

**STANDARDS FOR
FIRST NATION TAX RATES LAWS, 2011**

PART I

PREAMBLE

WHEREAS:

- A. Section 35 of the *First Nations Fiscal Management Act* gives the First Nations Tax Commission the authority to establish standards respecting the form and content of First Nation local revenue laws enacted under subsection 5(1) of the Act;
- B. Standards are established by the Commission to further the policy objectives of the Commission and the Act, including to ensure the integrity of the First Nations property taxation system and to assist First Nations to achieve economic growth through the generation of stable local revenues; and
- C. Section 31 of the Act requires the Commission to review every local revenue law and subsection 5(2) of the Act provides that such a law has no force and effect until it is reviewed and approved by the Commission.

PART II

PURPOSE

These Standards set out the requirements that must be met for First Nation property rates laws enacted under subparagraph 5(1)(a)(ii) and paragraph 10(a) of the Act. These Standards are used by the Commission in its review and approval of First Nations' rates laws, pursuant to section 31 of the Act. The requirements established in these Standards are in addition to those requirements set out in the Act.

The Commission recognizes that each First Nation's property taxation system operates within the broader context of its fiscal relationships with other governments. These Standards are intended to support a more comprehensive First Nation fiscal framework within Canada.

PART III

AUTHORITY AND PUBLICATION

These Standards are established under subsection 35(1) of the Act and are published in the *First Nations Gazette* as required by subsection 34(1) of the Act.

**PART IV
APPLICATION**

These Standards apply to every property rates law submitted to the Commission for approval under the Act.

**PART V
CITATION**

These Standards may be cited as the *Standards for First Nation Tax Rates Laws, 2011*.

**PART VI
DEFINITIONS**

In these Standards:

- “Act” means the *First Nations Fiscal Management Act*, S.C. 2005, c.9, and the regulations enacted under that Act;
- “annual rate of national inflation” means the change in the Annual Average Consumer Price Index for Canada, All-Items, maintained by Statistics Canada;
- “assessed value” means the value of an interest in land for assessment purposes, as determined under an assessment law;
- “assessment law” means a law enacted by a First Nation under subparagraph 5(1)(a)(i) of the Act that provides for the assessment of property;
- “average tax bill” means either the median or the mean tax bill, net of all grants, of a representative taxpayer in a property class;
- “class rate multiple” means the ratio of the tax rates for a particular property class to the tax rates for the residential property class;
- “Commission” means the First Nations Tax Commission established under the Act;
- “converted assessed value” means the total assessed value in a property class multiplied by its class rate multiple;
- “expenditure law” means a law enacted by a First Nation under paragraph 5(1)(b) of the Act;
- “First Nation” means a band named in the schedule to the Act;
- “interest in land” or “property” means land or improvements, or both, in a reserve and, without limitation, may include 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;

- “Law” means a property rates law enacted under subparagraph 5(1)(a)(ii) of the Act;
- “local revenues” means moneys raised by a First Nation under a law enacted under subsection 5(1) of the Act;
- “local revenue budget” means a budget of all expenditures that will be made using local revenues as set out in the First Nation’s expenditure law;
- “non-property tax local revenues” means all local revenues except those derived from laws enacted under subparagraphs 5(1)(a)(i) and (ii) of the Act;
- “property class” means each of the categories of property established in the First Nation’s assessment law for the purposes of assessment and taxation;
- “Province” refers to the province in which the reserve is situated;
- “reference jurisdiction” means the taxing jurisdiction that a First Nation specifies to the Commission for the purpose of setting tax rates and comparing local service standards;
- “reserve” means any land set apart for the use and benefit of a First Nation within the meaning of the *Indian Act*;
- “tax rate” means the rate payable for each property class, expressed as a percentage of the assessed value of the property; and
- “total converted assessed values” means the sum of the converted assessed values for all property classes.

Except as otherwise provided in these Standards, words and expressions used in these Standards have the same meaning as in the Act.

PART VII STANDARDS

1. Establishing Tax Rates

- 1.1 The Law must establish for each property class a tax rate as
- (a) a rate for each dollar (\$1) of assessed value;
 - (b) a rate for each one hundred dollars (\$100) of assessed value; or
 - (c) a mill rate for each one thousand dollars (\$1000) of assessed value.
- 1.2 As an exception to subsection 1.1, a Law may establish a tax rate for a property class on a different basis where
- (a) the First Nation established a tax rate within that property class on a different basis at the time of being scheduled under the Act; or
 - (b) the First Nation’s reference jurisdiction establishes a tax rate on a

different basis within the same property class.

2. Application of Tax Rates Within a Property Class

2.1 The Law must provide for the equal application of tax rates within a property class, except as provided in subsection 2.2.

2.2 The Law may establish multiple tax rates within a property class where multiple tax rates are established in the First Nation's reference jurisdiction, provided the Law

- (a) establishes the same number of tax rates within each property class, and
- (b) uses the same criteria for the application of those tax rates within each property class,

as are used in the reference jurisdiction.

