

Indian Taxation Advisory Board –Pre-Budget Submission 2001

Proposal

The Indian Taxation Advisory Board is seeking the continued support of the federal government for the expansion of First Nation revenue options through a new First Nation fiscal relationship. The goals of this expansion are to give First Nations a greater stake in the economic development of their own jurisdiction and Canada, to provide them with the tools needed to improve their Nation economies.

ITAB urges the federal government to continue to support the establishment of the First Nation Tax Commission (FNTC) as a First Nation fiscal institution of government. We are recommending that all parties in the House of Commons support and participate in the consultation process under which the new tax commission will be established. A copy of the most recent version of the FNTC's concise business plan is attached.

We are further proposing that all parties in the House of Commons support the development of the *First Nation Fiscal Institutions Act* (FNFIA). The fiscal institutions to be created are an essential first step towards building an improved fiscal relationship for First Nations. These institutions will provide the means for ensuring consistent harmonized arrangements for First Nation government are put in place, that the First Nations public sector is professional and accountable, and that the First Nations investment climate is vastly improved. These fiscal institutions represent an opportunity to begin the process of welcoming First Nations into the Canadian family of governments. We are proposing that the Finance Committee take a special interest in these fiscal institutions and convene a special meeting to discuss them before they are introduced into Parliament to discuss:

- Expanding First Nation revenue options
- Supporting First Nation self-government
- Building First Nation economic infrastructure
- Reducing First Nation disputes with taxpayers, citizens and other governments
- Clarifying financial responsibilities among all governments
- Promoting accountabilities by all governments and
- Creating more investment certainty through a new First Nation fiscal relationship.



Submission Overview

The Indian Taxation Advisory Board (ITAB) has existed for twelve years as a national institution of First Nation governance and a regulatory body for property tax. Since its establishment it has helped 88 First Nations enter into real property taxation. These 88 First Nations now collect nearly \$40 million in annual revenue and provide services to more than 20,000 taxpayers. Property tax revenues have allowed many First Nations to improve their services and infrastructure and to access capital markets to finance infrastructure improvements for the first time.

These results have helped develop First Nations in several ways. They have introduced many First Nations people to the complex relationship between tax systems and economic development. It has given many First Nations a stake in the success of the regions in which they are located and thus improved relations at the local level. It has established a connection between good government and the financial health of the community. It has created business opportunities that would otherwise not exist. It has provided funds that allow First Nations to finance the improvements in public infrastructure they need to attract further private sector investment.

The ITAB has prepared pre-budget submissions for the last three years. In its 1999 submission, ITAB asked that all parties support the establishment of the FNTC. Verbal support was given by the committee to ITAB's proposal at that time. Last year, ITAB asked for continued support as it developed policies in three areas: (1) appropriate forums of representation for on-reserve taxpayers; (2) expansion of First Nation revenue options; and, (3) coordination of ITAB policies with the federal government and other evolving First Nation institutions. No pre-budget consultations were held last year.

For 2001, the ITAB is ready to proceed with the FNFIA. This legislation will transform the ITAB into the First Nations Tax Commission (FNTC). Three other First Nation fiscal institutions are also being proposed for development under this legislation: the First Nation Finance Authority (FNFA); the First Nation Statistics Institute (FNSI); and, the First Nation Financial Management Board (FMB).

The purpose of this submission is threefold:

- (1) to brief the Standing Committee on Finance on the other three institutions that are proposed under the FNFIA;
- (2) to outline how these institutions will support First Nation and Canadian economic development; and,
- (3) to provide an update of the work underway at ITAB in developing policy in preparation for the FNTC. The ITAB urges the Standing Committee on Finance to continue to support the FNTC as well as the FNFIA in the Parliamentary process.



The First Nation Fiscal Institutions – Towards a New Fiscal Relationship

A well functioning property tax system, however, is only the beginning of a better First Nation fiscal relationship. To build a fiscal relationship that lowers the costs of doing business on First Nation land, national First Nation institutions are required. The FNFA is required to provide access to capital markets so First Nations can leverage their revenues for economic infrastructure. The FMB is required to develop financial management standards and capacity for First Nation governments to inspire confidence in potential investors. The FNSI is needed to improve the quality of First Nation statistics to support economic development and provide the data necessary to conduct program evaluations and improve the system of transfers to First Nations.

In short, First Nations require the same institutional support for economic development that other governments take for granted.

Together, the four national fiscal institutions will provide First Nations with the capacity to do through collective means what they cannot do individually. These services will ultimately reduce the cost and complexity of government and ultimately provide First Nations with a voice in issues of national governance.

