



First Nations Tax Commission
Commission de la fiscalité des premières nations

The First Nations Tax Commission, pursuant to the *First Nations Fiscal Management Act*, hereby approves the following law made by the Beecher Bay First Nation in the Province of British Columbia,

Beecher Bay Taxpayer Representation Law, 2014

Dated at Kamloops, British Columbia this 16th day of September, 2014.

On behalf of the First Nations Tax Commission

C.T. (Manny) Jules – Chief Commissioner
First Nations Tax Commission



**BEECHER BAY
TAXPAYER REPRESENTATION LAW, 2014**

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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 the Council;

B. The Sc'ianew Council deems it to be in the best interests of Sc'ianew and its taxpayers to make a law for such a purpose; and

C. The Sc'ianew 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 Sc'ianew Council duly enacts as follows:

PART I
CITATION

Citation

1. This Law may be cited as the *Beecher Bay Taxpayer Representation Law, 2014*.

PART II
DEFINITIONS AND INTERPRETATION

Definitions

2. In this Law:

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

“annual budget” means the budget setting out the projected local revenues and projected expenditures of those local revenues for a taxation year;

“annual expenditure law” means a law required under paragraph 10(b) of the Act that establishes a budget for the expenditure of revenues raised under a property taxation law;

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

“Council” means the Chief and Council of Sc'ianew;

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

“local revenue law” means a law made under subsection 5(1) of the Act;

“person” includes a partnership, syndicate, association, society, corporation and the personal or other legal representatives of a person;

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

“reserve” means any land set apart for the use and benefit of Sc'ianew within the meaning of the *Indian Act*, R.S.C. 1985, c. I-5;

“Sc'ianew” means Beecher Bay, being a band within the meaning of the *Indian Act* and which is named in the schedule to the Act;

“service tax” means a tax levied under a service tax law;

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

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

“Taxation Law” means the *Beecher Bay Property Taxation Law, 2014*;

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

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

“taxpayer” means a person paying tax 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 8.

Interpretation

3.(1) In this Law, references to a Part (e.g. Part I), section (e.g. section 1), subsection (e.g. subsection 3(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.

(2) 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 will be severed from the remainder of this Law and the decision that it is invalid shall not affect the validity of the remaining portions of this Law.

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

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

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

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

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

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

PART III

NOTICE AND REPRESENTATIONS

Notice and Input on Proposed Tax Rates and Annual Budget

4.(1) The tax administrator shall, at least seven (7) days before the Council makes an annual rates law or an annual expenditure law,

- (a) post a notice at a public place on the reserve;
- (b) post a notice on Sc'ianew's website; and
- (c) where a taxpayer association exists, send a notice to the taxpayer association.

(2) The notice in subsection (1) shall include

- (a) a copy of the proposed tax rates or the draft annual budget, as applicable; and
- (b) a statement that comments on the proposed tax rates or draft annual budget may be submitted to the tax administrator within the time stipulated in the notice.

(3) Before enacting the annual rates law and annual expenditure law, the Council shall consider any comments received by the tax administrator pursuant to paragraph (2)(b).

PART IV
ACCESS AND COMMUNICATIONS

Access to Documents

5.(1) Subject to subsections (3) and (4), the tax administrator shall make available to taxpayers, in a timely manner

- (a) the annual budget;
- (b) all service agreements funded from local revenues;
- (c) audits of the local revenue account; and
- (d) Council resolutions related to property taxation.

(2) The tax administrator shall make the documents referenced in this section available to taxpayers

- (a) at the offices of Sc'ianew during regular business hours; or
- (b) electronically.

(3) The Council may deny access to documents, or portions of documents, referenced in this section where the subject matter of the document relates to or contains one or more of the following types of information:

- (a) personal information, where the 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 Sc'ianew;
- (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 Sc'ianew;
- (g) the acquisition or disposition by Sc'ianew of interests in land in the reserves;
- (h) trade secrets of or about a third party; or
- (i) commercial, financial, labour relations, scientific or technical information of or about a third party, where the Council considers that disclosure could reasonably be expected to harm the business interests of the third party.

