

### Using This Sample Taxpayer Representation to Council Law

The Commission provides sample laws to assist First Nations in developing their own laws. When using sample laws, the First Nation should ensure that its law reflects its circumstances and that it obtains legal and other advice as necessary. If you have any questions as you are preparing this law, please do not hesitate to contact the FNTC staff.

Under paragraph 5(1)(c) of the *First Nations Fiscal Management Act*, a First Nation may make laws respecting procedures by which the interests of taxpayers may be represented to Council. This sample law has been developed to provide a framework for First Nations wanting to enact a taxpayer representation to council law.

The following are some notes about the substance and format of the sample law:

1. This sample law provides a number of options for a First Nation to consider including in its law. In addition to the options presented in this sample, there are other procedures that a First Nation could choose, including establishing an elected taxpayer advisory council or appointing a taxation committee of council. The Commission can assist First Nations in drafting alternate forms of taxpayer representation to council laws.
2. When using this sample law, please ensure that the appropriate options are selected to suit the First Nation's specific circumstances. Optional alternate wording is shown in square brackets with an "**OR**" and optional additional wording is shown in square brackets with an "or". Please ensure that unused wording is deleted from the final law.
3. Instructions are shown in square brackets and bold. All instructions should be deleted from the final version of the law.
4. Underlines indicate that information is to be entered. Insert the information needed, and delete the underlines from the final version of the law.
5. When deleting an unwanted section, subsection or paragraph, please sequentially renumber/reletter the remaining provisions and revise, as appropriate, the numbering or lettering of any internal references affected by the deletion.
6. If the First Nation is located in Quebec, please contact the Commission for assistance with modifying the sample law to reflect the civil law jurisdiction.

Please refer to the *Standards for First Nation Taxpayer Representation to Council Laws, 2018*, for additional requirements for taxpayer representation to council laws.

\_\_\_\_\_ **FIRST NATION**  
**TAXPAYER REPRESENTATION TO COUNCIL LAW, 20\_\_**

**WHEREAS:**

A. Pursuant to section 5 of the *First Nations Fiscal Management Act*, the council of a first nation may make laws respecting procedures by which the interests of taxpayers may be represented to Council;

B. The Council of the \_\_\_\_\_ First Nation deems it to be in the best interests of the First Nation and its taxpayers to make a law providing for procedures by which the interests of taxpayers may be represented to Council; and

C. The Council of the \_\_\_\_\_ First Nation has given notice of this Law and has considered any representations received by the Council, in accordance with the requirements of the *First Nations Fiscal Management Act*;

NOW THEREFORE the Council of the \_\_\_\_\_ First Nation duly enacts as follows:

**PART I**  
**CITATION**

**Citation**

1. This Law may be cited as the \_\_\_\_\_ *First Nation Taxpayer Representation to Council Law, 20\_* .

**PART II**  
**DEFINITIONS AND REFERENCES**

**Definitions and References**

2.(1) In this Law:

“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 that establishes a budget for the expenditure of revenues raised under a local revenue law;

“annual tax rates law” means a law required under subsection 10(1) of the Act that sets the rate of tax to be applied to the assessed value of each property class;

“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 the \_\_\_\_\_ First Nation, being a band named in the schedule to the Act;

“holder”, in relation to an interest in reserve lands, means a person

- (a) in possession of the interest,
- (b) entitled through a lease, licence or other legal means to the interest,
- (c) in actual occupation of the interest, or
- (d) who is a trustee of the interest;

“interest”, in relation to reserve lands, 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;

“personal information” means recorded information about an identifiable individual;

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

“tax administrator” means the person appointed by Council to that position under the Taxation Law;

“Taxation Law” means the \_\_\_\_\_ *First Nation Property Taxation Law, 20\_\_*;

“taxation year” has the meaning given to that term in the Taxation Law;

“taxes” includes all taxes imposed, levied, assessed or assessable under a property taxation law, including all penalties, interest and costs added to such taxes;

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

“taxpayer association” means an organization, whether incorporated or not, formed for one (1) or more of the purposes set out in section 6.

