

**STANDARDS RESPECTING
NOTICES RELATING TO LOCAL REVENUE LAWS, 2018**

[Consolidated to 2020-03-19]

**PART I
PREAMBLE**

WHEREAS:

- A. Section 35 of the *First Nations Fiscal Management Act* gives the First Nations Tax Commission the authority to establish standards respecting notices relating to local revenue laws, including any minimum periods applicable to the notices;
- B. Standards are established by the Commission to further the policy objectives of the Commission and the Act, 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; and
- C. Section 31 of the Act requires the Commission to review every local revenue law and subsection 5(2) of the Act provides that such a law has no force and effect until it is reviewed and approved by the Commission.

**PART II
PURPOSE**

These Standards set out requirements for First Nations to provide notices relating to local revenue laws the First Nation intends to enact. These Standards are used by the Commission in its review and approval of First Nations' local revenue laws, pursuant to section 31 of the Act. The requirements established in these Standards are in addition to requirements set out in the Act.

The Commission recognizes that each First Nation's property taxation system operates within the broader context of its fiscal relationships with other governments. These Standards are intended to support a more comprehensive First Nation fiscal framework within Canada.

**PART III
AUTHORITY AND PUBLICATION**

These Standards are established under subsection 35(1) of the Act and are published in the *First Nations Gazette* as required by subsection 34(1) of the Act.

**PART IV
APPLICATION**

These Standards apply to a local revenue law submitted to the Commission for approval under the Act.

**PART V
CITATION**

These Standards may be cited as the *Standards respecting Notices relating to Local Revenue Laws, 2018*.

**PART VI
DEFINITIONS**

In these Standards:

“Act” means the *First Nations Fiscal Management Act*, S.C. 2005, c. 9, and the regulations enacted under that Act;

“annual expenditure law” means a law required under subsection 10(2) of the Act;

“annual tax rates law” means a law required under subsection 10(1) of the Act;

“business activity tax law” means a law enacted under subparagraph 5(1)(a)(iv) of the Act;

“Commission” means the First Nations Tax Commission established under the Act;

“Council” has the meaning given to that term in the Act;

“deliver” means to mail, e-mail, leave with a person, or deposit in a person’s mail box or receptacle at the person’s residence or place of business;

“development cost charges law” means a law enacted under subparagraph 5(1)(a)(v) of the Act;

“fee law” means a law enacted under paragraph 5(1)(a.1) of the Act;

“fee law report” means a report developed to support the fees established in a fee law, as required by the *Standards for First Nation Fee Laws, 2017*;

“First Nation” means a band named in the schedule to the Act;

“interest”, in relation to reserve lands in Canada elsewhere than in Quebec, means any estate, right or interest of any nature in or to the lands, including any right to occupy, possess or use the lands, but does not include title to the lands that is held by Her Majesty;

“property transfer tax law” means a law enacted under paragraph 5(1)(a) of the Act that levies a tax on an interest or right in reserve lands at the time of the registration of a transfer in a respect of that interest or right in a land registry;

“reference jurisdiction transition plan” has the meaning given to that term in the *Standards for First Nation Annual Tax Rates Laws, 2017*;

“reserve” means a reserve of a First Nation within the meaning of the *Indian Act*;

“right”, in relation to reserve lands in Quebec, means any right of any nature in or to the lands, including any right to occupy, possess or use the lands and any right of a lessee, but does not include title to the lands that is held by Her Majesty;

“seasonal property” means an interest or right in reserve lands that is

- (a) intended for use as a secondary place of residence or occupation for vacation or recreational purposes, and
- (b) used only for a portion of each taxation year;

“section 6 notice” means the notice of a proposed local revenue law required under section 6 of the Act;

“section 6 notification period” means the time period required under section 6 of the Act, and as extended by section 4 of these Standards where applicable;

“service tax law” means a law enacted under subparagraph 5(1)(a)(iii) of the Act;

“taxpayer representation to council law” means a law enacted under paragraph 5(1)(c) of the Act; and

“tax administrator” means a person appointed by a Council to administer and enforce the First Nation’s property taxation laws.

For greater certainty, an interest or right, in relation to reserve lands, includes improvements.

Except as otherwise provided in these Standards, words and expressions used in these Standards have the same meaning as in the Act.

[am. FNTC Resolution 2018-12-12; 2019-06-26.]

PART VII STANDARDS

1. Notice of Annual Tax Rates Laws

1.1 A First Nation must, in each year before submitting its annual tax rates law to the Commission for review and approval consideration, give notice of its annual tax rates law

- (a) by posting a copy of the law on the *First Nations Gazette* website or in a prominent place on the First Nation's website;
- (b) in accordance with the procedures set out in the First Nation's taxpayer representation to council law; or
- (c) by holding a public meeting at which taxpayers may meet with the tax administrator or members of Council to discuss the proposed law.

1.2 Where a First Nation intends to provide a justification for a tax rate under paragraph 10.1(a) or (b) of the *Standards for First Nation Annual Tax Rates Laws, 2017*, the First Nation must include a description of the justification in a notice given under paragraph 1.1(a), or inform the taxpayers of the justification when giving notice under paragraphs 1.1(b) or (c).

2. Notice of Annual Expenditure Laws

A First Nation must, in each year before submitting its annual expenditure law to the Commission for review and approval consideration, give notice of its annual expenditure law

- (a) by posting a copy of the law on the *First Nations Gazette* website or in a prominent place on the First Nation's website;
- (b) in accordance with the procedures set out in the First Nation's taxpayer representation to council law; or
- (c) by holding a public meeting at which taxpayers may meet with the tax administrator or members of Council to discuss the proposed law.

