



**First Nations Tax Commission**  
**Commission de la fiscalité des premières nations**

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

***Songhees First Nation Taxpayer Representation Law, 2010***

Dated at Cranbrook, British Columbia this 15th day of June, 2010.

On behalf of the First Nations Tax Commission

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



**SONGHEES FIRST NATION  
TAXPAYER REPRESENTATION LAW, 2010**

**TABLE OF CONTENTS**

PART I Citation .....	1
PART II Definitions and Interpretation.....	2
PART III Notice, Representations and Communications.....	5
PART IV Songhees Taxpayer Advisory Committee.....	6
PART V Dispute Resolution.....	16
PART VI General .....	19

**WHEREAS:**

A. Pursuant to section 5(1)(c) of the *First Nations Fiscal and Statistical 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 Council of the Songhees First Nation deems it to be in the best interests of the First Nation to make a law for such a purpose; and

C. The Council of the Songhees 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 and Statistical Management Act*,

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

**PART I  
CITATION**

**Citation**

1. This Law may be cited as the *Songhees First Nation Taxpayer Representation Law, 2010*.

**PART II**  
**DEFINITIONS AND INTERPRETATION**

**Definitions**

2. In this Law:

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

“AGM” means the Annual General Meeting of the taxpayers;

“annual budget” means the budget, attached as a Schedule to the expenditure law, that sets 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 for each property class;

“Assessment Law” means the *Songhees First Nation Property Assessment Law, 2008*;

“capital project” means the construction, rehabilitation or replacement of the Nation’s tangible capital assets, as defined in the FAL, and includes any other major capital projects in which the Nation or its related bodies are investors;

“COIR” means the *Songhees First Nation Conflict of Interest Regulation*, enacted under the FAL;

“Council” means the Chief and Council of the Nation;

“expenditure law” means an annual expenditure law enacted under paragraph 5(1)(b) of the Act;

“FAL” means the *Songhees First Nation Financial Administration Law, 2009*;

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

“holder” means a person in possession of an interest in land or a person who, for the time being,

(a) is entitled through a lease, licence or other legal means to possess or occupy the interest in land,

(b) is in actual occupation of the interest in land,



- (c) has any right, title, estate or interest in the interest in land, or
- (d) is a trustee of the interest in land;

“improvement” means any building, fixture, structure or similar thing constructed, placed or affixed on, in or to land, or water over land, or on, in or to another improvement and includes a manufactured home;

“interest in land” or “property” means land or improvements, or both, on the Nation’s Lands 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;

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

“local services” means services that

- (a) are provided on or to the Nation’s Lands,
- (b) are paid for, in whole or in part, with local revenues, and
- (c) are public works and initiatives, capital projects, or any other services provided on or to the Nation’s Lands;

“majority” means fifty percent plus one (50% + 1);

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

“the Nation’s Lands” means:

- (a) New Songhees Indian Reserve No. 1A,
- (b) Halkett Island Indian Reserve No. 2,
- (c) Discovery Island Indian Reserve No. 3,
- (d) Chatham Islands Indian Reserve No. 4, and
- (e) lands set apart in the future by Her Majesty the Queen in right of Canada as lands reserved for the use and benefit of the Nation, within the meaning of subsection 91(24) of the *Constitution Act, 1867*;

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

“primary residence” means the usual place where an individual makes their home;

“public works and initiatives” means the governing, planning, design, financing, construction, maintenance, emergency response and related regulatory regimes pertaining to:

- (a) public buildings such as government buildings, schools and libraries,
- (b) roads, bridges and related infrastructure,
- (c) workplace and construction site safety,
- (d) systems for providing potable water,
- (e) systems for collecting, treating and disposing of sewage and waste water,
- (f) collection and disposal or processing of solid waste and recyclable or compostable materials,
- (g) development of community plans and zoning laws or bylaws,
- (h) parks and recreation,
- (i) wharves and harbours,
- (j) power supply and energy management,
- (k) land management and expropriation,
- (l) fire protection and suppression, and
- (m) building codes and fire codes;

“STAC” means the Songhees Taxpayers Advisory Committee, established in accordance with Part IV;

“tax administrator” means a person appointed by the Council to administer the Taxation Law;

“tax department” means the taxation department of the Nation;