1. The First Nations Statistical Institute (FNSI) will improve the quality of First Nation statistics so they can be used to govern a fiscal relationship. At present, the quality of statistics is inadequate. Even basic statistics such as population counts are suspect in a First Nation context. A First Nations Statistical Institute will work to improve the quality of these statistics by working with First Nation communities themselves. Improved statistics will do more than provide inputs into the governance of a fiscal relationship. They will also provide valuable information that will guide other institutions in developing policy and initiatives, make program delivery more important and allow national First Nation institutions to properly represent First Nation interests at the national level. The FNSI will utilize the expertise and credibility of Stats Canada to develop its own systems and reputation.
2. **The First Nations Financial Management Board (FMB)** is needed to build confidence in First Nation financial reporting and to promote sound financial management and practices among First Nations and First Nation institutions. The functions and responsibilities that this institution will undertake are still under consideration but it will work to ensure that financial reporting by First Nations is consistent with Generally Accepted Accounting Principles and that financial management practices and requirements are more standardized across First Nations. This organization could potentially undertake audits both independently and upon request. The FMB will be built by First Nation accounting and financial management professionals and will build on the successful partnership between the AFN and the CGA of Canada.



3. **The First Nations Finance Authority (FNFA)** will provide investment and borrowing services to First Nations. It will improve the access to capital of all First Nations and provide a policy framework for ensuring First Nations are properly authorized to borrow. The FNFA will promote the development of First Nation infrastructure by allowing tax revenue to service debt. The interests of this organization are in ensuring that borrowing is conducted only for sound projects that are financially viable and that is within the financial means and expenditure responsibilities of participating First Nations. The FNFA will be built using the British Columbia Municipal Financing Authority as a model and as a partner.
4. **The First Nations Tax Commission (FNTC)** will be the successor institution to the existing Indian Taxation Advisory Board (ITAB). This organization will promote the assertion of First Nation tax jurisdiction on sound terms, help address the issue of taxation and representation by assuming additional powers, protect the integrity of First Nation tax systems and build administrative capacity for managing tax systems. It will provide a policy framework for the generation and expenditure of tax revenue. The interests of this organization are in guaranteeing the integrity of the tax system and ensuring all First Nations can provide quality services at reasonable tax rates.

Supporting First Nation and the Canadian Economies

The key to ensuring sustainability of social programs and our standard of living is improving the productivity of our workforce. A key element of this strategy must be First Nation workers since they are the fastest growing group in the workforce. The best means of improving First Nation productivity is to bring private investment to First Nation lands. The fiscal institutions will facilitate investment by: (1) providing First Nations with the ability to finance necessary improvements to infrastructure and services; (2) providing investors with assurances regarding service quality, tax rates, financial reporting and statistics to reduce search costs; (3) building confidence in First Nation administrations, statistics and financial information, (4) reducing compliance costs associated with taxation and ensuring regulatory harmony (5) preventing disputes between First Nations and other government about services and depoliticizing the financial management issue and (6) supporting the development of a new fiscal relationship that clarifies services responsibilities, improves service quality and ultimately reduces the costs of doing business on First Nation land.

All political parties support First Nation economic development. They recognize that the opportunities and services of Canada must be made available to all Canadians. They also recognize that the First Nation population is growing much faster than Canada as a whole and that without economic development, First Nation poverty will create large and unsustainable increases in the costs of maintaining the social infrastructure. It will also make it more difficult to improve Canada's productivity performance because the aboriginal share of the labour force will double over the next fifteen years.



Building First Nation economies is not theoretically difficult. First Nations, just like the rest of Canada, must build an attractive investment climate to attract investment and entrepreneurs. This means secure property rights, a stable and understandable business environment, and the public sector provides the necessary trained people and infrastructure at fair tax rates. The investment problem for First Nations is not a lack of private opportunities. In many cases they have a competitive advantage in natural resources, people, technology or location. The problem is that First Nations operate under a fiscal relationship that has made it very difficult to create an attractive investment climate. In fact, our research has found that it takes on average four to six times longer initially, thus increasing associated costs, to take an investment proposal through all the necessary approvals on reserve lands than it does off. As a result the normal opportunities and discipline that the market provides is not being provided for most First Nations.

The FNTC, in conjunction with the other institutions will provide stability to the provision of local government services, promote the harmonization of regulatory and management practices in the First Nation government sector, build capacity, improve access to capital, promote sound management and facilitate easier negotiations between First Nations and either other governments or private interests.

Building on the Success of ITAB

First Nations have begun to work with Canada, and in some cases the provinces, to build a new fiscal relationship and a First Nation public sector that will support economic development. The value of national First Nation institutions in this effort is evident by reviewing the achievements of ITAB. Although ITAB only provides regulatory expertise in one aspect of a new fiscal relationship – property tax – it has been responsive to both First Nations and taxpayers, provided regulatory direction and helped build economic infrastructure. It has improved communications between First Nations and their adjacent local governments, resulting in an improved investment climate for both. Property taxation has enabled many First Nations to seek investment and participate in the national economy. It has created a greater awareness among First Nations of the potential of business investment and its requirements. It has contributed to a broad change in the mindset of many First Nation persons towards actively seeking business opportunities. It is actually starting a transformation of many reserves from economies dependent on transfers to economies that generate wealth. Furthermore, ITAB has worked with First Nation tax authorities to develop their management capacity with respect to all aspects of property tax – budgeting, service provision, administration, capital financing to name just a few. This has gone a long way towards developing responsible administrations, self-sustaining First Nation economies, improved social infrastructure and a more productive and prosperous First Nation workforce. This has also set a sound precedent for evolution of self-government and the further assertion of First Nation jurisdiction.



