

# CLEARING THE PATH

FIRST NATIONS TAX COMMISSION

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## FSMA Participation Grows as Twelve First Nations are Added to the Schedule

First Nation interest in the *First Nations Fiscal and Statistical Management Act* (FSMA) continues to grow. On September 5, 2008, the schedule of the FSMA was amended to add twelve First Nations. The twelve First Nations now join the initial thirty-three that have been participating since January 1, 2008.

Since it became operational in July 2007, the First Nations Tax Commission (FNTC) has approved property tax laws for Akisqnuq, Lower Kootenay, Shuswap, Songhees, St. Mary's, Tobacco Plains and Tsawout First Nations. The Commission also approved 2008 annual laws for twenty-eight First Nations under the FSMA during the period of May to September 2008.

See page 8 for the list of FSMA First Nations.

## FNTC Holds First Annual Meeting

The First Nations Tax Commission held its first Annual Meeting at its Head Office in Kamloops, British Columbia on September 18, 2008.

At the meeting, Chief Commissioner C.T. (Manny) Jules reported on the significant accomplishments of the FNTC's first fiscal year. A comprehensive fiscal report covering the period from July 1, 2007 until March 31, 2008 was also tabled.

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Chief Commissioner Jules and Deputy Chief Commissioner David Paul are seen above with Chiefs from New Brunswick at an FNTC meeting in Fredericton in July 2008. The Chiefs from left to right are: Everett Martin, Noah Augustine, Ken Barlow, Jesse Simon, and Paul Tomer. The Chiefs were honoured by the Commission for their leadership in the Atlantic and, particularly, their support of the *First Nations Fiscal and Statistical Management Act*.

## Message from the Chief Commissioner



September 18, 2008 marked an important event in FNTC history – the Commission’s first Annual Meeting. As the first Chief Commissioner, it was my honour and privilege to report on the work of the FNTC and the results that the new FSMA tax system has achieved.

The progress that First Nations are making under the FSMA has exceeded our expectations. At the creation of the FNTC, we expected 15 First Nations would join the FSMA in our first 2 years of operation. With the recent amendment to the FSMA schedule, 45 First Nations have now chosen this path. In addition, First Nation property taxpayers are coming forward with ideas to address taxation and representation and thereby ensure effective relations and responsive, fair and equitable property taxation.

I would like to acknowledge the hard work of the Chiefs and Councils and administrations who have successfully made the transition from collecting property tax revenue pursuant to section 83 of the *Indian Act* to exercising their taxation jurisdiction through the FSMA. First Nations are stepping forward to update their laws and strengthen the First Nations tax system. The demonstration of leadership bodes well for the continued success of the tax system.

Through these uncertain economic times, Canada has been recognized as a global leader in the regulation of its financial system. The FSMA is following in that tradition with stringent but necessary measures for the management local revenue accounts to inspire confidence in the tax system and ensure success and of our economic development initiatives.

In closing, I would like to pay tribute to a courageous First Nation leader, a former member of the Indian Taxation Advisory Board and my friend, the Honourable Oscar Lathlin. Oscar had firm resolve which gave new hope for a brighter economic future to First Nations in Manitoba. He set an example for us as a respected leader, legislator and a statesman. Our sympathy and prayers go to the Lathlin family for a trusted friend who will be sorely missed.

A handwritten signature in cursive script that reads "Manny".

C.T. (Manny) Jules  
Chief Commissioner



### Honouring Oscar Lathlin, 1947-2008

The Honourable Oscar Lathlin was born and raised on Opaskwayak Cree Nation near The Pas in 1947. Mr. Lathlin helped his mother raise his younger brothers and sisters when he was in his teens, after his father died. He was always close to his roots and began his political career in 1985 when he was elected as Chief of Opaskwayak. He was elected to the Manitoba legislature in 1990 and nine years later, he was named Minister of Conservation, changing to Minister Responsible for Aboriginal Affairs in 2002. He was a visionary who worked quietly, humbly, honestly, and passionately to develop opportunities in the north and improve the education, economic status, and self-government for his community and others. Among his proudest achievements were the University College of The North, which brought post-secondary learning to 12 far-flung communities and the First Peoples Economic Growth Fund aimed at helping aboriginal businesses start up or expand.