(2) For greater certainty, an interest, in relation to reserve lands, includes improvements.

(3) In this Law, references to a Part (e.g. Part I), section (e.g. section 1), subsection (e.g. subsection 2(1)) or paragraph (e.g. paragraph 5(2)(a)) is a reference to the specified Part, section, subsection or paragraph of this Law, except where otherwise stated.

### PART III

#### NOTICE OF ANNUAL LAWS

**[Note to First Nation: Providing for notice of the First Nation’s proposed annual tax rates law and proposed annual expenditure law is a minimum requirement for a taxpayer representation to council law. In compliance with Commission Standards, each First Nation should develop a process that meets the goals of ensuring that relevant information is available to taxpayers. First Nations may also wish to include additional provisions such as meeting with taxpayers or taxpayer associations respecting the proposed annual laws.]**

#### **Notice of Proposed Tax Rates and Annual Budget**

3.(1) The First Nation must give notice to its taxpayers of its proposed annual tax rates law and its proposed annual expenditure law in each taxation year.

(2) The notice under subsection (1) must

(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.

**[Note to First Nation: Consider including an additional provision where the First Nation has a taxpayer association, such as:**

**(3) Where a taxpayer association has been established, one or more members of Council must meet with representatives of the taxpayer association so that the taxpayer association may make comments respecting the proposed annual tax rates law and the proposed annual expenditure law.]**

### PART IV

#### ACCESS AND COMMUNICATIONS

**[Note to First Nation: Providing for routine access to documents and on-going communication with taxpayers are minimum requirements for a taxpayer representation to council law. Taxpayers should be given relevant information on a timely basis in order to keep them informed of matters that**

**directly impact them. Each First Nation should set out a process that will work effectively for that First Nation and its taxpayers, and tailor these provisions accordingly.]**

#### **Access to Documents**

4.(1) Subject to subsections (4) and (5), the tax administrator must make available to taxpayers, in a timely manner, service agreements that are funded from local revenues, the annual audit of the local revenue account required under the Act and all Council resolutions related to property taxation.

**[Note to First Nation: Consider if there are other documents that may be added to this list.]**

(2) The tax administrator

(a) may make documents referenced in this section available electronically, either on request or by posting on the First Nation's website; and

(b) must make documents referenced in this section available to taxpayers at the administration office of the First Nation during regular business hours.

(3) A taxpayer may inspect the documents referred to in paragraph (2)(b), and may obtain a copy of the documents on payment to the First Nation the costs of photocopying the document.

(4) Council may deny access to documents, or portions of documents, under this section 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 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.

(5) Council may, in its discretion, sever from a document information described in subsection (4) and give access to the remainder of the document.

#### **Ongoing Communications with Taxpayers**

5.(1) The First Nation must, on an ongoing and regular basis, keep the taxpayers informed of the First Nation's proposals and activities related to taxation matters and provide a means by which taxpayers [and taxpayer associations] may provide input to the First Nation on taxation matters.

(2) At a minimum, the First Nation must **[Note to First Nation: The Law can include (a) or (b), or both, and can add additional mechanisms as appropriate. The wording in (c) should be included if section 6 is included in the Law.]**

(a) hold at least \_\_ ( ) meetings [or open houses] each year at which taxpayers [and taxpayer associations] can provide input to the First Nation on property taxation matters;

(b) publish at least \_\_ ( ) newsletters [or information circulars] in each year respecting First Nation property taxation matters that are provided to taxpayers by posting in a prominent place on the First Nation's website, by e-mail to each taxpayer, or by delivery to each taxpayer; and

- (c) permit taxpayers [and taxpayer associations] to make representations to Council respecting taxation matters at designated Council meetings in accordance with section 6.