3. Minimum Tax Limit

Where the Law establishes a minimum amount of tax to be levied on properties within a property class, the amount of the minimum tax must not exceed one hundred dollars (\$100), except as provided in section 4.

4. Exceptions to Minimum Tax Limit

The Law may establish a minimum tax in an amount greater than one hundred dollars (\$100) where required to create a fair taxation regime because of one or more of the following circumstances:

- (a) the First Nation had established a higher minimum tax amount in its taxation regime existing at the time of being scheduled under the Act;
- (b) the First Nation wishes to harmonize with minimum tax amounts established in the Province or the reference jurisdiction; and
- (c) the First Nation's costs of providing services to properties with lower assessed values exceeds one hundred dollars (\$100).

5. Rate Setting in First Taxation Year

Where a First Nation is exercising property taxation powers for the first time, the First Nation must apply the same assessment practices as the former taxing authority or the reference jurisdiction, as the case may be, and its Law must

- (a) establish the same tax rates established by the former taxing authority in the current year; or
- (b) where there is no former taxing authority, establish the same tax rates as the reference jurisdiction in the current year.

6. Rate Setting in Subsequent Years

6.1 In the second and all subsequent years that a First Nation exercises

property taxation powers, its Law must

(a) establish tax rates that when applied result in an average tax bill for each property class that has not increased from the previous year by more than

(i) the annual rate of national inflation from the previous year, or

(ii) the average tax bill increase for each property class in the reference jurisdiction from the previous year; or

(b) establish tax rates that are identical to the tax rates established in the reference jurisdiction in the current year and the immediately preceding year, including by establishing the same number of tax rates where the reference jurisdiction establishes multiple tax rates within a property class.

6.2 In order to meet the requirements in subparagraph 6.1(a)(ii) or paragraph 6.1(b), the First Nation must obtain and provide to the Commission all required information from the reference jurisdiction, to the satisfaction of the Commission.

6.3 For the purpose of paragraph 6.1(a), the average tax bill must be determined by subtracting from the total assessed value any increase in assessed value attributable to new construction on the property or the addition of lands to the property.

6.4 Where a Law establishes tax rates as provided in paragraph 6.1(b), the First Nation must use assessment practices that are identical to the reference jurisdiction in the current year and the immediately preceding year.

7. Exception to Section 6 Requirements

7.1 Where a Law establishes tax rates that do not meet the criteria set out in section 6, the First Nation must justify the rates by providing to the Commission written evidence of special projects, incremental growth, increases in local inflation above the national average, taxpayer support, or a fundamental change to the assessment methods for that property class.

7.2 Where a First Nation justifies its tax rates under subsection 7.1, the justification for those tax rates must be provided as part of the notice required under section 10.

8. No Application Where Zero Assessments

For clarity, sections 6 and 7 do not apply to property classes with assessments equal to zero.

9. Rate Formula for Subsequent Taxation Years

9.1 In the second and all subsequent years that a First Nation exercises property taxation powers, its Law must establish tax rates based on the First Nation's budget for the expenditure of local revenues, using one of the

following formulas:

(a) for a tax rate per one dollar (\$1) of assessed value:

1. $\frac{(\text{local revenue budget} - \text{non-property tax local revenues})}{(\text{total converted assessed values})} = \text{base tax rate}$
2. base tax rate x class rate multiple = tax rate; or

(b) for a tax rate per one hundred dollars (\$100) of assessed value:

1. $\frac{(\text{local revenue budget} - \text{non-property tax local revenues})}{(\text{total converted assessed values}/\$100)} = \text{base tax rate}$
2. base tax rate x class rate multiple = tax rate; or

(c) for a mill rate per one thousand dollars (\$1000) of assessed value:

1. $\frac{(\text{local revenue budget} - \text{non-property tax local revenues})}{(\text{total converted assessed values}/\$1000)} = \text{base mill rate}$
2. base mill rate x class rate multiple = mill rate.

9.2 Subsection 9.1 does not apply to a tax rate established in accordance with subsection 1.2.

10. Notice of Proposed Tax Rates

A First Nation must, in each year before submitting its Law to the Commission for review and approval,

- (a) give written notice of its proposed tax rates by setting out the tax rate or rates for each property class and posting the notice on the First Nation's website or on the *First Nations Gazette* website;
- (b) give notice of its proposed tax rates in accordance with the procedures set out in the First Nation's taxpayer representation to council law enacted under paragraph 5(1)(c) of the Act; or
- (c) hold a public meeting at which taxpayers may meet with the tax administrator or members of Council to discuss the proposed tax rates.

PART VIII

REVOCATION AND COMING INTO FORCE

Revocation

The *Standards for First Nation Tax Rates Laws* that were established and effective on October 22, 2007, are revoked.

Coming Into Force

These Standards are established and in effect as of December 15, 2011.

PART IX
ENQUIRIES

All enquiries respecting these Standards should be directed to:

First Nations Tax Commission
321 – 345 Chief Alex Thomas Way
Kamloops, BC V2H 1H1
Telephone: (250) 828-9857