

NOTE TO FIRST NATION: This sample law is for a delegation respecting a joint reserve. Each delegating First Nation must make a delegation law in an identical form to the other First Nations.

_____ **FIRST NATION**
_____ **RESERVE PROPERTY TAXATION DELEGATION LAW, 20__**

TABLE OF CONTENTS

PART I Citation.....
PART II Definitions and References.....
PART III Delegation of Powers
PART IV General Provisions

WHEREAS:

A. Pursuant to section 5 of the *First Nations Fiscal Management Act*, the council of a first nation may make laws respecting taxation for local purposes of reserve lands, interests in reserve lands or rights to occupy, possess or use reserve lands, including laws delegating to any person or body any of the Council’s powers to make laws under any of paragraphs 5(1)(a) to (e) of that Act;

B. The _____ First Nation holds an interest in the [insert name] reserve jointly with other First Nations;

C. Each First Nation with an interest in the joint reserve intends to delegate certain of its law-making powers under the Act to a delegate, in order for the delegate to establish and administer a property taxation system on the joint reserve;

D. Each First Nation with an interest in the joint reserve intends to make a delegation law in respect of the joint reserve in the same form as this delegation law;

E. The First Nations with interests in the joint reserve and [insert name of Delegate] have entered into an agreement that provides for the creation and administration of the taxation system on the joint reserve; and

F. The Council 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* _____ *Reserve Property Taxation Delegation 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;

“assessment law” means a law referenced in paragraph 3(1)(a);

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

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

“Delegate” means [insert name of person/body and address/contact information];

“expenditure law” means a law referenced in paragraph 3(1)(d);

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

“interest in land” or “property” means land or improvements, or both, in the joint reserve and, without limitation, includes any interest in land or improvements, any occupation, possession or use of land or improvements, and any right to occupy, possess or use land or improvements;

“joint reserve” means the _____ reserve set apart for the joint use and benefit of the First Nation and the [insert names of all other delegating First Nations];

“rates law” means a law referenced in paragraph 3(1)(c); and

“taxation law” means a law referenced in paragraph 3(1)(b).

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

PART III

DELEGATION OF POWERS

Delegation of Certain Law-Making Powers

3.(1) The Council hereby delegates to the Delegate, pursuant to paragraph 5(1)(f) of the Act, Council’s powers to make the following laws in respect of the joint reserve:

(a) laws under subparagraph 5(1)(a)(i) of the Act, respecting the assessment of the value of interests in land, the requisition of any information necessary to conduct the assessment, and the inspection for assessment purposes of any interests in land that are subject to taxation for local purposes;

(b) laws under paragraph 5(1)(a) of the Act, respecting the taxation of interests in land for local purposes based on a property value tax;

(c) laws under subparagraph 5(1)(a)(ii) of the Act, respecting a mechanism to establish tax rates and apply them to the assessed value of lands, interests and rights;

(d) laws under paragraph 5(1)(b) of the Act, respecting the expenditure of local revenues; and

(e) laws under paragraph 5(1)(e) of the Act, respecting the enforcement of laws made by the Delegate under paragraphs (a), (b), (c) and (d).

(2) For clarity, the powers delegated under subsection (1) do not include the power to make laws under subparagraphs 5(1)(a)(iii), (iv) or (v) of the Act.

(3) For clarity, the powers delegated under subsection (1) apply only to the joint reserve, and the First Nation retains all powers in respect of all of its reserve lands other than the joint reserve.

Delegate Subject to Same Limits, Requirements and Duties

4.(1) The powers delegated to the Delegate under section 3 are subject to all limits and procedural requirements, including conditions and approvals that apply to the powers, and all duties related to the exercise of those powers.

(2) Without limiting subsection (1), the Delegate must exercise the powers delegated to it in accordance with

- (a) the Act;
- (b) the Commission standards and procedures established under section 35 of the Act; and
- (c) the requirements and restrictions set out in this Law and in other applicable enactments.

[Note to First Nation: Section 4 sets out the general rule that the Delegate must comply with the same limits, requirements and duties that would apply to the First Nation when exercising these powers. Section 5 expands on this general provision by highlighting those duties that are of particular importance. The First Nations can add to these lists if there are additional areas they wish to highlight.]

Specific Requirements and Duties

5.(1) Without limiting section 4, the Delegate must, in respect of every law it proposes to make,

- (a) give all notices,
- (b) consider representations received,
- (c) submit all required information and documentation to the Commission,
- (d) seek and obtain all necessary approvals, and
- (e) in every respect fulfill the obligations of Council in making a law under the Act,

as required under the Act and under Commission standards and procedures.

(2) Without limiting section 4, the Delegate must comply with all statutory requirements related to the exercise of the delegated authority under this Law, including, without limitation, the requirement to

- (a) establish a local revenue account;
- (b) place local revenues only in the local revenue account;
- (c) obtain an audit of the local revenue account at least once each year, and provide access to the audit as required by the Act;
- (d) make an annual rates law and an annual expenditure law as required by the Act;
- (e) ensure that expenditures of local revenues are made only in accordance with an expenditure law; and
- (f) comply with orders of the Commission made under section 33 of the Act.

No Further Delegation

6. The Delegate must not delegate the powers given to the Delegate in this Law.

Delegate Must Exercise Powers

7. The powers delegated in this Law must be exercised only by the Delegate and must not be exercised by the First Nation.

PART IV GENERAL PROVISIONS

Interpretation

8.(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) 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.

(5) 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.

(6) Headings form no part of the enactment and must be construed as being inserted for convenience of reference only.

Duration

9. The delegation of powers to the Delegate in this Law remains in effect for so long as this Law is in force and effect.

Force and Effect

10. 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 British Columbia.

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]