### **Representations to Council at Council Meetings**

**[Note to First Nation: This is an optional process a First Nation may wish to include. It can be modified as appropriate for a First Nation, including to allow the tax administrator or Council to refuse a request where the proposed topic is not taxation related or has been previously considered by Council. Where a First Nation has a large number of taxpayers, it may wish to include a modified version of this provision to provide for access to Council by the taxpayer association.]**

6.(1) Council must designate at least \_\_\_ ( ) Council meetings in each taxation year at which taxpayers [and taxpayer associations] may make representations to Council respecting taxation matters.

(2) The tax administrator must give notice of each Council meeting designated under subsection (1) at least \_\_\_ ( ) days in advance of each meeting, by posting a notice of the meeting at the administrative offices of the First Nation and in a prominent place on the First Nation's website.

(3) Taxpayers [and taxpayer associations] wishing to make representations to Council must, at least \_\_\_ ( ) days before the meeting, give written notice to the tax administrator outlining the matter to be addressed.

(4) On receipt of notice under subsection (3), the tax administrator must advise the person of the date and time at which the person [or taxpayer association] may appear to make representations to Council.

(5) The tax administrator may reschedule the date or time at which a person [or taxpayer association] may make representations to Council where

- (a) the Council meeting is rescheduled; or
  - (b) there is insufficient time at the scheduled Council meeting.
- (6) Subject to leave of Council,
- (a) no more than two (2) representations must be scheduled at one (1) Council meeting; and
  - (b) each person [or taxpayer association] must be limited to fifteen (15) minutes, including questions and discussion with Council.

## **PART V**

### **TAXPAYER ASSOCIATIONS**

**[Note to First Nation: These optional provisions provide for the recognition of taxpayer associations that are created on taxpayer initiative. Alternatively, a First Nation could provide for the establishment of a taxpayer association or advisory council within its law. The Commission is available to assist First Nations that wish to create an advisory council, upon request. Wording is also provided for First Nations that may wish to provide operating funding for a taxpayer association.]**

#### **Purposes of Taxpayer Associations**

7. The purposes of a taxpayer association may include
- (a) to provide taxpayers with a mechanism through which they may have input into taxation matters and proposed local revenue laws;
  - (b) to consider and make representations to Council on taxation matters;
  - (c) to provide advice to Council with respect to communications and information for taxpayers;
  - (d) to hold information meetings for taxpayers on taxation matters; and
  - (e) to provide advice to Council on taxation or other matters as requested by Council.

### **Funding for Taxpayer Associations**

8.(1) On or before **[insert date]** in each taxation year, a taxpayer association may, in consultation with the tax administrator, determine a proposed operating budget for that taxation year and submit a request to Council to fund the proposed operating budget.

(2) Council must consider requests for funding made in accordance with subsection (1) and may, in its annual expenditure law, allocate funding for the operating budget of the taxpayer association.

(3) The tax administrator must provide any funding allocated by Council in accordance with subsection (2) to the taxpayer association as soon as practicable after Council has enacted the annual expenditure law.

(4) A taxpayer association must expend moneys received from the First Nation only in accordance with its operating budget and on activities directly related to the functions of the taxpayer association.

### **New and Existing Taxpayer Associations**

9.(1) Where taxpayers form a taxpayer association, the taxpayer association must give written notice to the First Nation of its formation and its purposes, including information satisfactory to the First Nation that it represents a proportion of [all/residential/commercial] taxpayers on the reserve. **[Note to First Nation: The Law could specify the minimum proportion of taxpayers a taxpayer association must represent in order to be recognized, such as fifty percent (50%).]**

(2) Council recognizes the \_\_\_\_\_ Taxpayer Association existing at the time of enactment of this Law, which taxpayer association represents **[insert details]** and has purposes that include: **[insert purposes]**.

### **Taxpayer Association Meetings with Council and Tax Administrator**

10.(1) Where the tax administrator is satisfied that a new taxpayer association is representative of a sufficient proportion of [all or a defined group of] the taxpayers, the tax administrator must set an initial meeting with the taxpayer association and one or more members of Council.

