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FIRST NATIONS FISCAL AND STATISTICAL MANAGEMENT ACT

First Nations Taxation Enforcement Regulations (PDF Version)

P.C. 2007-1668 November 1, 2007

Her Excellency the Governor General in Council, on the recommendation of the Minister of Indian Affairs and Northern Development, pursuant to paragraph 5(1)(*e*), subsection 5(7) and paragraph 36(1)(*a*) of the *First Nations Fiscal and Statistical Management Act* (see footnote a), hereby makes the annexed *First Nations Taxation Enforcement Regulations*.

FIRST NATIONS TAXATION ENFORCEMENT REGULATIONS

INTERPRETATION

Definitions

1. The following definitions apply in these

Regulations.

"Act"
« *Loi* »

"Act" means the *First Nations Fiscal and Statistical Management Act*.

"debtor"
« *débiteur* »

"debtor" means a person who is liable for unpaid taxes, interest or penalties imposed under a property ta

"taxable property"
« *bien imposable* »

"taxable property" means reserve land, an interest in reserve lands, or a right to occupy, possess or use

"tax administrator"
« *administrateur fiscal* »

"tax administrator" means the person responsible for the administration of a first nation's property taxatio

"tax roll"

« *rôle d'imposition* »

"tax roll" means a list of persons liable to pay tax on taxable property.

APPLICABLE CONDITIONS
AND PROCEDURES

Conditions

2. Enforcement measures set out in a property taxation law are subject to the con

Copies of notices

3. Copies of notices referred to in these Regulations shall be delivered
(*a*) if the notice is in respect of taxable property, to all pers
(*b*) if the notice is in respect of personal property, to all ho

Recovery of interest and penalties

4. (1) A property taxation law that provides for the imposition of interest or a pena

Maximum rate of interest

(2) The rate of interest on unpaid taxes shall not exceed 15% per year.

Total penalties

(3) The total of any penalties imposed in respect of unpaid taxes shall not exceed 10% of the amount of

Tax arrears certificate

5. (1) Before taking any enforcement measures or commencing any proceedings

Limitation

(2) A tax arrears certificate shall not be issued for at least six months after the day on which the taxes be

Content of certificate

6. A tax arrears certificate shall include a description of the taxable property and s

(*a*) the amount of unpaid taxes;

(*b*) the amount of any penalty incurred and of any future p

(*c*) the amount of interest payable to date and the rate of i

(*d*) the date by which all amounts owing may be paid without incurring further interest and penalties.

LIENS

List of liens

7. The tax administrator shall maintain a list of all liens created under a property ta

Manner of discharge

8. (1) A property taxation law that provides for the creation of a lien shall set out t

Registration of discharge

(2) On receiving payment of the taxes, interest and penalties in respect of which a lien was created, the

ASSIGNMENT OF TAXABLE PROPERTY

Notice of seizure

9. If a property taxation law provides for the seizure and assignment of taxable pr

Timing of sale

10. (1) Subject to subsections 15(1) and (3), not less than six months after delivery

Notice of sale

(2) A notice of the sale by public tender or auction shall be published in the local newspaper with the lar

Content of notice

(3) A notice of public tender or auction shall set out the upset price and any conditions that are attached

Upset price

11. The upset price shall not be less than the total of the amount of taxes, interest

Purchase by first nation

12. If no bid is equal to or greater than the upset price, the first nation is deemed to

Notification of Minister

13. The tax administrator shall without delay notify the Minister in writing of the sal

Redemption period

14. (1) Within three months after the holding of a public tender or auction in respec

Repayment and notice

(2) On redemption of the taxable property

(*a*) if the right to an assignment was sold to a bidder in ac

(*b*) the tax administrator shall notify the Minister in writing

Effective date of assignment

15. (1) No assignment of the taxable property shall be made until the end of the rec

Assignment of taxable property

(2) Subject to subsection (3), at the end of the redemption period, the first nation shall assign the taxabl

Restriction on assignment

(3) Taxable property shall not be assigned to any person or entity that would not have been entitled to

Indian Act

First Nations Land Management

Registration of assignment

(4) The tax administrator shall register an assignment of any taxable property assigned in accordance w

Proceeds of sale

16. At the end of the redemption period, the proceeds from the sale of a right to as

SEIZURE AND SALE OF PERSONAL PROPERTY

Notice of seizure

17. (1) If a property taxation law provides for the seizure and sale of personal prop

Limitation on seizure

(2) Personal property of a debtor that would be exempt from seizure under a writ of execution issued by

Content of notice

(3) A notice of seizure and sale of personal property shall state that

(*a*) if, within seven days after delivery of the notice, the de

(*b*) if the debtor does not pay the unpaid taxes, interest an

Timing of seizure

(4) Subject to subsection (2), if the taxes, interest and penalties remain unpaid more than seven days a

Receipt for personal property

(5) The person who seizes personal property shall provide to the debtor a receipt for the personal prope

Conduct of sale

18. (1) A sale of personal property shall be by public auction.

Publication of notice

(2) The tax administrator shall publish a notice of the sale by auction of the personal property in two cor

Waiting period

(3) The first publication of the notice shall not occur until at least 60 days after the personal property was

Sale by auction

(4) Subject to subsection (5), at any time after the second publication of the notice, the seized property

Court challenge

(5) If at any time before the seized property is sold a challenge to the seizure is made to a court of comp

Limitation

19. The application of sections 17 and 18 in respect of personal property subject to

Proceeds of sale

20. The proceeds from the sale of seized personal property shall be paid to any ho

DISCONTINUANCE OF SERVICES

Preconditions

21. (1) Subject to subsections (2) and (3), a first nation may discontinue a service t

(*a*) revenues from a property taxation law are used to prov

(*b*) the property taxation law provides for the discontinuar

(*c*) taxes, interest or penalties remain unpaid by a debtor

Essential services

(2) A first nation shall not discontinue

(*a*) fire protection or police services to the taxable property

(*b*) water or garbage collection services to taxable propert

(*c*) electrical or natural gas services to taxable property th

30-day notice

(3) At least 30 days before discontinuing any service, the tax administrator shall deliver to the debtor a r

DELIVERY OF DOCUMENTS

Methods of delivery

22. (1) Delivery of a document may be made personally or by sending it by register

Personal delivery

(2) Personal delivery of a document is made

(*a*) in the case of an individual, by leaving the document v

(*b*) in the case of a first nation, by leaving the document v

(*c*) in the case of a corporation, by leaving the document

Time of delivery

(3) A document shall be considered to have been delivered

(*a*) if delivered personally, on the day that personal deliver

(*b*) if sent by registered mail, on the fifth day

after it is mailed.

COMING INTO FORCE

Coming into force

23. These Regulations come into force on the day on which they are registered.

N.B. The Regulatory Impact Analysis Statement for these Regulations appears following SOR/2007-239, First Nations Tax Commission Review Procedures Regulations.