POLICY

1. Guiding Principles

The Taxpayers Relations Policy is intended to ensure First Nation property taxation systems reflect the following principles:

- (a) Build and maintain trust and a sense of community among First Nations and their taxpayers.
- (b) Recognize First Nation autonomy and jurisdiction.
- (c) Provide opportunities where taxpayers are heard and can influence decisions that affect them.
- (d) Ensure that approaches are durable, stable, and long lasting.
- (e) Establish procedures that are transparent to the public.
- (f) Maximize efficiency and ease of operation for all parties.
- (g) Operate in a fair and unbiased manner.
- (h) Create provisions for amendments and improvements as circumstances change.
- (i) Contain measures of accountability and responsibility.
- (j) Provide accurate, timely and understandable information to taxpayers.
- (k) Acknowledge and respect local conditions, customs, and traditions.
- (l) Incorporate effective mechanisms for dispute resolution.

2. Annual Communication with Taxpayers

A First Nation should, in accordance with this policy, establish communications with taxpayers on at least an annual basis regarding budgets and rates.

(a) First Nations should in a timely manner, make available at the administration offices of the First Nation or other public location annual budgets, municipal service contracts, audits, the assessment roll, Council resolutions related to property taxation, by-laws and other documents directly relevant to First Nation taxation for review by the taxpayers, during normal business hours.

(b) First Nations should establish procedures to ensure that taxpayers have an annual opportunity to provide comment on the property taxation budget and any by-laws relating to the rate of tax to be imposed or the expenditure of tax funds to be collected, prior to their approval by Council. A First Nations procedure should typically provide for:

- (i) notice to invite taxpayer comment, in one or more local media outlets or the First Nation website, as well as at the administration offices of the First Nation; and
- (ii) written taxpayer representations to the Council (received representations should be forwarded to FNTC as part of the submittal of the annual by-law).

3. Ongoing Communication with Taxpayers

A First Nation should, in accordance with this policy, establish additional on-going communications with taxpayers.

(a) The method and frequency of communication should be commensurate with and appropriate to the size of the First Nation, the number of its taxpayers and the complexity of the issues.

(b) Communication mechanisms could include newsletters, newspapers, open houses, meetings, and/or websites.

4. Coordination of Taxpayers' Interests

Formal, coordination mechanisms above and beyond the above notice and representations pursuant to Sections 2 and 3 may be needed to ensure taxpayers are heard and can influence decisions that affect them. FNTC encourages First Nations to implement such mechanisms as necessary. FNTC may provide models, templates, training, consultation, advice, and review to assist First Nations in implementing, maintaining, and improving such mechanisms. The mechanism a First Nation adopts will depend on the specific circumstances of a First Nation, including the size of that First Nation's tax base, the types of affected interest, the costs and benefits of coordination mechanisms, and the desires of taxpayers. Generally, First Nations with large numbers of residential taxpayers will have more formalized systems for considering taxpayers' interests than communities with few or no residential taxpayers.

The following criteria should be entertained when considering establishing such additional mechanisms.

- The frequency of taxpayer issues and concerns raised.
- The magnitude of the tax base.
- The number of residential folios.

FNTC may, where conditions warrant, recommend a First Nation establish a formal, coordination mechanism.

The mechanism adopted by a First Nation should adhere to the guiding principles of this policy, abide by all relevant laws and regulations, and may be modeled after one or more of the following examples. This listing is not intended to preclude other mechanisms that are consistent with this policy, its principles, and relevant laws and regulations.

- (a) Taxpayer Association
 - (i) Taxpayers may independently organize and form formal or informal taxpayer associations.
 - (ii) First Nations should work with such taxpayer associations to ensure coordination, communication, and influence between taxpayers and the First Nation.
 - (iii) When 2 or more taxpayers associations form among a First Nation's taxpayers, it may be necessary to promote coordination among taxpayer associations and/or to create an advisory body.
- (b) Taxpayer Advisory Body
 - (i) A First Nation may establish an advisory body that represents taxpayers and conveys the recommendations of the taxpayers to the government of the First Nation.
 - (ii) The composition, operating procedures and degree of formality of the advisory body will vary according to the particular circumstances of each First Nation and should be structured to have sufficient authority to represent the interests of taxpayers.
 - (iii) A First Nation establishing an advisory body, whether by resolution of Council or through the passage of a by-law, should consider in its procedures:
 - (A) the appropriate selection of representatives on the advisory body, whether through appointment or election or otherwise, to ensure a fair and balanced advisory body representing the various taxpayer interests; and,
 - (B) that the Council of the First Nation both receives and fully considers information and recommendations received through the advisory body.
 - (iv) A First Nation under this model has not relinquished nor delegated any of its statutory authorities.
- (c) Alternative Administration
 - (i) First Nations wholly or partially utilize alternative administrative arrangements to provide public services through an established organization(s) independent of the Council and governed by the taxpayers.
 - (ii) In this approach, First Nations and taxpayers must work to establish sufficient and fair tax collection to meet the service provision needs of taxpayers.
 - (iii) A First Nation under this model has not relinquished nor delegated any of its statutory authorities but rather has exercised discretion to provide alternative administrative means for service provision.
- (d) Creation of Formal Input Mechanisms and FNTC's Role in Review
 - (i) These formal coordination mechanisms may be created by First Nation policy, procedure or by enacting a by-law.
 - (ii) Any by-laws related to the creation of a mechanism to provide for input will be reviewed by FNTC and, if agreeable to the Commission, will be recommended for approval by the Minister.
 - (iii) The First Nation should provide significant opportunities for taxpayers' input into the creation of such mechanisms by policy or by-law.

5. Other

This policy should be read in accordance with FNTC's other by-law policies. Nothing in this policy is intended to abrogate, diminish or supersede the rights and responsibilities of First Nations and their taxpayers.

6. General Enquiries

All enquiries respecting this Policy must be directed to:

First Nations Tax Commission
321 – 345 Chief Alex Thomas Way
Kamloops BC V2H 1H1
Telephone: (250) 828-985

OR

First Nation Tax Commission
National Capital Region
Suite 202-190 O'Connor Street
Ottawa, ON K2P 2R3
Telephone: (613) 789-5000 ext. 204

**PART VII
EFFECTIVE DATE**

This Policy is established and in effect as of March 15, 2010.