

CLEARING THE PATH



FIRST NATIONS TAX COMMISSION

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FNTC Receives Heraldic Emblems



Message from the Chief Commissioner

Each New Year we set a course with resolutions of hope and promise for the year ahead. This year it is more important than ever to have a firm resolve to meet our individual and institutional objectives so that the clarity of our vision is not eclipsed by the dark clouds of the current global recession. Individuals and businesses are having great difficulty accessing credit. This is something that we as First Nations understand very well and we know how devastating it can be to an economy. As a result of the global credit crisis, it is safe to say, that the next few years will be challenging for the country and for First Nations and their taxpayers.



In response to recession, governments around the world have called for an unprecedented amount of public investment, aimed at helping to restore aging infrastructure and stimulating national economies. In Canada, the federal government has announced over \$1.4 billion in spending to Aboriginal Peoples and their communities, with \$500 million earmarked for infrastructure spending on reserve.

For First Nations who have long endured an infrastructure deficit, these investments are much needed. For taxing First Nations, the potential of a federal infrastructure grant means much more. Taxing First Nations have access to the *First Nations Fiscal and Statistical Management Act* (FSMA) debenture financing system where they can match federal infrastructure dollars and thereby expand the list of potential infrastructure projects. This is of critical importance in helping First Nations build viable economies. As we navigate through these turbulent times, we are reminded of the importance and value of public institutions, and the role they play.

Twenty years ago on February 9, 1989, a First Nation public institution held its first meeting at the Government Conference Centre in Ottawa. Named the Indian Taxation Advisory Board, the 10-member Board set out on a bold path to promote and support First Nation property taxation and advance innovative approaches to First Nation economic development. I had the distinct honour of chairing that inaugural meeting, and a few others over the course of the next 18 years. Collectively, we built confidence in First Nation taxation, defended it at the Supreme Court of Canada, and struck strategic alliances provincially, nationally, and internationally.

As you know, ITAB became the First Nations Tax Commission (FNTC) on July 1st, 2007. Perhaps it is fitting, as we mark the twentieth anniversary of ITAB's inaugural meeting, we introduce the FNTC's heraldic emblems. These lasting symbols are intended to remind Canadians and future generations of why the First Nations Tax Commission was established. The motto, "Nesayka mamook chee wayhut" ("We Build a New Path") is as relevant today as it was twenty years ago. We are still building the path for future generations.

A handwritten signature in blue ink that reads "Manny". The signature is stylized and cursive.

C.T. (Manny) Jules
Chief Commissioner

Commission Receives Heraldic Emblems

“These symbols reflect who we are”

The Herald for Canada, from the Office of the Governor General, presented the First Nations Tax Commission with its Heraldic Emblems in Vancouver, British Columbia on December 16, 2008. The sixty minute ceremony was attended by Commissioners and staff, as well other guests culminating an eighteen-month process.

Chief Commissioner Jules provided the assembled guests with a history of the project, and detailed the significance of the event. “The importance of symbolism cannot be underestimated...something that is critically important for our people. I believe this gives us (FNTC) a sense of permanency.”

Mr. John Jules, brother of the Chief Commissioner, performed the opening song and blessing, and spoke of the cultural significance of the symbols. Mr. Jules closed the ceremony with an honour song.



Photos show, clockwise from top left: Chief Commissioner Jules and Saint-Laurent Herald, Bruce Patterson, standing beside the emblems at their unveiling; Commissioners Céline Auclair, Ann Shaw, and Leslie Brochu take a closer look at the emblems; Mr. Robert Watt, former Chief Herald of Canada and now Rideau Herald Emeritus; Mr. John Jules, performing an honour song; and Mr. Harold Calla, Chair of the First Nations Financial Management Board.

Mr. Bruce Patterson of the Canadian Heraldic Authority performed the official unveiling of the FNTC Coat of Arms. As the Saint-Laurent Herald, Mr. Patterson is the Registrar of the Authority, responsible for the Public Register of Arms, Flags and Badges of Canada.



Mr. Bruce Patterson describes the details of the Heraldic Emblems unveiled and presented to the FNTC.