(4) The Council may, in its discretion, sever from a document information described in subsection (3) and give access to the remainder of the document.

Ongoing Communications with Taxpayers

6.(1) Sc'ianew shall, on an ongoing and regular basis, keep the taxpayers informed of Sc'ianew's proposals and activities related to property taxation matters and provide a means by which taxpayers may provide input to Sc'ianew on property taxation matters.

(2) At a minimum, Sc'ianew shall

- (a) publish and provide to all taxpayers at least one (1) newsletter in each year respecting Sc'ianew property taxation matters;
- (b) provide updated information respecting Sc'ianew property taxation matters on its website;
- (c) hold at least one (1) open house in each year to provide information on Sc'ianew property taxation matters, explain Sc'ianew's proposals for property taxation for the year and address taxpayers' questions; and

(d) permit taxpayer associations to make representations to the Council respecting property taxation matters in accordance with section 7.

Representations to Council at Council Meetings

7.(1) The Council shall designate at least one (1) Council meeting in each taxation year at which a taxpayer association may make representations to the Council respecting property taxation matters.

(2) At least thirty (30) days in advance of each Council meeting designated under subsection (1), the tax administrator shall give written notice to the taxpayer association.

(3) A taxpayer association wishing to make representations to the Council shall, at least five (5) 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 shall advise the taxpayer association of the date and time at which the taxpayer association may appear to make representations to the Council.

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

- (a) the Council meeting is rescheduled; or
- (b) there is insufficient time at the scheduled Council meeting.

(6) The Council may refuse a request to hear representations where the proposed topic is not related to property taxation or has been previously considered by the Council.

PART V

TAXPAYER ASSOCIATIONS

Purposes of Taxpayer Associations

8. The purposes of a taxpayer association may include:

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

New Taxpayer Associations

9. The Council shall recognize the existence of a taxpayer association, formed at the initiative of taxpayers, provided the taxpayer association gives written notice to the Council of its formation and its purposes, including information satisfactory to the Council that it is representative of a majority of taxpayers within a property class.

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 majority of taxpayers within a property class, the tax administrator shall set an initial meeting with the taxpayer association and one (1) or more members of the Council.

(2) The tax administrator shall, upon reasonable notice and request, meet with each taxpayer association from time to time, to discuss matters of concern to the taxpayer association.

PART VI

TAXATION FOR THE PROVISION OF SERVICES

Proposals for Additional Services

11.(1) Taxpayers or taxpayer associations may request additional services, by submitting a proposal to the tax administrator, who shall then forward the proposal to the Council for consideration.

(2) A proposal under subsection (1) must

(a) describe the service in general terms;

(b) define the boundaries of the proposed service area;

(c) provide an estimate of the costs of the service;

(d) indicate the proposed methods of cost recovery for the service, including, as applicable, any proposed borrowing, the portion of the costs of the service to be recovered by a service tax, and the form of service tax; and

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

(3) Proposals for a service are a method for the Council to assess support for or opposition to a service and are not binding on the Council and, for clarity, the Council may at any time enact or amend a service tax law or other local revenue law to pay for all or part of the costs of a service, provided it has first considered any proposals received under subsection (1).

PART VII

RESOLVING TAXPAYER CONCERNS

Resolution of Concerns Generally

12.(1) Sc'ianew 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 property taxation matter generally, will be resolved through the dispute resolution mechanisms set out in this Part.

(2) Nothing in this Part

(a) requires a taxpayer to participate in the processes set out in this Part;

(b) prevents Sc'ianew from establishing or participating in other processes to resolve taxpayer concerns; or

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

Resolution with Tax Administrator

13.(1) Where a taxpayer has a concern respecting a property taxation matter, the taxpayer may contact the tax administrator to discuss the concern.

(2) Where the tax administrator is contacted under subsection (1), the tax administrator shall attempt to resolve the concern directly with the taxpayer, and

(a) may at any time seek input and direction from the Council;

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

(c) shall keep the Council informed of the status of any unresolved concerns.

