

Ministre des Affaires indiennes et
du Nord canadien et interlocuteur fédéral
auprès des Métis et des Indiens non inscrits



Minister of Indian Affairs and
Northern Development and Federal Interlocutor
for Métis and Non-Status Indians

Ottawa, Canada K1A 0H4

I, the Minister of Indian Affairs and Northern Development, HEREBY
APPROVE, pursuant to section 83 of the *Indian Act*, the following
by-law made by the Mushuau Innu First Nation, in the Province of
Newfoundland, at a meeting held on the 11th day of October 2006.

- **Mushuau Innu First Nation
Telecommunications Companies Taxation Bylaw**

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Dated at Ottawa, Ontario this 7th day of December 2006.

**MUSHUAU INNU FIRST NATION
BY-LAW NO. 2006-1**

WHEREAS, pursuant to section 83 of the *Indian Act*, R.S.C. 1985, c.I-5, as amended, a band may, subject to the approval of the Minister of Indian Affairs and Northern Development, make bylaws for taxation for local purposes of land, or interests in land, in the reserve including rights to occupy, possess or use land in the reserve;

AND WHEREAS it is the practice in the Province of Newfoundland and Labrador for telecommunications companies to pay a tax upon a percentage of the gross receipts within a local jurisdiction;

BE IT THEREFORE RESOLVED that the Band Council of the Mushuau Innu First Nation adopt the following bylaw in an express exercise of its rights under section 83 of the *Indian Act*.

**ARTICLE 1
SHORT TITLE**

1.1 This bylaw may be cited as the "Telecommunications Companies Taxation Bylaw".

**ARTICLE 2
DEFINITIONS**

2.1 In this bylaw

- (a) "Band" means the Mushuau Innu First Nation;
- (b) "Band Council" means the council of the Mushuau Innu First Nation Band;
- (c) "Customer" means a Person who uses or purchases any kind of service from a Telecommunications Company;
- (d) "Gross Receipts" means all revenue generated by a Telecommunications Company arising from services provided to and used by Customers on the Reserve and, in the case of a telephone company as defined in subsection 2(h)(iv) of the Taxation Act shall include revenue from long distance calls and other services billed to Customers on the Reserve whether from cellular, mobile, portable or stationary telephones; and there shall be a deduction from "Gross Receipts" of any amounts of uncollectible accounts on the Reserve;
- (e) "Person" includes an individual, a corporation, partnership, government department or agency, agent or trustee, their heirs, executors, administrators or legal representatives;
- (f) "Reserve" means Natuashish Indian Reserve # 2 set apart by the Federal Crown for the use and benefit of the Mushuau Innu First Nation, and any other reserve(s) of the Band as may be set apart and any special reserve(s) pursuant to section 36 of the *Indian Act*;

- (g) "Surveyor of Taxes" means the person appointed by the Band Council as the Surveyor of Taxes pursuant to this bylaw;
- (h) "Taxation Act" means the *Taxation of Utilities and Cable Television Companies Act*, SNL 1992 ch. T-0.1, as amended from time to time and includes successor legislation;
- (i) "Telecommunications Company" includes a corporation, person or association of persons owning, controlling or operating a telecommunications system or lines on the Reserve or providing telecommunications services through property, other than personal property, located on the Reserve.

ARTICLE 3 EXEMPTIONS

- 3.1 The property or interest of a Telecommunications Company wholly owned by the Band or any member of the Band is exempt from taxation.
- 3.2 The Band Council may, by resolution, enter into an agreement with any Person to exempt that Person from taxation pursuant to this bylaw, in whole or in part, where the Band Council considers such agreement and exemption to be in the best interest of the Band.