3. Additional Notice Information Requirements

3.1 Where a First Nation proposes to enact a development cost charges law, the First Nation must,

- (a) in its section 6 notice,
 - (i) reference the long-term capital plan, other planning document or service agreement used by the First Nation to support the development cost charges levied in the law, and
 - (ii) state where a copy of the long-term capital plan, other planning document or service agreement may be obtained; and
- (b) for the duration of the section 6 notification period, post a copy of the planning document or service agreement referenced in paragraph (a) in a prominent place on the First Nation's website.

[am. FNTC Resolution 2019-06-26; 2020-03-19.]

3.2 Where a First Nation proposes to enact a fee law, the First Nation must,

- (a) in its section 6 notice, state where a copy of the fee law report may be obtained; and

(b) for the duration of the section 6 notification period, post a copy of the fee law report in a prominent place on the First Nation's website.

[am. FNTC Resolution 2020-03-19.]

4. Minimum Notice Period for Certain Proposed Local Revenue Laws

4.1 Where a First Nation proposes to enact any of

- (a) a development cost charges law,
- (b) a property transfer tax law,
- (c) a service tax law,
- (d) a business activity tax law, or
- (e) a fee law,

the notice period under section 6 of the Act must be extended to at least forty-five (45) days.

4.2 Where a First Nation is implementing real property taxation for the first time, the notice period under section 6 of the Act must be extended to at least forty-five (45) days for the First Nation's property assessment law and property taxation law.

5. Additional Notice Requirements for Certain Proposed Local Revenue Laws

5.1 Where a First Nation proposes to enact a law referenced in section 4 and the First Nation has taxpayers or other persons on its reserve who will be subject to the tax or fee, the First Nation must publish the section 6 notice in at least one (1) of the following additional ways:

- (a) in the local newspaper with the largest circulation;
- (b) in a prominent place on the First Nation's website; or
- (c) in a newsletter delivered to each taxpayer on the reserve.

5.2 Where a First Nation proposes to enact a business activity tax law, the First Nation must deliver the section 6 notice to each business located on the reserve that will be subject to the proposed tax.

5.3 Where a First Nation proposes to enact a development cost charges law, a property transfer tax law, a service tax law or a fee law, the First Nation must undertake at least one (1) of the following additional requirements:

- (a) in the section 6 notice, state that a description of the key elements of the proposed local revenue law may be viewed on the First Nation's website;
- (b) in the section 6 notice, state the time and place of an open house at which representatives of the First Nation will provide information respecting the proposed local revenue law;
- (c) in the section 6 notice, state the time and place of a public meeting at which the council of the First Nation will review the proposed local revenue law; or
- (d) deliver the section 6 notice to each taxpayer on the reserve, or for a service tax law that will apply only to a defined area of the reserve, to each taxpayer in the defined area.

5.4 The First Nation must publish or deliver, as applicable, the notices required under subsections 5.1, 5.2 and 5.3 before the first day of the section 6 notification period.

5.5 The First Nation must publish the information referenced in paragraph 5.3(a) in a prominent place on the First Nation's website before the first day of the section 6 notification period.

5.6 The First Nation must hold an open house or public meeting referenced in paragraphs 5.3(b) and (c) during the section 6 notification period.

6. Exemptions from Requirements

Where, in respect of a local revenue law, the Commission has exempted a First Nation under subsection 6(2) of the Act from the notice requirements in subsection 6(1) of the Act, the requirements in sections 3, 4, 5 and 8 of these Standards do not apply to the First Nation in respect of that local revenue law.

[am. FNTC Resolution 2018-12-12.]

7. Notice of Transition to Reference Jurisdiction Rate Setting

7.1 Where a First Nation proposes to justify an increase in its tax rates under paragraph 10.1(b) of the *Standards for First Nation Annual Tax Rates Laws, 2017*, the requirements set out in this section apply.

7.2 The First Nation must provide a written notice, in accordance with subsection 7.4, stating

(a) that the First Nation intends to develop a reference jurisdiction transition plan in order to transition to setting tax rates that are identical to the reference jurisdiction; and

(b) the time and place of a taxpayer meeting to review and discuss the reference jurisdiction transition plan.

7.3 The First Nation must hold the taxpayer meeting referenced in subsection 7.2 at the time and place referenced in the notice.

7.4 At least fourteen (14) days before the date of the taxpayer meeting referenced in subsection 7.2, the notice required under subsection 7.2 must be

(a) delivered to every taxpayer and any taxpayer association;

(b) posted in the First Nation's administrative offices and in at least two (2) other locations on the reserve; and

(c) published on the First Nations Gazette website and in a prominent place on the First Nation's website.

8. Notice Requirements for Seasonal Properties

8.1 Where there are taxable seasonal properties on a First Nation's reserve, the First Nation must comply with either subsection 8.2 or 8.3 where a section 6 notice is required in respect of a proposed local revenue law.

8.2 The First Nation must

(a) begin and complete the section 6 notification period, and

(b) fulfill all notice requirements set out in these Standards,

during a time of year when the seasonal properties are intended for occupation.

8.3 The First Nation must, in addition to all other notice requirements, deliver the section 6 notice to each taxpayer who holds a seasonal property and has provided to the First Nation an e-mail address or permanent mailing address.

8.4 A First Nation providing notice under subsection 8.3 must deliver the section 6 notices before the first day of the section 6 notification period.

[am. FNTC Resolution 2018-12-12.]

**PART VIII
COMING INTO FORCE**

These Standards are established and in effect as of June 29, 2018.

**PART IX
ENQUIRIES**

All enquiries respecting these Standards should be directed to:

First Nations Tax Commission
321 – 345 Chief Alex Thomas Way
Kamloops, BC V2H 1H1
Telephone: (250) 828-9857