Mr. Lathlin was also a former ITAB Board Member (1991 to 1994) and will be remembered by his friends at the FNTC as a great leader and visionary with a quality character that earned him the respect of all who knew him. Oscar Lathlin leaves behind a son, daughter, and his second wife Leona.

## FNTC Annual Meeting

*Continued from p. 1...*

During its first year of operation, the Commission reviewed and developed sample laws (for property taxation, assessment, expenditures and tax rates) and corresponding law review standards. Offices in Kamloops and Ottawa were established and staffed. An accredited certificate program for tax administrators was created (in partnership with the Tulo Centre of Indigenous Economics and Thompson Rivers University). The FNTC also provided advice to the Minister of Indian Affairs on over 100 by-laws under s.83 of the *Indian Act*.

Chief Commissioner Jules noted, at the meeting, that the Commission's purpose goes beyond property tax and local revenues:

"We strive to build First Nation economies. To do this, we help First Nations create the legal, administrative and infrastructure necessary for markets to work on their lands. We help First Nations to create a competitive investment climate, so they can use economic growth as a catalyst for greater self reliance."

To achieve this broader purpose, the FNTC worked in its first year to:

- expand First Nation revenue options to include the First Nation Goods and Services Tax;
- ensure First Nations have access to the same infrastructure financing options as local governments in Canada;
- develop a legislative proposal to support a First Nation land title system; and
- promote open market residential developments on First Nation lands.

The Annual Meeting is as an opportunity for the Commission to report directly to First Nations, taxpayers on First Nation lands and interested Canadians.

The FNTC annual report is available on the web at [www.fntc.ca](http://www.fntc.ca).

## Borrowing Under the FSMA

The First Nations Tax Commission has developed and approved core sample laws—assessment, taxation, rates and expenditure—and their associated standards to support a First Nation's property taxation regime. First Nations are now collecting property tax under the FSMA.

On September 17, 2008, the Commission approved two sample borrowing laws. The two sample laws are a Borrowing Agreement Law (authority for the First Nation to enter into a borrowing member agreement with the First Nations Finance Authority—FNFA), and a Long-Term Capital Borrowing Law (authority for the First Nation to borrow a specified amount of money from the First Nations Finance Authority for a specific project).

The Commission also established standards under section 35 of the FSMA respecting the form and content of borrowing laws, and respecting the criteria for the Commission's approval of borrowing laws. These sample borrowing laws and standards were developed through ongoing discussions among the fiscal institutions and were finalized once the general approach to borrowing was agreed upon.

The work of the Commission on these laws and standards began last year and formed an important part of the FNTC's corporate plan. The Commission posted drafts for public input in March 2008 and August 2008 and circulated revised drafts of the laws and standards. With these laws in place, the FSMA First Nations are moving towards borrowing through the FNFA.



FNTC Commissioners are shown above at the first ever Annual Public Meeting of the FNTC on September 18, 2008.

# FNTC MEETINGS UPDATE

## Emerging Northwest Tribal Economies

Tulalip, Washington. August 21 & 22, 2008

The Fourth Annual Emerging Northwest Tribal Economies Conference was held in Tulalip, Washington, on August 21st through August 22nd, 2008. The Conference was hosted by the Tulalip Tribes of Washington. The conference dealt with a number of topics relevant to the work of the Commission. These included:

“Harnessing Tribal Taxing Power to Create a Tribal Tax Base”, “Assessing Indian Property”, “Tribal Infrastructure Development”, and “Tribal Economic Development”.

Chief Commissioner Jules was invited to address the conference on the topic of International Indigenous Trade and Commerce. Mr. Jules made a half-hour presentation, with co-panelist Alan Parker, Director of the NW Indian Applied Research Institute of Evergreen State College. The presentation was followed by a 20 minute question period.