ARTICLE 4 ASSESSMENT AND TAXATION

- 4.1 The on-Reserve property interests of a Telecommunications Company shall be assessed on the basis of the Gross Receipts of that Company as generated from Customers on the Reserve.
- 4.2 Every Telecommunications Company shall provide the Surveyor of Taxes with a detailed statement by March 1st in each year showing the Gross Receipts of that Company from the Reserve for the previous year ending on December 31st.
- 4.3 The on-Reserve property interests of a Telecommunications Company assessed pursuant to Article 4.1 of this bylaw are taxable at the rate of two and one-half percent (2.5%) of the Gross Receipts of the Company in the previous year, or any higher percentage as may be established from time to time by the Taxation Act for taxation by the Province or municipalities. The Surveyor of Taxes shall assess such a tax based on this percentage of Gross Receipts.
- 4.4 Where the Telecommunications Company does not submit a detailed statement of its Gross Receipts by March 1st, pursuant to Article 4.2, the Surveyor of Taxes shall estimate, and the Band Council shall approve, the Gross Receipts of the Telecommunications Company for the preceding year and assess a tax pursuant to Article 4.3 based upon its estimate.
- 4.5 Where the Telecommunications Company provides a statement or records to the Surveyor of Taxes, after the Surveyor of Taxes makes an estimate under Article 4.4, that show an amount of Gross Receipts different from that estimated, the Surveyor of Taxes

shall either rebate any excess tax paid by crediting the rebate to the next year's tax or add the additional amount owing to the next year's tax payable under this bylaw.

- 4.6 Taxes assessed under this bylaw are a debt due to the Mushuau Innu First Nation by the Telecommunications Company.
- 4.7 The tax provided for in this bylaw shall be in lieu of all other tax which may be imposed on the Telecommunications Company's interest on the Reserve.

ARTICLE 5 ADMINISTRATION

- 5.1 The Band Council shall by resolution appoint a Surveyor of Taxes.
- 5.2 The Surveyor of Taxes shall be responsible for the administration and implementation of the provisions of this bylaw.
- 5.3 The Surveyor of Taxes shall prepare a report to the Band Council on or before April 1st in each year. The report shall include:
 - (a) A summary of the statements made under Article 4.2, any estimates made under Article 4.4, any statements or records received under Article 4.5 and adjustments made as a result thereof;
 - (b) The amount of the tax assessed and to be levied against each Telecommunications Company pursuant to Article 4.3 for the current year; and
 - (c) The recommendation of the Surveyor of Taxes with respect to the administration of this bylaw.
- 5.4 Upon approval by the Band Council of the report made pursuant to Article 5.3, the Surveyor of Taxes shall forthwith issue a Tax Notice to each Telecommunications Company setting out the amount assessed and due and payable under this bylaw.
- 5.5 The taxes assessed pursuant to this bylaw are due and payable within thirty (30) days of receipt of the Tax Notice issued pursuant to Article 5.4.
- 5.6 In addition to and separate from any penalty or enforcement that may be imposed under this bylaw, interest shall run on all taxes that are due and payable at the rate of one and a half percent (1.5%) interest per month.

ARTICLE 6 TAX COLLECTION

- 6.1 If the taxes imposed under this bylaw remain unpaid after December 31st of the year in which they are levied, the Band Council may bring an action in a court of competent jurisdiction to collect the debt.
- 6.2 Taxes due and payable are a special lien and encumbrance on the Reserve interests of a Telecommunications Company.

**ARTICLE 7
IMPOSITION PROVISION**

- 7.1 The Surveyor of Taxes shall forthwith notify by registered mail each Telecommunications Company to which this bylaw applies that this bylaw is in effect, and provide a copy of this bylaw by registered mail to same.
- 7.2 Every Telecommunications Company to which this bylaw applies shall commence tracking Gross Receipts, within sixty (60) days after the notice under Article 7.1 is mailed until December 31st of that year, and tax shall be assessed and payable on Gross Receipts tracked from the date such tracking commences.

**ARTICLE 8
APPEALS**

- 8.1 A Telecommunications Company may appeal an assessment of tax to a court of competent jurisdiction.
- 8.2 The Band Council may appeal the calculation of Gross Receipts based on the records or statements supplied under Article 4.2 or 4.5 to a court of competent jurisdiction.

This resolution was made at a duly convened meeting of the Band Council of the Mushuau Innu First Nation, dated October 11, 2006.

Those in favour of the resolution: 4

A quorum of the Band Council is 4 members.