“taxable property” means an interest in land that is subject to taxation under the Taxation Law;

“Taxation Law” means the *Songhees First Nation Property Taxation Law, 2008*;

“taxation year” means the calendar year to which an assessment roll applies for the purposes of taxation;

“taxes” include

- (a) all taxes imposed, levied, assessed or assessable under the Taxation Law, and all penalties, interest and costs added to taxes under the Taxation Law, and
- (b) for the purposes of collection and enforcement, all taxes imposed, levied, assessed or assessable under any other local revenue law of the Nation, and all penalties, interest and costs added to taxes under such a law;

“taxpayer” means a person liable for taxes in respect of taxable property; and  
“voter” means a taxpayer who is eligible to vote for the STAC pursuant to section 15.

### **Interpretation**

3.(1) Unless otherwise provided in this Law, words and phrases have the same meaning as in the Assessment Law and the Taxation 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) In this Law, references to a Part (e.g. Part I), section (e.g. section 1), subsection (e.g. subsection 3(1)), paragraph (e.g. paragraph 5(2)(a)) or Schedule (e.g. Schedule I) is a reference to the specified Part, section, subsection, paragraph or Schedule of this Law, except where otherwise stated.

(5) A 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) 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.

(7) 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.

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

## **PART III**

### **NOTICE, REPRESENTATIONS AND COMMUNICATIONS**

#### **Notice and Input on Annual Budget and Tax Rates**

4. On or before February 28 in each taxation year, and not less than five (5) days before the Council enacts the annual rates and expenditure laws, the tax administrator must:

(a) publish, in the tax department’s newsletter, the preliminary annual

budget and the preliminary tax rates for that taxation year;

(b) post the preliminary annual budget and the preliminary tax rates for that taxation year at the tax department;

(c) advise the taxpayers of the preliminary annual budget and the preliminary tax rates for that taxation year at the AGM referenced at subsection 8(7);

(d) send a notice to the STAC, by email or other means, setting out the preliminary annual budget and preliminary tax rates and requesting a meeting with the STAC; and

(e) if the STAC accepts the tax administrator's invitation under paragraph (d), meet with the STAC at least once, and allow the STAC to make representations respecting the preliminary annual budget and preliminary tax rates, on behalf of the taxpayers.

#### **Access to Documents**

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

(2) The tax administrator

(a) may make documents referenced in this section available on the tax department's website; and

(b) must make documents referenced in this section available to taxpayers at the tax department 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 Nation of a reasonable fee for photocopying, as determined by the tax administrator.

(4) The Council may deny access to documents, or portions of documents, under 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 the Nation;



- (c) the security of property on the Nation's Lands;
  - (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 Nation;
  - (g) the acquisition or disposition by the Nation of interests in the Nation's Lands;
  - (h) trade secrets or 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; and
  - (i) any other similar information that the Council deems should not be released.
- (5) The Council may, in its discretion, sever from a document, information described in subsection (4) and give access to the remainder of the document.

**PART IV**  
**SONGHEES TAXPAYER ADVISORY COMMITTEE**

**STAC Established**

6.(1) The STAC is hereby established to provide taxpayers with a mechanism through which they may:

- (a) have input into proposed local revenue laws and proposed repeals of or amendments to local revenue laws, including this Law;
- (b) provide input into proposed bylaws and proposed repeals of or amendments to bylaws that may impact taxpayers' interests in land, in accordance with subsection 8(1);
- (c) have input into the annual budget and tax rates;
- (d) provide input on any other matters as requested by the Nation; and
- (e) provide input to the Council on matters that affect taxpayers, as the STAC deems appropriate.



(2) If the taxpayers establish the STAC prior to the coming into force of this Law, and the Council in its discretion recognizes the group as the STAC, then the STAC is deemed to be the STAC established under subsection (1).

#### **Duties and Responsibilities of the STAC**

7.(1) The duties and responsibilities of the STAC may include, but are not limited to:

- (a) reviewing, and providing comments to the Council regarding proposed new bylaws or local revenue laws, or repeals of or amendments to existing bylaws or local revenue laws, in accordance with subsection 6(1);
- (b) making representations to the tax administrator respecting the annual budget and tax rates;
- (c) providing the Nation with input regarding local services;
- (d) providing advice to the Nation with respect to communicating with and providing information to taxpayers;
- (e) holding information meetings for taxpayers regarding matters that the Council determines may impact taxpayers' interests in land; and
- (f) meeting with the tax administrator and the Council as required under this Law.

