

# FIRST NATIONS FISCAL AND STATISTICAL MANAGEMENT ACT



FALL 2009

The *First Nations Fiscal and Statistical Management Act (FSMA)* was passed by the Parliament of Canada in March 2005. The legislation offers improved First Nation property taxation and creates four First Nation institutions, including the First Nations Tax Commission (FNTC).

## ***Establishing the First Nations Tax Commission***

In 1989, the Indian Taxation Advisory Board (ITAB) was established to assist First Nations in exercising property tax jurisdiction under s.83 of the *Indian Act*. For nearly 20 years it promoted First Nation property tax, provided advisory services to the Federal Minister of Indian Affairs with regard to property tax bylaw approval, and otherwise safeguarded the integrity of the First Nation property tax system as a whole.

In 2007, the First Nations Tax Commission was created to succeed the role of ITAB under s.83 of the *Indian Act*, and to provide regulatory oversight for a new type of property tax under the *First Nations Fiscal and Statistical Management Act (FSMA)*. The FNTC is a part of an overall system of improving First Nation economic growth as the *FSMA* also created the First Nations Finance Authority, the First Nations Financial Management Board, and the First Nations Statistical Institute.

## ***Strengthening First Nation Property Taxation and Taxpayer Relations***

The *FSMA* includes provisions which strengthen First Nations property taxation, including mechanisms to improve taxpayer relations. The FNTC mandate under the *FSMA*:

- Ensures that the interests of taxpayers are reconciled with the interests of Councils to govern the affairs of First Nations [s.29 (b)];
- Promotes a transparent First Nations real property tax system that provides certainty to taxpayers [s.29 (g)], and
- Promotes understanding of the real property taxation systems of First Nations [s.29 (h)].

# The FSMA: What Taxpayers Should Know

1. *FSMA* requires the FNTC to have representation from residential, commercial, and utility taxpayers [s. 20(2)]. This helps ensure taxpayer interests are brought forward and represented in decision-making of the Commission.
2. FNTC is responsible for reviewing and establishing policy with respect to First Nation taxpayer representation laws pursuant to s. 5(1)(c). FNTC is developing sample taxpayer representation to council laws with several options to assist taxpayers and First Nations.
3. Policies and procedures to enhance taxpayer relations such as ensuring taxpayer representations in local revenue law review [s. 7, 8 and 31(2)] and notification of taxpayers and affected persons [s. 6 and 31] are statutory requirements.
4. FNTC has powers of regulation with regards to the form, content, and enforcement of all local revenue laws under s.5(1) including annual rates and expenditure laws [s. 35].
5. Transparent policy making with public participation [s. 35].
6. *FSMA* requires that a balanced property tax budget must be maintained, this helps instil confidence among current and future taxpayers [s. 13(3)].
7. *FSMA* requires a financial firewall between tax monies and other First Nation revenues to ensure that property tax revenues are spent on local services and long term infrastructure improvements [s. 13(1)].
8. FNTC has communication and informal dispute resolution functions to promote understanding of First Nation property tax issues and reduce misunderstandings [s. 29].
9. FNTC has a formal review process to resolve complaints of non-compliance with the *FSMA* or unfairly or improperly applied laws [s.33 (1)]. FNTC has the authority to remedy the situation, and, in rare circumstances, require the First Nations Financial Management Board to impose a co-management or third party management arrangement of the First Nation's local revenues [s.33(3)].
10. FNTC must submit an annual corporate plan and budget that describes its objectives for the year and its strategy for achieving those objectives [s.118]. The FNTC must also submit an annual report that describes the extent to which it achieved the objectives established in the corporate plan [s.130].



First Nations Tax Commission  
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