(2) The tax administrator must meet with each taxpayer association from time to time on request to discuss matters of concern to the taxpayer association.

(3) Council, or one (1) or more members of Council, must meet with each taxpayer association from time to time **[OR at least \_\_\_ ( ) times each taxation year on request by the taxpayer association]** to discuss taxation matters of concern to the taxpayer association and to provide an opportunity for the taxpayer association to provide comments to Council.

## **PART VI**

### **REQUESTS FOR SERVICES**

**[Note to First Nation: Optional wording is provided if the First Nation wishes to include a process for taxpayers to request new or expanded services.]**

#### **Requests for Services**

11.(1) A taxpayer [or taxpayer association] may make a request for a new or expanded service by submitting a proposal to the First Nation in accordance with this section.

(2) A proposal for a new or expanded service must be in writing and

- (a) describe the service in general terms;
- (b) set out the area to which the service would be provided;
- (c) provide an estimate of the cost of the service;
- (d) indicate the proposed methods of cost recovery for the service; and

(e) include the full name, address and signature of each person in support of the proposal.

(3) A proposal must be submitted to the tax administrator, who must forward the proposal to Council for consideration.

(4) A request for a service is a method for Council to assess support for a service and is not binding on Council.

## **PART VII**

### **RESOLVING TAXPAYER CONCERNS**

#### **Resolution of Concerns Generally**

**12.(1)** The First Nation supports the resolution of taxpayer concerns at the local level, and intends that all taxpayer concerns respecting this Law, a local revenue law, or a taxation matter generally, must be resolved through the dispute resolution mechanisms set out in this Part.

(2) Nothing in this Part

(a) requires a taxpayer [or taxpayer association] to participate in the processes set out in this Part;

(b) prevents the First Nation from establishing or participating in other processes to resolve taxpayer concerns; or

(c) precludes a taxpayer from making a complaint to the Commission in accordance with the Act.

#### **Resolution with Tax Administrator**

**13.(1)** Where a taxpayer [or a taxpayer association] has a concern respecting a taxation matter, the taxpayer [or taxpayer association] may contact the tax administrator to discuss the concern.

(2) Where the tax administrator is contacted under subsection (1), the tax administrator must attempt to resolve the concern directly with the taxpayer [or taxpayer association], and

(a) may at any time seek input and direction from Council or from one or more Council members;

(b) may contact the Commission for information or advice that may assist in resolving the concern;

(c) must seek Council's approval for any proposed resolution of a concern that requires action by the First Nation before it can be effective; and

(d) must keep Council informed of the status of any unresolved concerns.

(3) Where the tax administrator is not able to resolve the concern to the satisfaction of the taxpayer [or taxpayer association] within thirty (30) days of being contacted under subsection (1), the tax administrator must do one of the following:

(a) with the agreement of the taxpayer [or taxpayer association], ask the Commission to facilitate a resolution of the matter and work cooperatively with the Commission and the taxpayer [or taxpayer association] to resolve the matter;

(b) with the agreement of the taxpayer [or taxpayer association], refer the matter to mediation;

(c) refer the matter to Council.

#### **Mediation**

**14.(1)** Where a matter is referred to mediation, the First Nation and the taxpayer [or taxpayer association] must jointly select a mediator from the roster of mediators maintained by the Commission.

(2) If the First Nation and the taxpayer [or taxpayer association] cannot agree on a mediator from the Commission roster, they may

(a) agree to any other mediator; or

(b) each select a mediator from the Commission roster and request that those two (2) mediators jointly select a mediator from the roster.

(3) The First Nation and the taxpayer [or taxpayer association] must agree on the terms of the mediation and, unless otherwise agreed, must each bear their own costs of participating in the mediation and must share equally the costs of the mediator.