(2) In addition to the duties and responsibilities referred to in subsection (1), the STAC may consider and make recommendations to the Nation on any other matter that the STAC determines may impact taxpayers' interests in land.

(3) The members of the STAC must act honestly and in good faith.

(4) The members of the STAC must comply with subsection 23(1) of the FAL, with the COIR, and with all of the Nation's laws, bylaws, policies and regulations.

#### **Duties and Obligations of the Nation**

8.(1) Subject to subsection (3), the Council must ensure that the STAC has an opportunity to provide input to the Council in accordance with subsection 6(1), regarding

- (a) proposed new local revenues laws;
- (b) proposed new bylaws that the Council determines may impact taxpayers' interests in land; and
- (c) repeals of or amendments to laws and bylaws described in paragraphs (a) and (b).

(2) Upon initiating any proposed new bylaw or local revenue law, or repeal or amendment described in subsection (1), the Council must provide the STAC with at least 30 days' written notice of the proposed law, or amendment or repeal, which sets out the subject matter and general nature of the provisions to be addressed in the proposed new bylaw, local revenue law, or repeal or amendment.

(3) Notwithstanding subsections (1) and (2), the Council may enact, amend or repeal a bylaw or local revenue law without consulting the STAC if the

- (a) Council is of the opinion that the enactment, amendment or repeal is needed to protect the Nations' Lands or the members of the Nation; or
- (b) enactment, amendment or repeal is required to comply with the Act or other enactment.

(4) If the Council enacts, amends or repeals a bylaw or local revenue law in accordance with paragraph (3)(a), then it must give the STAC an opportunity to review and provide input as soon as practicable after the bylaw or local revenue law is enacted, amended or repealed.

(5) The Council must meet with the STAC as required under this Law.

(6) The Council must consider, but is not obligated to comply with, all representations made by the STAC in accordance with this Law.

(7) The Council must ensure that, in every fiscal year, an AGM is held at which the taxpayers have an opportunity to

- (a) be informed of the Nations' proposals and activities related to property taxation matters, including the draft annual budgets and tax rates; and
- (b) provide input to the tax administrator and the Council on property taxation matters.

(8) Except in extraordinary circumstances, the tax administrator must

attend all meetings under subsection (7) and sections 10 and 11, when invited by the chair of the STAC or by the Council, as the case may be.

(9) The Nation must comply with all other requirements under this Law.

#### **Funding for the STAC**

9.(1) In consultation with the tax administrator and in accordance with the local revenue laws and the FAL, the Council must in its annual expenditure law, allocate funding for the annual operating budget for the STAC.

(2) The tax administrator must provide the STAC with its annual operating budget as soon as practicable after the Council has enacted the annual expenditure law.

(3) The STAC may expend its annual operating budget as it sees fit, provided that all funds it receives from the Nation must be spent on activities directly related to the STAC, and in accordance with the local revenue laws and with the FAL.

(4) The STAC may request, but the Nation is not obligated to provide, operating funds in addition to those provided under subsection (1).

(5) Nothing in this Law prevents the STAC from raising additional funds for its activities.

#### **STAC Meetings**

10.(1) The STAC members must meet:

(a) at least once every three (3) months; and

(b) at all other times as are necessary to carry out their responsibilities.

(2) The STAC may set its own rules and procedures for STAC meetings, subject to this Law.

#### **Meetings with the Council**

11.(1) The Council must meet with the STAC at least once every three (3) months.

(2) At least three (3) Council members and two (2) STAC representatives must attend each meeting described in subsection (1).

(3) Upon the agreement of the Council and the STAC, a meeting described in this section may be held *in camera*, in which case only STAC representatives, Council members, the tax administrator and other invited persons may attend the meeting.

(4) The tax administrator must ensure that minutes are taken for all meetings described in this section.

(5) Copies of minutes described in this section must be kept by the tax administrator and the secretary and, with the exception of minutes from *in camera* meetings, must be made available at the tax department to all taxpayers and members.

