

**STANDARDS FOR FIRST NATION
TAXPAYER REPRESENTATION TO COUNCIL LAWS, 2018**

[Consolidated to 2019-03-27]

**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 the form and content of First Nation local revenue laws enacted under subsection 5(1) of the Act;
- 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 the requirements that must be met for First Nation laws respecting the procedures by which the interests of taxpayers may be represented to council, enacted under paragraph 5(1)(c) of the Act. These Standards are used by the Commission in its review and approval of First Nations' taxpayer representation to council laws, pursuant to section 31 of the Act. The requirements established in these Standards are in addition to those 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 every taxpayer representation to council law submitted to the Commission for approval under the Act.

**PART V
CITATION**

These Standards may be cited as the *Standards for First Nation Taxpayer Representation to Council 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;

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

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

“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;

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

“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;

“taxation year” has the meaning given to that term in the *Commission Standards for First Nation Property Taxation Laws, 2016*; and

“taxpayer” means a person liable for taxes under a property taxation law.

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

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

[am. FNTC Resolution 2019-03-27.]

PART VII STANDARDS

1. Notice of Annual Tax Rates Law and Annual Expenditure Law

1.1 The Law must require the First Nation to give notice to its taxpayers of its proposed annual tax rates law and its proposed annual expenditure law in each taxation year.

1.2 The Law must require the notice under subsection 1.1 to

- (a) be given at least five (5) days before Council makes its annual tax rates law and annual expenditure law;
- (b) be posted in a public place on the reserve and at the administrative offices of the First Nation;
- (c) be posted on the *First Nations Gazette* website or in a prominent place on the First Nation’s website; and
- (d) include a copy of the proposed annual tax rates law and the proposed annual expenditure law.

2. Access to Documents

- 2.1 The Law must require the First Nation to make available the following documents to taxpayers:
- (a) service agreements that are funded from local revenues;
 - (b) the annual audit of the local revenue account required under the Act; and
 - (c) Council resolutions related to property taxation.
- 2.2 The Law must set out how the First Nation will make available the documents listed in subsection 2.1, which must include at least one (1) of the following methods:
- (a) making the documents available electronically, either on request or by posting on the First Nation's website;
 - (b) making the documents available at the administration office of the First Nation during regular business hours.
- 2.3 The Law may allow Council to deny access to all or a portion of a document listed in subsection 2.1, where the subject matter of the document relates to or contains any of the following types of information:
- (a) personal information, where Council considers that release of such information would be an unreasonable invasion of an individual's personal privacy;
 - (b) labour relations or other employment matters involving the First Nation;
 - (c) the security of property on the reserve;
 - (d) law enforcement;
 - (e) advice and related communications that are subject to solicitor-client privilege;
 - (f) negotiations and related communications respecting proposed agreements with the First Nation;
 - (g) the acquisition or disposition by the First Nation of interests or rights in reserve lands;
 - (h) trade secrets or commercial, financial, labour relations, scientific or technical information of or about a third party, where Council considers that disclosure could reasonably be expected to harm the business interests of the third party.

[am. FNTC Resolution 2019-03-27.]

3. Ongoing Communications with Taxpayers

- 3.1 The Law must set out the methods that will be used by the First Nation, on an ongoing and regular basis, to
- (a) keep the taxpayers informed of the First Nation's proposals and activities related to property taxation matters; and
 - (b) provide a means by which taxpayers may provide input to Council on taxation matters.
- 3.2 The methods referred to in subsection 3.1 must include
- (a) a process to
 - (i) provide information through a newsletter or an information circular published by the First Nation that is provided to taxpayers by posting in a prominent place on the First Nation's website, by e-mail to taxpayers, or by delivery to each taxable property, and
 - (ii) enable taxpayers to provide written input to the First Nation; or
 - (b) a First Nation meeting or open house at which First Nation representatives provide information and taxpayers can provide input to the First Nation on property taxation matters.

4. Resolving Taxpayer Concerns

- 4.1 The Law must include procedures for the resolution of
- (a) taxpayer concerns respecting a local revenue law; and
 - (b) all concerns raised by a taxpayer relating to taxation.
- 4.2 The procedures required by subsection 4.1 must include
- (a) provisions for resolving concerns with representatives of the First Nation; and
 - (b) where a concern is not resolved with representatives of the First Nation, provisions for resolving the concern through other processes that must include either a facilitation process or a mediation process.

PART VIII
REVOCATION AND COMING INTO FORCE

Revocation

The *Standards for First Nation Taxpayer Representation to Council Laws* that were established and effective as of February 10, 2010, are revoked.

Coming into Force

These Standards are established and in effect as of December 12, 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