Mr. Patterson provided context to the meaning of each detail on the Coat of Arms. A winter lodge, used by the Shuswap peoples, sits on top of coyote fur over the crest. An otter and a coyote stand on each side of the crest holding an eagle feather and garnished with a wreath. All is set upon a mound of grass over wavy water. The motto, “NESAYKA MAMOOK CHEE WAYHUT” is Chinook for “We Build a New Path”. Also unveiled were a flag, a gavel, a badge and staffs. Mr. Robert Watt, former Chief Herald of Canada also attended the ceremony and spoke to the history of the new Coat of Arms.

Chief Commissioner Jules concluded the ceremony by discussing the importance of symbolism: “These symbols reflect who we are and what our vision is for the future. Our future, is to be a fundamental part of this federation known as Canada. In order for Canada to achieve its continued greatness, they have to completely embrace First Nation governments. And that’s what our mission is.”

Tulo Centre Tutorial: Submitting Rates and Expenditure Laws under the FSMA

A brief tutorial, entitled: "Submitting Rates and Expenditure Laws under the FSMA" will be offered from March 2009 by the Tulo Centre of Indigenous Economics. The aim is to help First Nation tax administrators who are scheduled on the FSMA and are required to submit rates and expenditure laws this year. To help tax administrators, the FNTC has developed a spreadsheet application that streamlines the development, processing and review of rates and expenditure laws.

The FNTC encourages tax administrators to use this spreadsheet application and participate in the tutorial, anticipated to take one hour and offered via teleconference.

Participating tax administrators will receive the spreadsheet application and a PowerPoint presentation to guide them through the topics outlined below:

- An overview of FSMA and FNTC requirements with respect to rates and expenditure laws

- Inputting data into the spreadsheet application (assessment data, reference jurisdiction data, previous year's tax and revenue information, expenditures, and tax rate multiples)
- Rates and expenditure review summary information
- Summary reports for the FNTC

Please contact the Tulo Centre to register for one of the six tutorials, all of which will be offered between 10:30 a.m and 11:30 a.m:

1. Monday, March 16, 2009
2. Monday, March 30, 2009
3. Tuesday, April 14, 2009
4. Monday, April 27, 2009
5. Monday, May 11, 2009
6. Monday, May 25, 2009

Tulo Centre of Indigenous Economics
Reception: 250-828-9857
Direct: 250-828-9881
info@tulo.ca
www.tulo.ca

Please note: This tutorial is not a replacement for the *Establishing First Nation Tax Rates and Expenditures* course offered at the Tulo Centre.



Tulo Centre of Indigenous Economics

Building capacity so markets work on Indigenous lands

First Nations have a long history of trading to create sustainable economies. The *Certificate in First Nation Tax Administration* will help First Nations implement new powers and develop a skill set for First Nation tax administration to rebuild the First Nation market economy using the *First Nations Fiscal and Statistical Management Act*.

info@tulo.ca

www.tulo.ca

Expanding First Nation Revenue Options – Development Cost Charges

Since the 1970s, local governments across Canada have been turning to development cost charges (DCC) to help finance growth (i.e, construction of roads, water systems, sewage treatment, etc). This important revenue raising tool, which helps offset the costs associated with the provision, expansion, construction, or alteration of infrastructure for new development, is used in virtually every province and territory. In particular, local governments in BC, Ontario, Saskatchewan, and Alberta have specific legislative provisions to assist them in levying DCCs. For First Nation governments, access to DCCs is possible under the FSMA.

One key reason local governments use DCCs is that it is the developer, not the local government, who front-ends the costs associated with new development. This is because DCCs are one time payments made by a developer at the time of subdivision approval or the issuance of building permits. The DCC amount is determined by a calculation for the new capital cost burdens associated with new development typically distributed on a per unit basis.

Over eight years ago, the Indian Taxation Advisory Board recognized the revenue potential of DCCs and began research on a First Nation DCC program. This culminated in the explicit enumeration of DCCs as a local revenue law under the FSMA. The FNTC further refined the regulatory framework by examining best practices and developing a draft sample DCC law and draft DCC standards. Currently, the FNTC is seeking public input in respect of the draft standards. For First Nations who require a mixture of fiscal tools to finance growth, DCCs under the FSMA are a logical fit.

FNTC Seeks Public Input on Standards

The FNTC is seeking public input in respect of draft standards for the form and content of DCC laws.

The mandate of the FNTC includes the authority to review and approve local revenue laws made under the FSMA (or the “Act”). Section 35(1) (a) of the Act gives the FNTC authority to establish standards, not inconsistent with the regulations, respecting the form and content of local revenue laws. The standards established by the FNTC are additional requirements and, together with the Act and its associated regulations, form the regulatory framework governing First Nation taxation under the Act.