#### **Confidentiality**

12. The STAC members must not release information received through their work with the STAC or information relating to the deliberations, proceedings and decisions of the STAC, unless the release of information is permitted under, and in accordance with, all applicable laws, and the information

- (a) is public under a law of the Nation; or
- (b) was presented at a STAC meeting that was open.

#### **Conflicts of Interest**

13. The provisions of the COIR apply to any real, potential or perceived conflicts of interest that may arise under this Law.

#### **STAC Members Elected**

14. The STAC must elect its members on a schedule and following procedures as the STAC deems appropriate, subject to this Law.

#### **Eligibility of Voters**

15.(1) In order to be eligible to vote in a STAC election, a person must, as of the election date:

- (a) be at least eighteen (18) years of age;
- (b) be a taxpayer, as evidenced by the assessment roll; and



(c) not have been declared mentally incompetent.

(2) No corporation is entitled to vote in a STAC election.

(3) A person who is a holder of more than one interest in land is only entitled to vote once in a STAC election.

(4) Where there is more than one holder of an interest in land, each holder who meets the eligibility criteria at subsection (1) is entitled to vote in a STAC election, subject to subsection (3).

(5) For clarity, a member of the Nation who meets the eligibility criteria in this section is eligible to vote in a STAC election.

#### **Eligibility of STAC Candidates**

16. A candidate for the STAC must:

- (a) qualify as a voter;
- (b) have their primary residence on the Nation's Lands;
- (c) not be employed by the tax department; and
- (d) not be a member of the Council.

#### **Notifying the Council**

17. As soon as practicable after a STAC election, the STAC must notify the Council of the results of the election.

#### **Dissolution of STAC**

18. If, due solely to the actions of the taxpayers, the STAC becomes dissolved or ceases to function, then all of the Nation's obligations under this Law in relation to the STAC will cease to apply until such time as a new STAC is established.

### **PART V**

#### **DISPUTE RESOLUTION**

##### **Dispute Resolution Generally**

19. (1) The Nation intends that all taxpayer concerns respecting this Law, a local revenue law, or a taxation matter generally, and all disputes between a

taxpayer and the Nation relating to taxation, must be resolved through the dispute resolution mechanisms set out in this Part.

(2) Nothing in this Part

(a) prevents the Nation from establishing or participating in other dispute resolution processes; or

(b) precludes a taxpayer from making a complaint to the FNTC under the Act.

#### **Informal Resolution by Tax Administrator**

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

(2) Where a taxpayer brings a concern to the STAC under subsection (1), the STAC may decide whether to bring the concern forward to the tax administrator.

(3) Where the STAC has a concern respecting a taxation matter, the STAC may contact the tax administrator to discuss the concern.

(4) Where the tax administrator is contacted by a taxpayer or the STAC respecting a concern, the tax administrator must attempt to resolve the concern with the taxpayer or the STAC and may as necessary

(a) meet with the taxpayer or the STAC to discuss the concern and possible resolution of the concern;

(b) consult with other persons, including the Council, respecting the concern and possible resolution of the concern; and

(c) contact the FNTC for information or advice that may assist in resolving the concern.

(5) If the tax administrator resolves the concern to the satisfaction of the taxpayer or the STAC, the tax administrator may report to the Council on the nature of the concern and its resolution.

(6) Where the tax administrator is not able to resolve the concern to the satisfaction of the taxpayer or the STAC within thirty (30) days of being contacted under subsections (1) or (3), the tax administrator must consult with the taxpayer or the STAC and then

(a) with the agreement of the taxpayer or the STAC, request facilitation by the FNTC as set out in section 21;

(b) with the agreement of the taxpayer or the STAC, refer the matter to mediation as set out in section 22; or

(c) refer the matter to the Council as set out in section 24.

#### **Facilitation by Commission**

21. (1) Where the tax administrator and the taxpayer or the STAC have been unable to resolve a concern under section 20, or where a dispute has not been resolved using another mechanism under this Part, either party may, with the agreement of the other party, ask the FNTC to facilitate a resolution of the dispute.

(2) Where the FNTC agrees to facilitate a dispute, the tax administrator and the taxpayer or the STAC must work cooperatively with the FNTC to resolve the dispute.

(3) If the FNTC facilitates a resolution of the dispute satisfactory to the tax administrator and the taxpayer or the STAC, the tax administrator must report to the Council on the nature of the dispute and its proposed resolution.

