

**STANDARDS FOR
FIRST NATION PROPERTY ASSESSMENT LAWS**

[Consolidated to 2009-03-25]

**PART I
PREAMBLE**

WHEREAS:

- A. Section 35 of the *First Nations Fiscal and Statistical 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 assessment laws enacted under subparagraph 5(1)(a)(i) of the Act. These Standards are used by the Commission in its review and approval of First Nations' property assessment 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 assessment law submitted to the Commission for approval under the Act.

**PART V
DEFINITIONS**

In these Standards:

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

“assessable property” means property that is subject to assessment under a Law;

“assessment” means a valuation and classification of interests in land;

“Assessment Review Board” means an independent appeal body established by a First Nation to hear and determine assessment appeals and assessor recommendations;

“assessment roll” means a list setting out interests in land and their assessed values for the purposes of taxation and includes a supplementary assessment roll and any amendments to the assessment roll;

“chair” means a chair of the Assessment Review Board;

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

“complainant” means a person who commences an appeal of an assessment of assessable property;

“Council” has the meaning given to that term in the Act;

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

“holder” means a person in lawful possession of an interest in land or a person who

- (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;

“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 an assessment law enacted under subparagraph 5(1)(a)(i) of the Act;

“Province” refers to the province in which the assessable property is situated;

“reserve” means any land set apart for the use and benefit of a First Nation within the meaning of the *Indian Act*; and

“resolution” means a motion passed and approved by a majority of Council present at a duly convened meeting.

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

[am. FNTC Resolution 2008-09-17.]

PART VI STANDARDS

1. Appointment of Assessor

The Law must

- (a) provide for the appointment by resolution of an assessor to undertake assessments of assessable property in accordance with the Law and such other duties as set out in the Law; and
- (b) provide that any assessor appointed by Council must be qualified to assess real property for taxation purposes in the Province.

2. Assessment Dates

2.1 For those aspects of the assessment process that are set out in Schedule I to these Standards, the Law must incorporate the corresponding dates or time frames in Schedule I, if any.

2.2 Where Schedule I does not provide a date or time frame but allows a First Nation to select a date to be set in its Law, the Law must set a fixed date for that aspect of the assessment process.

2.3 The Law must set a date for mailing assessment notices that is on or before the date for mailing tax notices set in the First Nation’s taxation law.

3. Assessment Classification

3.1 The Law must establish property classes for the purposes of assessment that are the same as those property classes established in the Province.

3.2 As an exception to subsection 3.1, Laws of First Nations located in British Columbia must establish a Class 7 Forest land property class that includes only lands respecting which a licence or permit to cut timber has been issued under the *Indian Act*, or under a land code established in accordance with the *First Nations Land Management Act*.

3.3 As an exception to subsection 3.1, Laws of First Nations located in British Columbia are not required to establish property class 3, supportive housing.

[am. FNTC Resolution 2008-12-16; 2009-03-25.]

4. Assessment Method

4.1 For the purposes of assessing interests in land, the Law must require the assessor to use the

- (a) valuation methods, rates, rules and formulas established under provincial assessment legislation, and
- (b) assessment practices used by assessors in the Province for conducting assessments off the reserve,

except where otherwise provided in the Law.

4.2 Without limiting subsection 4.1,

- (a) Laws of First Nations located in Manitoba must establish percentages of assessed value for each property class for which such a value is established by the Province, and must require the assessor to determine the portioned value of each property using the applicable percentages of assessed values established in the Law; and
- (b) Laws of First Nations located in Saskatchewan must establish percentages of assessed value for each property class for which such a value is established by the Province, and must require the assessor to determine the taxable assessment of each property by multiplying the fair value assessment by the applicable percentage of value established in the Law.

[am. FNTC Resolution 2009-03-25.]

5. Assessment Roll

5.1 The Law must provide for the completion of an annual assessment roll that contains a list of every interest in land liable to taxation or for which payments-in-lieu may be accepted by the Council.

5.2 The Law must require the assessment roll to contain at least the following information:

- (a) the name and address of the holder of the property;
- (b) a description of the property;
- (c) the classification of the property;
- (d) the assessed value by classification of the property;
- (e) the total assessed value of the property;

- (f) for First Nations located in Manitoba, the portioned value of the property;
- (g) for First Nations located in Saskatchewan, the taxable assessment of the property; and
- (h) for First Nations located in provinces other than Manitoba and Saskatchewan, the total assessed value of the property liable to taxation.