Chief Commissioner Jules’ presentation outlined the historical colonial developments that resulted in the stagnation of First Nation economies in Canada, and drew comparisons and parallels in the experience of U.S. Tribes. He outlined and stressed the importance of the FSMA initiative, particularly, the need for national Tribal institutions in the establishment and protection of jurisdiction over taxation, the facilitation of infrastructure development through public debt financing, and attracting private sector investment in First Nations lands. A question asked following the presentation: “Why were you able to achieve such legislative success in Canada, while we weren’t in the U.S.?” recognized the leading edge work being done in Canada. Mr. Alan Parker responded, indicating that several attempts were made in the U.S. Congress to move forward legislative initiatives, and while so far unsuccessful, further efforts would be forthcoming.

## Third Annual Community Economic Development Officer Conference

Niagara Falls, Ontario. August 20, 2008

The Third Annual Community Economic Development Officer Conference was held in Niagara Falls, Ontario, on August 18th through August 21st, 2008. The Conference was hosted by Ontario’s Regional Program Management Advisory Committee and the Waubetek Business Development Corporation in partnership with Indian and Northern Affairs, Ontario Region. The goal of the conference was to assist First Nation Economic Development Officers to access tools, skills and networking opportunities to deliver economic development programs and services.

Commissioner Bill McCue presented two one-hour workshops on First Nation Property Tax and the role of the *First Nations Fiscal and Statistical Management Act*, with a focus on Ontario. The workshops were attended by about 50 participants.

Each workshop included a question and answer session. The issues of taxes as opposed to user fees and grant-in-lieu of taxes program were addressed.

## Ontario Aboriginal Lands Association

Curve Lake, Ontario. August 12, 2008

The FNTC was invited by the Ontario Aboriginal Lands Association (OALA) to make a presentation about the basics of property taxation; the services provided by the Commission; and, the payment-in-lieu of taxes by utilities.

Commissioner Bill McCue addressed the fourteen delegates present. Following the ninety minute presentation, the floor was opened for questions.

Commissioner McCue stressed that the decision to collect property taxes is made by Chief and Council, and that the FNTC is available to provide a wide-range of services should a First Nation decide to go forward with a property tax regime.

A key issue for some was the provision of services to cottages and the enforcement of payment for the provision of services (e.g. garbage collection). Some expressed reluctance to develop a property tax system for the provision of a handful of services for seasonal cottagers. Others said they would look further into the possibility. Many of the delegates were interested in the taxation of utilities located on their reserves (Hydro One, Union Gas), and were provided with the names of the First Nations in Ontario currently collecting from these utilities.

Formed in 1995, the OALA is comprised of 24 First Nations, whose mandate is to enhance the professional and technical expertise of its members regarding land management issues on reserve.

## **CPTA 42<sup>nd</sup> Annual National Workshop**

**St. John's, Newfoundland. September 28 to October 1, 2008**

Deputy Chief Commissioner David Paul, along with Commissioners Ken Marsh and Randy Price, attended the 42<sup>nd</sup> Annual Canadian Property Taxpayers Association (CPTA) National Workshop in St. John's Newfoundland. The annual workshop provided an opportunity for the Commissioners to meet with members of the CPTA and provide them with an update on the progress that the FNTC is making in implementing the FSMA.

Presentations at the conference by legal and assessment professionals provided insight on assessment practices in each of the provinces. As a national institution, the FNTC must consider variances in each jurisdiction to meet the requirements of the First Nation tax system.

Sample laws developed by the FNTC for the use of First Nations in each of the provinces reflect the variations.



Seen above, at the CPTA meeting are, from left to right: Commissioners Ken Marsh, David Paul, and Randy Price, in the back row. In the front row are: Kevin Olmstead President, CPTA and Gilles Fafard, Past President, CPTA.

## **FNTAA 15<sup>th</sup> Annual National Forum**

**Osoyoos, British Columbia. September 24 to 26, 2008**

Chief Commissioner C.T. (Manny) Jules and Commissioner Terry Nicholas were among the 60 First Nation tax administrators, policy advisors, government officials, and First Nation institutional representatives who attended the First Nations Tax Administrators Association (FNTAA) 15th Annual National Forum.