#### **Mediation**

22.(1) Where the tax administrator and the taxpayer or the STAC have been unable to resolve a concern under section 20, or where a dispute has not been resolved using another mechanism under this Part, either party may, with the agreement of the other party, refer the dispute to mediation as set out in this section.

(2) The tax administrator and the taxpayer or the STAC must jointly select a mediator from the roster of mediators maintained by the FNTC to mediate the dispute.

(3) If the tax administrator and the taxpayer or the STAC cannot agree on a mediator from the FNTC roster, they may

(a) agree to any other mediator; or

(b) each select a mediator from the FNTC roster and request that those two mediators jointly select a mediator from the roster to mediate the dispute.

(4) The tax administrator and the taxpayer or the STAC 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.

(5) If the mediator resolves the dispute to the satisfaction of the tax administrator and the taxpayer or the STAC the tax administrator must report to the Council on the nature of the dispute and its proposed resolution.

### **Council Approval and Direction**

23. (1) Where the tax administrator is responding to a concern under section 20, or has referred a matter to a dispute resolution process under section 21 or section 22, the tax administrator must, at least once each month, report to the Council on the status of the matter.

(2) The tax administrator may at any time during a dispute resolution process under section 21 or section 22 seek input and direction from the Council or from one or more Council members.

(3) Where the tax administrator reports a proposed resolution of a dispute to the Council under subsection 21(3) or subsection 22(5), the proposed resolution must be approved by the Council before it can be effective.

### **Referral of Dispute to Council**

24.(1) Where the tax administrator and the taxpayer or the STAC have been unable to resolve a concern under section 20, or where a dispute has not been resolved using another mechanism under this Part, the tax administrator may refer the dispute to the Council as set out in this section.

(2) When referring a matter to the Council, the tax administrator must provide to the Council a report setting out

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

(3) The Council must review the report at its next regular Council meeting, or as soon thereafter as reasonably practicable, and must consider possible resolutions to the dispute.

(4) The Council may, in its discretion, decide how to proceed with respect to the dispute and may, without limitation,

- (a) approve the tax administrator's recommendation respecting the dispute;
- (b) designate one or more members of the Council to meet with the taxpayer or the STAC to attempt to resolve the dispute;
- (c) invite the taxpayer or the STAC to make submissions to the Council respecting the dispute at a future Council meeting;
- (d) with the agreement of the taxpayer or the STAC, and, provided the FNTC has not yet facilitated the dispute, ask the FNTC to facilitate a resolution of the dispute;



- (e) with the agreement of the taxpayer or the STAC, and, provided the dispute has not yet been referred to mediation, refer the dispute to mediation using the process set out in section 22; or
- (f) take no further action respecting the dispute.

#### **Dispute Resolution by Council**

25. (1) Where the Council accepts the tax administrator's recommendation under paragraph 24(4)(a) or decides to take no further action under paragraph 24(4)(f), the tax administrator must advise the taxpayer or the STAC of the Council's decision as soon as practicable.

(2) Where the Council refers a dispute to facilitation, mediation, or to one or more Council members for resolution, any recommended resolution of the dispute must be approved by the Council before it can be effective.

(3) Where the Council invites further submissions under paragraph 24(4)(c), the tax administrator must

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

(4) The Council may determine the procedures to apply to a meeting under subsection (3), provided that the taxpayer or the STAC must be given a reasonable opportunity to make submissions to the Council.

#### **Costs**

26.(1) All parties to a dispute must bear their own costs in any dispute resolution process they undertake.

(2) For greater certainty, the Nation is not liable or responsible for the costs of any dispute resolution process under this Part where the Nation is not a party.

## **PART VI GENERAL**

#### **Coming into Force and Transition**

27. This Law comes into force on the day after it is approved by the FNTC.

**Amendments**

28. This Law may be amended or repealed in accordance with procedures set out in the Act.

THIS LAW IS HEREBY DULY ENACTED by Council on the 4 day of May 2010, at Victoria, in the Province of British Columbia.

A quorum of Council consists of four (4) members of Council.

  
Chief Robert Sam

  
Councillor Gary Albany

\_\_\_\_\_  
Councillor Norman George

  
Councillor Frank George Sr.

\_\_\_\_\_  
Councillor Nicholas Albany

  
Councillor Ron Sam