

CLEARING THE PATH

FIRST NATIONS TAX COMMISSION

SPECIAL EDITION

SPRING 2009



Commemorating 20 Years

The First Nations Tax Commission (FNTC) hosted a special event on February 9, 2009, in Ottawa, to commemorate the twentieth anniversary of the first meeting of the Indian Taxation Advisory Board (ITAB, the predecessor to the FNTC).

The event was held at the Government Conference Centre - the same location of the first ITAB meeting 20 years earlier.

Chief Commissioner, C.T (Manny) Jules, opened the evening by citing the need to honour our history.

"The reason I wanted this evening is to thank all of you...all of this (the work of ITAB and the FNTC) is so critically important...and all of you mean a lot to what we have been able to accomplish," said the Chief Commissioner.

Chief Commissioner Jules led the "Kamloops Amendment" (Bill C-115) to the *Indian Act* in 1988, which extended taxing powers of First Nations to their interests in conditionally surrendered or "designated" lands. This gave First Nation governments broad new powers to tax the interests within reserves, establishing their jurisdiction, creating economic development opportunities and providing a basic tool for self-government.



Chief Commissioner, C.T. (Manny) Jules, Hon. Robert Nault and Mr. Strater Crowfoot share a laugh during dinner.

ITAB was created in 1989 to facilitate the approval of First Nation property tax by-laws.

The first ITAB meeting was held February 8th and 9th, 1989. Chief Commissioner Jules and Deputy Chief Commissioner, David Paul were among the original ITAB members who attended the event. Ms. Lilian Richards, who was the first by-law registrar for ITAB, also continues her work with Section 83 by-laws for the FNTC. *(More inside)*

WHAT'S INSIDE

- 2 MESSAGE FROM THE CHIEF COMMISSIONER
- 2 TIMING AND SETTING TAX RATES FOR FSMA LAWS
- 3 THE ITAB LEGACY
- 4 COMMEMORATING TWENTY YEARS
- 6 TRIBUTES
- 8 TULO CENTRE UPDATE
- 8 WORKSHOP FOR LEGAL PRACTITIONERS

Message from the Chief Commissioner



In February, we celebrated 20 years of our history at the same place the Indian Taxation Advisory Board held its very first meeting. It was a memorable celebration, attended by many close friends and associates who have lived through a part of this history with me. As I said that evening, however, I have to acknowledge my Father. I started attending meetings with him when I was about 11 years old. The first time he started dealing with this issue was in June of 1965, so it's multigenerational and began many years before that first meeting.

Every time I would go out and meet someone new, my Dad would always say, "Does he think like us?" It was important for him to know that we think alike and stand on common ground. So, when I'm in a room where there are likeminded individuals that I've worked with, I feel like phoning up my Dad and saying, "Yeah, true leaders in this room think like us, Dad."

As my Dad said in 1968, "We have to be able to move at the speed of business." So, I have dedicated my life to creating a market-based economy that we can participate in, not only on a national level, but an international level, and that can only happen through all of us working together. And it doesn't mean that we'll always agree on issues, but fundamentally when we think about the place, the proper place for First Nations, it isn't at the lowest economy on the scale in this country. It's achieving the kind of greatness that our people deserve and that this country deserves. And that can't happen without all of us beginning and carrying on the good work that First Nations have already accomplished. It was an honour to be in the room with everyone that evening. I hope you enjoy this newsletter dedicated to sharing that memory.

C.T. (Manny) Jules
Chief Commissioner

Timing and Setting Tax Rates for FSMA Annual Laws

FSMA Timing Regulations require participating First Nations to enact their rates and expenditure laws 14 days after the date established for setting of rates by the adjacent jurisdiction. They can typically comply with these regulations by ensuring the "in force" date of their rates and expenditure law is set 14 days after the adjacent jurisdiction establishes their rates. The FNTC can assist First Nations in meeting the timing requirements of annual laws.

First Nations entering into their first year of taxation must establish rates that are consistent with the rates established by the former taxing authority in the *current* year; or where there was no former taxing authority, the same tax rates as the reference jurisdiction in the *current* year.