DCC laws are First Nation local revenue laws made under subparagraph 5.(1)(a)(v) of the FSMA, and are intended to help offset the costs associated with the provision, expansion, construction, or alteration of infrastructure for new development. Public input in respect of the draft standards will greatly assist in developing standards that are acceptable and effective for participating First Nations and their taxpayers.

An electronic version of the draft standards is available at www.fntc.ca.

Comments must be received by the FNTC before March 9, 2009 and can be e-mailed to mail@fntc.ca or sent by regular mail to:

**First Nations Tax Commission
321-345 Yellowhead Highway
Kamloops, BC V2H 1H1**

All public input on the draft standards will be reviewed and considered prior to Commission approval.

Responding to Changes in BC Residential Property Assessments for 2009

On November 27, 2008, the British Columbia (BC) government passed legislation to amend the provincial *Assessment Act* for 2009 assessments. Properties assessed at market value will, on the 2009 assessment roll, be valued at the lower of the actual value calculated using either the July 1, 2007 or the July 1, 2008 valuation date. Properties valued using legislated values (i.e. utility properties and major industrial properties) will have values based on the 2008 assessment roll values.

This initiative, which attempts to “freeze” assessed values, is part of the provincial government’s economic strategy to deal with the downturn in the real estate market, evident from mid-2008. It aims to curtail circumstances that could result in assessed values exceeding 2009 market values and thereby lead to assessment appeals.

This change in assessment practice, while unusual, will not likely bring major change. The British Columbia Assessment Authority (BCAA) estimates that about 94 percent of property owners in BC will see an identical or lower assessed value on their 2009 notice as compared to 2008. Eighty-two percent of BC’s 1.85 million properties will reflect last year’s assessed value. Another 12 percent of properties will be assessed at July 1, 2008 values because they will likely be lower than those at July 1, 2007. The remaining 6 percent of properties will have undergone changes such as new construction or inventory, permitted use (e.g., zoning), changes in property class, occupation, or eligibility for an exemption, and will see their values adjusted accordingly. While assessed values are largely expected to remain unchanged, this does not automatically mean lower taxes.

Municipalities must still determine and cover local service budgets and set their rates accordingly.

First Nation assessment laws and by-laws, for the most part, mirror provincial assessment rules. Most First Nations specify a valuation date of July 1 of the year prior to the year of taxation [i.e., July 1, 2008]. In order to be entirely consistent with the change in provincial assessment practices for the 2009 tax year, First Nations would have had to amend their assessment legislation. After review, it was determined that it was impractical for many First Nations to mirror the change in assessment policies for the 2009 taxation year. The BCAA and independent assessors have advised that they will be able to produce assessment rolls reflecting the July 1, 2008 valuation date. First Nations can proceed in accordance with their existing laws for the 2009 tax year. It is important to note that, as a matter of course, all rights to appeal assessments will remain unchanged.

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Mr. Herb (Satsan) George, President of the National Centre for First Nations Governance (NCFNG) is shown above signing an Memorandum of Understanding (MOU) with Chief Commissioner Jules, on behalf of the FNTC.

The NCFNG provides a bridge between traditional and contemporary governance models. The purpose of the MOU is to forge a closer working relationship between the two institutions.

Janice Hughes — In Memoriam

January 18, 1953 – December 24, 2008

JANICE HUGHES, who worked with the Indian Taxation Advisory Board on developing software (CLASS and Mill Rate Wizard) to help First Nation tax administrators with their work, died suddenly and tragically on December 24, 2008. Ms. Hughes is well known to First Nation tax administrators and was highly regarded. The software programs continue to be used by taxing First Nations in their annual property tax administration. Ms. Hughes provided the initial training to the users and on-going support services when anyone experienced issues in using the software while setting their tax rates and administering their tax systems. She embraced First Nation culture and had many friends in the field of First Nation property taxation who will miss her guidance and her presence. Ms. Hughes was very dedicated to her work, had a positive outlook on life, and always shared it with others. She was very passionate about her family and friends and loved animals. Ms. Hughes leaves behind her son, Matthew, her husband, Sean, and many loving family members and friends. She will be dearly missed and fondly remembered by those who worked with her and knew her. The FNTC extends its condolences to Ms. Hughes' family.