Facilitation by FNTC

14.(1) Where the tax administrator and the taxpayer are unable to resolve a concern through the process under section 13, the tax administrator shall, with the agreement of the taxpayer, ask the FNTC to facilitate a resolution to the concern.

(2) Where the FNTC agrees to facilitate a resolution, the tax administrator shall work cooperatively with the taxpayer and the FNTC to resolve the concern.

(3) If the FNTC facilitates a resolution satisfactory to both the tax administrator and the taxpayer, the tax administrator shall report to the Council on the nature of the concern and its proposed resolution.

Referral to Council

15.(1) Where the tax administrator and the taxpayer are unable to resolve a concern through the processes under sections 13 and 14, the tax administrator shall refer the matter to the Council and provide to the 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) The Council shall review the report at its next regular Council meeting, or as soon as reasonably practicable, and may, in its discretion, decide how it will proceed with respect to the matter.

(3) Without limiting its discretion, the Council may

- (a) accept the recommendation of the tax administrator;
- (b) invite the taxpayer to meet with one (1) or more designated members of the Council to attempt to resolve the concern;
- (c) with the agreement of the taxpayer, refer the matter to mediation; or
- (d) take no further steps because in its view a mutually acceptable resolution of the concern is not likely in the circumstances.

(4) Where the Council decides to take no further steps under paragraph (3)(d), the tax administrator must advise the taxpayer as soon as practicable of the Council's decision.

Mediation

16.(1) Where a matter is referred to mediation in accordance with paragraph 15(3)(c), Sc'ianew and the taxpayer shall jointly select a mediator from the roster of mediators maintained by the FNTC.

(2) If Sc'ianew and the taxpayer cannot agree on a mediator from the FNTC roster, they may

- (a) agree to any other mediator; or
- (b) ask the FNTC to appoint a mediator.

(3) Sc'ianew and the taxpayer shall agree on the terms of the mediation and, unless otherwise agreed, shall each bear their own costs of participating in the mediation and shall share equally the costs of the mediator.

(4) Where the mediator proposes a resolution of the matter that is acceptable to both the taxpayer and the Council, the parties shall enter into a written agreement confirming their acceptance of the proposed resolution.

Costs

17. All parties to a dispute shall bear their own costs in any dispute resolution process.

PART VIII

GENERAL PROVISIONS

Provisions in Addition

18. The provisions in this Law are intended to be in addition to any requirements in the Act and other

applicable enactments, and such requirements shall prevail over this Law to the extent of a conflict.

Validity

19. Nothing under this Law shall be rendered void or invalid by

- (a) an error or omission in a determination made by Sc'ianew, its Council, or its officers or employees;
- (b) an error or omission in any notice given under this Law; or
- (c) a failure of Sc'ianew or the tax administrator to do something within the required time.

Notices

20.(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

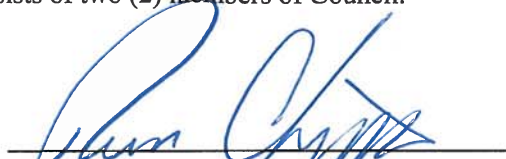
- (a) by mail to the recipient's ordinary mailing address;
 - (b) where the recipient's address is unknown, by posting a copy of the notice in a conspicuous place on the recipient's property; or
 - (c) by personal delivery or courier to the recipient or to the recipient's ordinary mailing address.
- (2) Except where otherwise provided in this Law,
- (a) a notice given by mail is deemed received on the fifth (5th) day after it is posted;
 - (b) a notice posted on property is deemed received on the second (2nd) day after it is posted; and
 - (c) a notice given by personal delivery is deemed received upon delivery.

Force and Effect

21. This Law comes into force and effect on the day after it is approved by the FNTC.

THIS LAW IS HEREBY DULY ENACTED by the Council on the 7th day of August, 2014, at Beecher Bay, in the Province of British Columbia.

A quorum of the Council consists of two (2) members of Council.


Chief Russell Chipps


Councillor Gordon Charles


Councillor Bernice Millette