5.3 The Law must provide for

- (a) certification of the assessment roll by the assessor that the assessment roll was completed in accordance with the Law;
- (b) delivery of the certified assessment roll by the assessor to the Council;
- (c) inspection of the assessment roll by any person;
- (d) a prohibition on using the information contained in the assessment roll for solicitation purposes; and
- (e) a procedure where holders can apply to have their name, address or other information about the holder omitted or obscured from the assessment roll for reasons of safety or the mental or physical health of the holder or a member of the holder's household.

[am. FNTC Resolution 2009-03-25.]

6. Correction of Errors and Omissions

The Law must provide procedures for the correction by the assessor of errors and omissions in the assessment roll through the use of one or more of revised, amended or supplementary assessment rolls.

7. Assessment Notice

7.1 The Law must provide for assessment notices to be delivered to all persons named on the assessment roll in respect of an assessable property.

7.2 The Law must require an assessment notice to contain at least the following information:

- (a) the name and address of the holder of the property;
- (b) a short legal description of the property;
- (c) the assessed value by classification of the property;
- (d) for First Nations located in Manitoba, the portioned value of the property;
- (e) for First Nations located in Saskatchewan, the taxable assessment of the property;

- (f) for First Nations located in provinces other than Manitoba and Saskatchewan, the total assessed value of the property liable to taxation;
- (g) the opportunity to make a request for reconsideration of the assessment by the assessor and the deadline for making such a request; and
- (h) the right to appeal the assessment to the Assessment Review Board, how to appeal and the deadline for an appeal.

[am. FNTC Resolution 2009-03-25.]

8. Reconsideration

The reconsideration procedures in the Law must

- (a) allow a person named on the assessment roll in respect of an assessed property to request that the assessor reconsider the assessment of that assessable property;
- (b) provide for at least thirty (30) days after the date of delivery of an assessment notice for a person to request a reconsideration by the assessor;
- (c) set out the grounds for reconsideration;
- (d) require the assessor to complete the reconsideration within fourteen (14) days after the assessor receives a request for reconsideration and
 - (i) notify the person that made the request that the assessment is confirmed, or
 - (ii) where the assessor determines that the property should have been assessed differently, offer to modify the assessment; and
- (e) where the person that made the request agrees to a modification, provide for the assessor
 - (i) to amend the assessment roll,
 - (ii) to give notice of the amendment to all persons who received an assessment notice in respect of the assessable property, and
 - (iii) where a notice of appeal has been given in respect of an assessable property, to give notice of the amendment to the Assessment Review Board.

9. Assessment Appeals

9.1 The Law must set out, at a minimum, the following grounds for appeal to the Assessment Review Board:

- (a) the assessed value of the assessed property;
- (b) the assessment classification of the assessed property;
- (c) the applicability of an exemption to the assessed property; and

(d) an alleged error or omission in the assessment.

9.2 If the Law provides for an administration fee for the filing of an assessment appeal, the fee must not exceed thirty dollars (\$30).

10. Assessment Review Board

10.1 The Law must

- (a) set out the powers, duties and functions of the chair;
- (b) provide for the appointment of members of the Assessment Review Board by Council resolution and for a term of appointment of those members of not less than two (2) years; and
- (c) set out when and how members of the Assessment Review Board may be removed from office.

10.2 The Law must establish practices and procedures for the conduct of Assessment Review Board hearings, including respecting

- (a) a party's right to be heard, have representation, present evidence and call witnesses;
- (b) the manner by which the Assessment Review Board may conduct a hearing; and
- (c) the evidentiary rules that apply during a hearing.

10.3 In establishing practices and procedures, the Law may

- (a) provide for additional practices and procedures to be established in a practices and procedures manual approved by Council resolution; and
- (b) permit the Assessment Review Board to determine its own procedure during a hearing to the extent not inconsistent with the Law.

10.4 The Law must provide for, at a minimum, the complainant, the assessor and the holder of the assessable property (if other than the complainant) to be parties to the appeal.