Update of ITAB Activities

Since last year, ITAB has consulted with affected parties about the issues relating to the FNTC and has received widespread support from First Nations and taxpayers. This year, in advance of the creation of the statute-based FNTC, ITAB has been focusing its efforts on (1) developing ITAB policies so that they can become FNTC regulations (2) consulting with the federal government and political parties to engender support for the FNTC and the FNFIA and (3) expanding the First Nation property tax system by continuing to deliver quality services which respond to the needs of the taxing First Nations and their taxpayers.

FNTC regulations will formalize ITAB policies. The proposed scope of the FNTC regulatory authority is very similar to that found in regulations governing property tax systems throughout Canada. The ITAB is formalizing seven existing policies in preparation for the FNTC.

1. **By-law review** to establish the content of property tax related by-laws and enforcement measures in the event of non-compliance.
2. **Property Tax Related Expenditures** to set categories and possible limits for the expenditure of property tax revenues and associated enforcement provisions.
3. **Leasehold Property Assessment Methods** to set acceptable assessment methods for leasehold properties and enforcement provisions for non-compliance.
4. **Taxpayer associations** to establish requirements for representative taxpayer and consultation and enforcement provisions.
5. **Financial Administration requirements** to establish financial management reporting and systems required for a First Nation property tax systems and debentures.
6. **Budget Based Tax Rates** to specify budget categories, tax rate increases, permissible categories of expenditure, processes for reviewing property tax rates and notification provisions. Enforcement provisions are in development.
7. **First Nation Debentures** to provide rules for assessing fiscal feasibility of proposed debentures, permissible uses for borrowed funds, stipulations to limit liability, other requirements for tax system and the FNTC role in the events of non-payment or default.

For other governments, these formal policies and regulations create stability, certainty and fairness in the property tax system for taxpayers and potential investors. No such system of regulations and policies exist for First Nations. This ITAB policy development work will provide the basis for a regulatory framework that will:

- ◆ Protect taxpayers from unjustifiable changes in rates or service quality.
- ◆ Develop administrative standards will protect against administrative mismanagement.
- ◆ Minimize First Nation tax authority liability by promoting good policies.



- ◆ Protect the investment climate of all First Nations from damage to reputation caused by the actions of any single First Nation tax authority.
- ◆ Promote investment by providing tangible reassurances to potential investors and by making tax administrations more transparent.
- ◆ Allow First Nation governments to present a positive corporate image.
- ◆ Establish timetables and procedures that provide stability in the tax system.
- ◆ Promote accountability, administrative efficiency, and harmony.
- ◆ Ensure that First Nation tax systems are structured to improve the Canadian economic union by engendering greater cooperation between First Nations and other governments.

As much of the First Nation consultation is now complete and First Nation support for the FNTC and the FNFIA is secure, the ITAB has been spending considerable time discussing the development of the FNTC with the federal government. The FNTC is the most experienced, advanced in its development and therefore most complex of the proposed fiscal institutions. Some details relating to governance, functions, performance measures, coordination of services with other institutions and the transition from the ITAB to the FNTC remain to be resolved before the fiscal institution legislation is introduced. As the legislation development process progresses, the ITAB would welcome the opportunity to discuss the FNTC or the other institutions in greater detail with the committee.

The ITAB, however, is not solely focused on the development of the FNTC and fiscal institutions. The ITAB has a growing client base of 90 First Nations and 20,000 taxpayers who require property tax related services. In the last year, the ITAB has established a protocol arrangement with the First Nation tax administrators. It has sponsored two conferences on dispute prevention with taxpayers and First Nations. It has certified over 40 First Nation communities in budget based tax rate setting. It has installed tax administration software systems in 41 First Nations and certified over 60 people in the use of this software. It has made presentations on First Nation property tax to over 30 First Nations and has refined its budget based rates policy. Most importantly, since its inception, the ITAB has recommended over 800 tax by-laws for approval to the Minister of Indian Affairs and all of these recommendations have been accepted. The ITAB recognizes that it is a model First Nation fiscal institution and that its reputation is ultimately dependent upon continuing to deliver quality services to all its clients.

Summary of Proposal

Pre-Budget Requests	Standing Committee Response
1999 - Support Development of FNTC	All party support
2000 – Support FNTC Policy Development	No consultations
2001 – Support expanded revenue options, Support Fiscal Institutions legislation and Convene special meeting on First Nation fiscal relations with fiscal institutions	

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