In the second and all subsequent years, tax rate setting must meet the requirements of s. 7 of the FNTC's Annual Rates Law Standards. Section 7 requires that in instances where the proposed tax rates will lead to a tax bill increase, the average increase for each property class must not exceed: the average tax bill increase for each property class in the reference jurisdiction, or; the national rate of inflation from the previous year (2.3%).

Upon request, the FNTC can assist First Nations in determining their average tax bill. Where rates will lead to tax bill increases exceeding section 7 requirements, participating First Nations can justify the rates with taxpayer notice and evidence of either reference jurisdiction comparability or one of several listed factors. For more complete information about FSMA requirements for annual laws, you may contact the Registrar, FSMA at 250-828-9895 or visit the FNTC website at www.fntc.ca for the information bulletin update.

The ITAB Legacy

Since the first meeting of ITAB on February 8 and 9, 1989, and through the eighteen years that followed, the Indian Taxation Advisory Board built a remarkable list of accomplishments, all of which have been passed on to the First Nations Tax Commission:

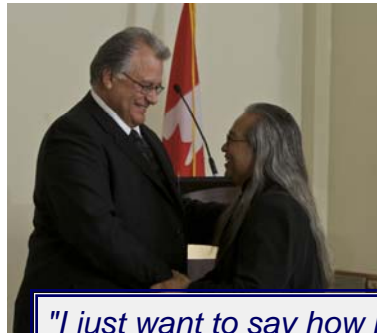
- Upon the transition from ITAB to the FNTC, **115 First Nations were collecting over \$55 million per year in property taxes.**
- **ITAB had helped with the passage of two separate pieces of provincial legislation**, so that First Nation property tax would be possible in British Columbia and Quebec.
- ITAB developed and finalized **agreements with Bell Canada, BC Hydro and the Canadian Pacific Railway** to expand First Nation local revenue options.
- ITAB **negotiated over 20 service agreements** between First Nations and municipalities.
- ITAB **recommended over 1200 First Nation by-laws for ministerial approval** – all of which were approved.
- ITAB ensured **over 150 First Nation tax administrators received training** in budget based tax rates setting, assessments, assessment appeals and property tax administration.
- ITAB led the development and passage by Parliament of the ***First Nations Fiscal and Statistical Management Act***, which created four First Nation institutions including the **First Nations Tax Commission** – its successor.
- ITAB created the **Tulo Centre of Indigenous Economics** so that ITAB's knowledge could be transferred through university accredited certificates and diplomas in First Nation Economics and Public Administration.

Commemorating 20 Years

The guests to the celebratory event included former ITAB Members and staff, current FNTC Commissioners and staff, former Minister of Indian Affairs Robert Nault and many close friends and associates that supported the organization through the years.



Commissioner Bill McCue, DIAND Assistant Deputy Minister, Ms. Caroline Davis, and former Minister of the Department of Indian Affairs and Northern Development, Hon. Robert Nault.

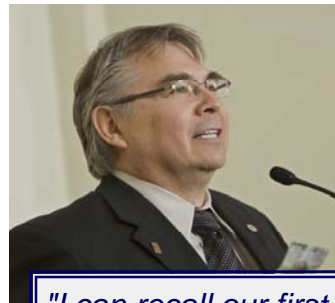


"I just want to say how proud I am to be a part of this group... To me, taxation is a fundamental function of government all over the world..."

Chief Bill Montour, Six Nations of the Grand River
ITAB Member (1989-1994)



Former ITAB staff share some laughs. Left photo: Ms. Lilian Richards (first by-law registrar for ITAB and same for FNTC) and Ms. Karen Green. Right photo: Ms. Patricia Steele and Ms. Maureen Frank-Kramer.



"I can recall our first meeting here and I can recall when we passed our 1000th by-law as a Board, we passed it on to the Minister for recommendation. A lot has gone on over the years – a lot of stories, a lot of memories – in my heart, a lot of friends... Some bands have collected over millions of dollars of revenue from property taxation. So, it's a tool that helps our communities build their economies and their self-governance structure. I'm really proud to be a part of it and I'm really glad to see all of you here to recognize this very important moment."