(4) Where the mediator proposes a resolution of the matter, it must be accepted by both the taxpayer [or taxpayer association] and Council before it must have effect.

### **Referral to Council**

15.(1) Where a taxpayer [or taxpayer association] concern has not been resolved by the tax administrator, or by using another process under this Part, the tax administrator must refer the matter to Council and provide to Council a report setting out

- (a) the nature of the concern;
- (b) the attempts made to resolve the concern; and
- (c) any action or approach recommended by the tax administrator.

(2) Council must review the report at its next regular Council meeting, or as soon thereafter as reasonably practicable, and may, in its discretion, decide how it must proceed with respect to the matter.

(3) Without limiting its discretion, Council may decide to

- (a) designate one (1) or more members of Council to meet with the taxpayer [or taxpayer association] to attempt to resolve the concern;
- (b) invite the taxpayer [or taxpayer association] to meet with Council at a future Council meeting; or
- (c) take no further steps because in its view a mutually acceptable resolution of the concern is not likely in the circumstances.

(4) Where Council invites the taxpayer [or taxpayer association] to meet under paragraph (3)(b), the tax administrator must

- (a) set a time and place for a meeting with Council; and
- (b) give written notice of the time and place to the taxpayer [or taxpayer association] and to Council, at least seven (7) days before the date set.

(5) Council may determine the procedures to apply to a meeting under subsection (4), provided that the taxpayer [or taxpayer association] must be given a reasonable opportunity to present its concern to Council.

(6) Where Council decides to take no further steps under paragraph (3)(c), the tax administrator must advise the taxpayer [or taxpayer association] as soon as practicable of Council's decision.

## **PART VIII GENERAL PROVISIONS**

### **Provisions in Addition**

16. The provisions in this Law are intended to be in addition to any requirements in the Act and other applicable enactments, and such requirements must prevail over this Law to the extent of a conflict.

### **Validity**

17. Nothing under this Law must be rendered void or invalid by

- (a) an error or omission in a determination made by the First Nation, its Council, or its officers or employees;



- (b) an error or omission in any notice given under this Law; or
- (c) a failure of the First Nation or the tax administrator to do something within the required time.

### Notices

18.(1) Where in this Law a notice is required to be given by mail or where the method of giving the notice is not otherwise specified, it must be given

- (a) by mail to the recipient's ordinary mailing address;
  - (b) where the recipient's address is unknown, by posting a copy of the notice in a conspicuous place on the recipient's property; or
  - (c) by personal delivery or courier to the recipient or to the recipient's ordinary mailing address.
- (2) Except where otherwise provided in this Law,
- (a) a notice given by mail is deemed received on the fifth day after it is posted;
  - (b) a notice posted on property is deemed received on the second day after it is posted; and
  - (c) a notice given by personal delivery is deemed received upon delivery.

### Interpretation

19.(1) The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

(2) Where a provision in this Law is expressed in the present tense, the provision applies to the circumstances as they arise.

(3) Words in this Law that are in the singular include the plural, and words in the plural include the singular.

(4) Except where otherwise defined, words and expressions used in this Law have the meanings given to them in the Act and the Taxation Law.

(5) This Law must be construed as being remedial and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

(6) Reference in this Law to an enactment is a reference to the enactment as it exists from time to time and includes any regulations made under the enactment.

(7) Headings form no part of this Law and must be construed as being inserted for convenience of reference only.

### Force and Effect

20. This Law comes into force and effect on the day after it is approved by the First Nations Tax Commission.

THIS LAW IS HEREBY DULY ENACTED by Council on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, in the Province of \_\_\_\_\_.

A quorum of Council consists of \_\_\_\_\_ (\_\_\_\_) members of Council.

[Name] \_\_\_\_\_  
Chief [please spell out the name]

[Name] \_\_\_\_\_  
Councillor [please spell out the name]

[Name]  
Councillor [please spell out the name]

[Name]  
Councillor [please spell out the name]

SAMPLE