10.5 The Law must set out procedures for updating the assessment roll to reflect decisions of the Assessment Review Board.

11. Confidentiality

The Law must provide for the confidentiality of information and documents obtained by the tax administrator, assessor, the Assessment Review Board and any other person who has custody or control of records obtained or created under the Law, except that disclosure may be made

- (a) in the course of administering the Law or performing functions under it;
- (b) in proceedings before the Assessment Review Board or a court of law;

- (c) where a holder gives written authorization for his or her agent to obtain confidential information relating to a property; or
- (d) by Council to a third party for research (including statistical) purposes.

**PART VII
COMING INTO FORCE**

These Standards are established and in effect as of October 22, 2007.

**PART VIII
ENQUIRIES**

All enquiries respecting these Standards should be directed to:

First Nations Tax Commission
321 – 345 Yellowhead Highway
Kamloops, BC V2H 1H1
Telephone: (250) 828-9857

SCHEDULE I
ASSESSMENT TIMELINES

British Columbia

Assessment valuation date:	July 1 of year before taxation year
Physical condition and permitted use date:	October 31 of year before taxation year
Assessment roll and notices date:	December 31 of year before taxation year, where the First Nation has appointed the BC Assessment Authority as the assessor, or January 31 of taxation year, where the First Nation has appointed an assessor other than the BC Assessment Authority.

Alberta

Assessment valuation date:	July 1 of year before taxation year
Physical condition and use date:	December 31 of year before taxation year
Assessment roll date:	a date set by the First Nation in its Law
Assessment notice date:	a date set by the First Nation in its Law

Saskatchewan

Base date for valuation:	as established by Assessment Management Agency from time to time
Physical condition and use date:	January 1 of taxation year
Assessment roll date:	April 1 of taxation year
Assessment notice date:	within fifteen (15) days of completion of assessment roll

Manitoba

Reference date for valuation:	as set by Province from time to time
Assessment roll date:	December 31 of year before taxation year

Assessment notice date:	a date set by the First Nation in its Law
<u>Ontario</u>	
Valuation date:	January 1 in preceding year, or as set by provincial regulation
Classification date:	June 30 of year before taxation year
Assessment roll date:	not later than second Tuesday following December 1 of year before taxation year
Assessment notice date:	no later than fourteen (14) days before assessment roll is completed
<u>Quebec</u>	
Valuation and condition date:	July 1 of second fiscal year preceding first fiscal year for which assessment roll is made
Assessment roll date:	August 15 to September 15 of year before taxation year
Assessment notice date:	March 1 of taxation year
<u>New Brunswick</u>	
Valuation date:	January 1 of year before taxation year
Assessment roll date:	December 31 of year before taxation year
Assessment notice date:	a date set by the First Nation in its Law
<u>Nova Scotia</u>	
Valuation date:	as set by Province from time to time
Physical condition and use date:	December 1 of year before taxation year
Assessment roll date:	December 31 of year before taxation year
Assessment notice date:	on completion of assessment roll by a date set by the First Nation in its Law

Prince Edward Island

Valuation date: as set by the First Nation in its Law
 Assessment roll date: as set by the First Nation in its Law
 Assessment notice date: fifth business day in May

Newfoundland & Labrador

Base date for valuation: January 1 of every third year after 1996
 Assessment roll date: January 1 to September 30
 Assessment notice date: on completion and delivery of assessment roll by a date set by the First Nation in its Law

Yukon Territory

Valuation date: July 31 of year before taxation year
 Assessment roll date: November 15 of year before taxation year
 Assessment notice: immediately on return of corrected roll to collector by a date set by the First Nation in its Law

Northwest Territories

Base year for valuation: as set by territory from time to time
 Assessment roll date: October 31 of year before taxation year
 Assessment notice date: twenty-one (21) days after certified roll sent to taxing authority

Nunavut

Base year for valuation: as set by territory from time to time
 Assessment roll date: October 31 of year before taxation year
 Assessment notice date: twenty-one (21) days after certified roll sent to taxing authority

[am. FNTC Resolution 2008-09-17; 2009-03-25.]

SCHEDULE II

Repealed. [FNTC Resolution 2009-03-25.]