Mr. Strater Crowfoot, CEO and Executive Director of Indian Oil and Gas Canada
ITAB Member (1989-2005)



Left photo: Mr. Tom Maracle, Tulo Centre Administrator, Ms. Sarah Jules, Commissioner Leslie Brochu, Commissioner Ann Shaw, and Chief Commissioner Jules. Right photo: Fiscal Realities Economist, Dr. André Ledressay, and former DIAND official, Mr. Stuart Swanson.



"The Kamloops amendment was one of the key highpoints of my career. I am often asked to make presentations about leadership, write things, and I always speak about what it is that Manny Jules and many others in this process did. I don't think it would have happened without that kind of devotion....It's an absolutely fabulous thing that so many people continued over the last 20 years to make this happen. This underlines for me not only leadership that is tenacious but it also underscores the need for persistence. This is one of the most extraordinary events I have been to in a long time."

Dr. Peter Harrison, Senior Advisor of the Privy Council Office
(attended first ITAB meeting as a senior DIAND representative)



"Each and every one of you have contributed in some way to the overall success of the over 140 First Nations that are currently enjoying taxing powers here in Canada and making their community better for their members....It's been a wonderful journey. There's a time in everybody's life where an event sets the course of your life and changes that forever. My being asked to sit on this Board has been one of those. It has made it possible for me to meet some of the most sincere and caring people that I have known throughout my career."

Mr. David Paul,
Deputy Chief Commissioner
ITAB Member (1989-2007)



"...it has always been my view that you can't have a government if you don't have successful economic development and if you don't have the structures and the institutions to make them work...One of the first people I met when I was a Minister was Manny... we started talking about the vision of institutional development, the abilities to develop an economy. And as you can expect, I was a willing listener when it came to modern institutions of First Nation government, simply because if you want to be a player, a government, you have to have the tools to be successful and one of them is taxation. And so, we developed a very close relationship based on the belief that this is the way all First Nations needed to go if they were going to be an order of government within our federation."

Hon. Robert Nault,
Former Minister of Indian Affairs and Northern Development (1999-2003)



"If you go across the country today... virtually every successful First Nation is using designated land and most are using their taxation powers to promote development that is occurring on that land. It's literally, I think, impossible to imagine First Nation economies today without the Kamloops Amendment."

Mr. John McKennirey, Department of Indian Affairs and Northern Development
(attended first ITAB meeting as a senior DIAND representative)



Left photo: Mrs. Hilda Kohls, former ITAB Member Mr. Reiny Kohls, Mr. John McKennirey (senior DIAND official present at first meeting), former DIAND official Mr. Rick Simison, and FNTC Chief Operating Officer Mr. Ken Scopick. Middle photo: FNTC legal counsel, Ms. Marie Potvin and Director of Policy, Mr. Trenton Paul holding their 20th Anniversary Commemorative ITAB Book which was given at the event. Right photo: Dr. Peter Harrison, Mr. Bill Austin, and Mr. John McKennirey.



Left photo: FNTC Legal Counsel, Ms. Clo Ostrove, listens to tributes at dinner. Middle photo: Mrs. Hilda Kohls and Commissioner Celine Auclair. Right photo: Mr. Tom Johnstone, Department of Indian Affairs, Assistant Deputy Minister, Ms. Christine Cram, and Commissioner Terry Nicholas also listen to speakers over dinner.

LETTERS OF TRIBUTE



"... You have much to be proud of. Your work, that of your father, and that of all who have been involved since that first meeting of February 9, 1989, has had long lasting benefits... The Indian Taxation Advisory Board is truly a success story. Ministers before me have benefitted from the direct relationship and wise counsel provided by the Board on matters related to section 83 of the Indian Act. Those Ministers have also benefitted from the strong relationship forged between the staff of ITAB and that of the Department of Indian Affairs and Northern Development.