The first day of the meeting showcased Osoyoos First Nation's diverse economic development projects as well as its Cultural Centre in which delegates were treated to a Pow-wow dance performance by Osoyoos youth.

Day two was highlighted by a keynote address given by Chief Commissioner Jules who reminded delegates of the importance of First Nation institutions, and that history has often overlooked the importance of commercial trade among First Nations and the institutions that facilitated trade.

"We didn't just trade. We had institutions to facilitate trade. From Alaska to California we had a common trade language, Chinook, allowing different language speakers to communicate over commerce. We recorded transactions relating to labour and goods. We collected tribute and charged tolls." Chief Commissioner Jules said.

He also emphasized the "critical work" performed by tax administrators in helping to build First Nation economies.

In addition to the Chief Commissioner's address, the FNTC gave presentations on the status of First Nation property tax nationally, the Tax Administration Software development, by-law and law submission requirements, and notification and representation requirements under the FSMA.

Chief Clarence Louie of the Osoyoos Indian band also spoke on the first day. His presentation included a video on his community's economic development projects and emphasized how taxation is linked with building infrastructure and attracting investment.



Chief Clarence Louie speaks at the FNTAA 15th Annual Forum.

## Tax Administration Software (TAS) Development

The First Nations Tax Commission has been working closely with the First Nations Tax Administrators Association on the design for a new Tax Administration Software (TAS).

Commissioner Terry Nicholas and FNTC staff developed the framework for the tax administrator's workflow in relation to the annual tax cycle and FNTC property tax administration requirements.

The FNTAA Board, including Commissioner Nicholas, Mr. Jim Prodger, Ms. Freda Jules, Mr. Ernest Jack, Ms. Dana Henderson, Mr. Calvin George and Ms. Christina Clarke, contributed to the final detailed workflow by detailing the tasks that tax administrators expected the software to complete and set out various schedules and deadlines.

Ms. Sarah Jules of the FNTC and Mr. Mark Zienowicz of VODA Computer Systems Ltd. presented the TAS development plan to the First Nations Tax Administrators Association Annual Form on September 25, 2008.

The next step in Tax Administration Software development includes finalizing the workflow and building the software.

## Tulo Centre Courses Attract New Students

The Tulo Centre is celebrating the back-to-school season with three new classes, many new students, and exciting new projects.

Key projects of the Tulo Centre for this fall include delivery of three courses from the *Certificate in First Nation Tax Administration* program on campus at the Thompson Rivers University, curriculum development for the funded online program, FNTC-Tulo Centre MOU, and the launch of the Tulo website.

The courses to be offered include: Introduction to First Nation Taxation (October 14 to 17, 2008), Budgeting and Tax Rate Setting (November 4 to 7, 2008), and Assessment and Assessment Appeals (November 18 to 21, 2008).

The October course is an introduction to First Nation taxation under the authority of the *First Nations Fiscal and Statistical Management Act*.



Mr. Mark Zienowicz of VODA Computer Systems Ltd. Presents the Tax Administration Software at the First Nations Tax Administrators Association Annual Meeting.

It focused on the economic and fiscal rationale of the FSMA and the workings of this legislation. The course also provided an introduction to the First Nations Tax Commission and the other FSMA institutions – the First Nations Finance Authority, the First Nations Statistical Institute and the First Nations Financial Management Board.

The Budgeting and Tax Rate Setting course provides a detailed overview of establishing property tax rates through a local services budget. It focuses on estimating local service costs, creating preliminary budgets and working with the council. It also focuses on estimating local revenues and determining, where applicable, tax rate multiples.

The Assessment and Assessment Appeals course will be an introduction to property markets and property assessment. It will focus on property assessments and assessment appeals in Canada and under the authority of the *First Nations Fiscal and Statistical Management Act* (FSMA) or s. 83 of the *Indian Act*. The course also outlines the FSMA regulatory requirements for assessments and assessment appeals.