UPCOMING MEETINGS AND EVENTS

ITAB Remembered: 20th Anniversary

The FNTC will be hosting a special event commemorating the 20th anniversary of the first meeting of the Indian Taxation Advisory Board, the predecessor to the FNTC, on February 9, 2009, in Ottawa, Ontario. The event will be held at the Government Conference Centre — the same location as the first ITAB meeting 20 years earlier.

“It is important to remember where this journey began. We are going to celebrate the rich legacy we inherited. We need to honour this history,” said Chief Commissioner Jules.

AFOA Canada National Conference 2009

The Aboriginal Financial Officers Association of Canada will hold their 2009 National Conference in Calgary, Alberta.

The conference will be from February 24th to 26th and is entitled: *Building our Economy: Strategies for Success - Aboriginal leadership, management and financial strategies for creating success in our communities*. The FNTC welcomes everyone to visit their booth.

Legal Practitioners Workshop

The FNTC, with the Tulo Centre, will hold a workshop for legal practitioners working with First Nations in real property taxation. The workshop will provide an overview of the FSMA, FSMA Regulations, FNTC Standards, a summary of implementation requirements, and a review of sample laws developed by the FNTC. This will be an opportunity to learn about the FNTC's work in support of First Nations' taxation jurisdiction, and the ways in which FSMA property taxation systems can facilitate economic development on reserves. The workshop will take place on March 5, 2009, in Vancouver, British Columbia.

BC Assessments Update

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The BCAA believes that, in the First Nation context, 90% of the 2009 assessments will remain unchanged over 2008 assessments. However, some variation may exist. Since these assessments will not mirror provincial assessment practices, some First Nations could see higher assessed values than would be the case for similar properties in reference jurisdictions.

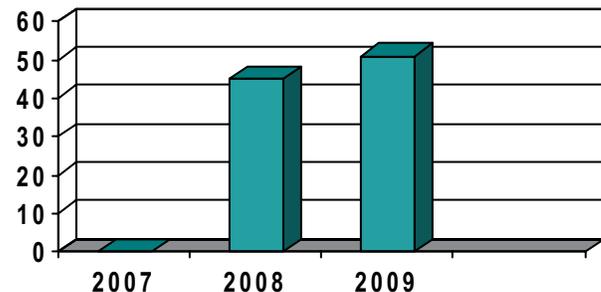
For First Nations' taxpayers, the use of a 2008 valuation date does not necessarily mean that property tax bills will rise more than similar properties off-reserve. Firstly, as mentioned above, it is likely that there will be no significant variation for most property values between 2007 and 2008. Secondly, as tax bills are determined by multiplying assessed value by the tax rate, First Nations could compensate higher assessed values by simply applying lower rates.

In response to this legislation, the FNTC held discussions with the BCAA and independent assessors, as well as with representative First Nations. The Commission sent an information bulletin to tax administrations in BC describing the situation and advising them that the BCAA and independent assessors could prepare 2008 assessments for their use. The FNTC emphasized the importance of maintaining tax competitiveness and the responsible setting of tax rates to reflect potentially different assessed values. The Commission also encouraged First Nation tax authorities to write to taxpayers with the message that current economic conditions will form the basis in assessing tax revenue requirements and establishing competitive tax rates. The FNTC, in its review of tax rate submissions will, as always, strive to balance taxpayer and First Nation interests to both safeguard the integrity, and enhance the value, of the First Nation property tax system.

FSMA First Nations

On January 30, 2009, the schedule of the *First Nations Fiscal and Statistical Management Act* was amended to include the following First Nations: Aitchelitz; Elsipogtog; Popkum; Squamish; Thunderchild; and Tsleil-Waututh (Burrard Indian Band). These First Nations join the 45 others that have been added since 2007. The FNTC congratulates them on their new property taxation regimes.

Total Number of First Nations on FSMA Schedule





First Nations Tax Commission
Commission de la fiscalité des premières nations

Head Office
321-345 Yellowhead Hwy
Kamloops, BC V2H 1H1
Telephone: (250) 828-9857
Fax: (250) 828-9858

National Capital Region Office
160 George St., Suite 200
Ottawa, ON K1N 9M2
Telephone: (613) 789-5000
Fax: (613) 789-5008

www.fntc.ca
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