Although the Indian Taxation Advisory Board no longer exists in name, it certainly exists in spirit through the continued co-operative relations between the First Nations Tax Commission, my department and me. I send you my heartfelt thanks for ITAB. The Board has established the way forward and paved the road for the First Nations Fiscal and Statistical Management Act and the FNTC."

Hon. Chuck Strahl,
Minister of Indian Affairs and Northern Development



"May I congratulate you and your former Board members on the 20th Anniversary of the Indian Taxation Advisory Board... You have promoted forcefully Federal government changes and new thinking, of which you can be justifiably proud. You have never ceased to show leadership. Thank you and your former Board members for your vision and endurance, especially endurance."

Hon. Ron Irwin
Minister of Indian Affairs and Northern Development (1993-1997)



"I spent 35 years in the federal public service and had the fortune of participating in, and contributing to, a variety of important public policy initiatives. Amongst the more significant and personally rewarding was that of the ITAB initiative... Like others, I learned much and drew real inspiration from the vision and determination of Manny, his colleagues and the First Nations involved."

Warren Johnson
Former ADM Department of Indian Affairs and Northern Development

"I extend my personal compliments to you and the entire Board for your timeless dedication to the cause of implementing equitable taxation powers for First Nations Governments throughout Canada... The long-standing denial of Indian taxation rights was an antiquation of the Indian Act, until you and your committee of Chiefs were able to persuade my predecessors to introduce the necessary taxation amendments to the Indian Act. In those early days it was often a "hard-sell" to persuade surrounding non-native governments that Indian Taxation was not only an inherent right of First Nations, it was also an undeniable tool of achieving economic self-reliance and economic power for aboriginal communities."

Hon. Tom Siddon
Minister of Indian Affairs and Northern Development (1990-1993)



"The work of the FNTC is just one more step in First Nation governance that will benefit all Canadians. I congratulate you on this historic occasion and wish you success as you continue your journey."

Hon. Bill McKnight
Minister of Indian Affairs and Northern Development (1986-1989)



"This has been a rare story of vision, combined with practical common sense and of true cooperation by First Nations exercising their jurisdictions in a true partnership with Parliament, with the Government of Canada, and with the broader Can public. So, ITAB and now the FNTC, have been and continue to be a model for Aboriginal self-govt for everyone in Canada."

Mr. Michael Wernick
Deputy Minister, Department of Indian Affairs and Northern Development

Tulo Centre Update

The Tulo Centre has been furthering the development of the *Certificate in First Nation Tax Administration* and exploring opportunities for the future. Since January, the focus has been on the curriculum development. Courses have been designed that are activity based for the on-line environment. This approach also translates to the classroom setting, facilitating the “hands-on” technical requirements of the classes.

The *Certificate in First Nation Tax Administration* includes the classes:

- Introduction to First Nation Taxation
- Assessment and Assessment Appeals
- Establishing First Nation Tax Rates.
- Administration: Tax Notices, Collection and Enforcement
- Communication and Taxpayer Relations
- Service Agreements and Joint Contracts
- Development Cost Charges
- Capital Infrastructure and Debenture Financing

The on-line and on campus classes will be offered in Fall 2009. For more information on the program, please visit www.tulo.ca

Tax Administration Software

The first module of the Tax Administration Software (TAS) is complete and has been installed for twenty-two First Nations in BC. TAS assists tax administrators through the tax cycle. Currently, tax administrators using TAS are able to upload assessment data, set tax rates and print tax notices. The next steps for development include the integration of TAS with financial management software and the addition of a Collection and Enforcement module, allowing them to track unpaid taxes with the enforcement proceeding steps.

Workshop for Legal Practitioners

The FNTC, with the Tulo Centre, held a workshop for legal practitioners in Vancouver on March 5, 2009. Twelve legal practitioners attended.

The event was designed to speak directly to those working for First Nations as they develop laws under the FSMA. Topics included:

- the economic rationale for the FSMA;
- an overview of the FSMA and the role of the FNTC;
- FNTC standards;
- resolving taxpayer disputes; and,
- the development and use of FNTC sample laws.

If you wish to obtain a copy of the agenda materials, you may send a request to mail@fntc.ca.



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