Interest in the program is high. All of the courses are fully registered and include students from British Columbia, Alberta, Saskatchewan and Nova Scotia.

The Tulo Centre, along with the First Nations Tax Commission and Thompson Rivers University, will expand access to taxation management skills and economic capacity-building on First Nations lands in Canada by developing courses for on-line delivery of the program *Certificate in First Nation Tax Administration*. The project includes development of on-line versions of all eight classes that comprise the certificate program.

All of the classes will be accredited by the Thompson Rivers University. The distance learning curriculum for all 8 courses in the *Certificate in First Nation Taxation* is to be completed by March 2009.

The Tulo Centre has also launched its website, [www.tulo.ca](http://www.tulo.ca). The website, which was live on September 10, 2008, contains current information about classes offered, programs, registration information and general information on indigenous economics.

## FNTC and the Tulo Centre Sign MOU

The FNTC and the Tulo Centre signed a Memorandum of Understanding on September 10, 2008. The MOU confirms the intent of both parties to work together with the common objective of building capacity to administer First Nation tax systems, building competitive infrastructure and facilitating investment on First Nation lands as well as increasing understanding of First Nation fiscal, economic and public policy issues.



Students at the Tulo Centre of Indigenous Economics take part in a "tax game" with guest lecturer, Stacey Smith from the Consensus Building Institute in Cambridge, MA.

## FSMA First Nations

Interest in the FSMA is growing. Currently, forty-five First Nations are administering their property taxation regimes under the FSMA. To be added to the schedule of the legislation, a First Nation must pass a band council resolution making this request and submit it to the Minister of Indian Affairs and Northern Development. For a sample BCR and more information, please contact the FNTC.

The First Nations added to the schedule on September 5<sup>th</sup> are:

Chawathil First Nation  
 Indian Island First Nation  
 Kwaw-Kwaw-Apilt First Nation  
 Matsqui First Nation  
 Mosquito, Grizzly Bear, Lean Man First Nation  
 Neskonlith Indian Band  
 Skawahlook First Nation  
 Skowkale First Nation  
 Shxw'ow'hamel First Nation  
 Squiala First Nation  
 Sumas First Nation  
 Yakwekwioose First Nation

They join the original thirty-three:

Adams Lake Indian Band  
 Akisq'nuk First Nation  
 Alexander First Nation  
 Chehalis Indian Band  
 Chemainus First Nation  
 Chippewas of Georgina Island First Nation  
 Chippewas of Kettle and Stony Point First Nation  
 Kamloops Indian Band  
 Kitselas First Nation  
 Lequ'á:mel First Nation  
 Lower Kootenay Indian Band  
 Lower Nicola Indian Band  
 Metepenagiag Mi'kmaq Nation  
 Moricetown Indian Band  
 Muskeg Lake Cree Nation

Nanoose First Nation  
 Osoyoos Indian Band  
 Seabird Island Band  
 Shuswap First Nation  
 Shxwhá:y Village First Nation  
 Simpcw First Nation  
 Skeetchestn Indian Band  
 Sliammon First Nation  
 Songhees First Nation  
 St. Mary's First Nation  
 Tla-o-qui-aht First Nations  
 Tobacco Plains Indian Band  
 Tobique First Nation  
 Tsawout First Nation  
 Tsawwassen First Nation  
 Tzeachten First Nation  
 We Wai Kai Nation  
 White Bear First Nation.



The Chairs of the FSMA Institutions (from left to right: Dr. Mark Dockstator, First Nations Statistical Institute; Chief Commissioner Jules; Sophie Pierre, First Nations Finance Authority; and Harold Call, First Nations Financial Management Board) signed a Memorandum of Understanding to establish the Institutions Chair Coordinating Committee on September 16, 2008. The Institutions were established when the FSMA was passed in March 2005 and agreed to continue working together in areas of intersecting responsibility.



First Nations Tax Commission  
 Commission de la fiscalité des premières nations

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