

Registration
SOR/2007-243 November 1, 2007

FIRST NATIONS FISCAL AND STATISTICAL MANAGEMENT ACT

First Nations Taxation Enforcement Regulations

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" « <i>Loi</i> »	"Act" means the <i>First Nations Fiscal and Statistical Management Act</i> .
"debtor" « <i>débiteur</i> »	"debtor" means a person who is liable for unpaid taxes, interest or penalties imposed under a property taxation law.
"taxable property" « <i>bien imposable</i> »	"taxable property" means reserve land, an interest in reserve lands, or a right to occupy, possess or use reserve lands, that is subject to taxation under a property taxation law.
"tax administrator" « <i>administrateur fiscal</i> »	"tax administrator" means the person responsible for the administration of a first nation's property taxation laws.
"tax roll" « <i>rôle d'imposition</i> »	"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 conditions, and shall be carried out in accordance with the procedures, prescribed in sections 3 to 22.
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 persons named on the tax roll in respect of that taxable property; and (b) if the notice is in respect of personal property, to all holders of security interests in the personal property registered under the laws of the province in which the personal property is located.
Recovery of interest and penalties	4. (1) A property taxation law that provides for the imposition of interest or a penalty in respect of unpaid taxes shall include the rate of interest and the manner in which the amount of the penalty is calculated, as the case may be.

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 the unpaid taxes.
Tax arrears certificate	5. (1) Before taking any enforcement measures or commencing any proceedings referred to in sections 9 to 21, a tax administrator shall issue a tax arrears certificate and deliver it to every person named on the tax roll in respect of the property, at the address indicated on the tax roll.
Limitation	(2) A tax arrears certificate shall not be issued for at least six months after the day on which the taxes became due.
Content of certificate	6. A tax arrears certificate shall include a description of the taxable property and set out <ul style="list-style-type: none"> (a) the amount of unpaid taxes; (b) the amount of any penalty incurred and of any future penalty to which the debtor may become liable; (c) the amount of interest payable to date and the rate of interest payable in the future on the unpaid taxes; and (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 taxation law.
Manner of discharge	8. (1) A property taxation law that provides for the creation of a lien shall set out the manner in which the lien may be discharged.
Registration of discharge	(2) On receiving payment of the taxes, interest and penalties in respect of which a lien was created, the tax administrator shall register a discharge of the lien without delay.

ASSIGNMENT OF TAXABLE PROPERTY

Notice of seizure	9. If a property taxation law provides for the seizure and assignment of taxable property for unpaid taxes, interest or penalties, and taxes, interest or penalties remain unpaid more than nine months after a tax arrears certificate was issued, the tax administrator may deliver to the debtor a notice describing the proceedings — referred to in sections 10 to 16 — that may be taken in respect of the taxable property if the amounts owing are not paid.
Timing of sale	10. (1) Subject to subsections 15(1) and (3), not less than six months after delivery to the debtor of the notice referred to in section 9, a right to an assignment of the taxable property may be sold by public tender or auction.
Notice of sale	(2) A notice of the sale by public tender or auction shall be published in the local newspaper with the largest circulation at least once in each of the four weeks preceding the date of the sale, and shall be posted in a prominent place on the reserve not less than 10 days before that date.
Content of notice	(3) A notice of public tender or auction shall set out the upset price

	and any conditions that are attached to the acceptance of a bid.
Upset price	11. The upset price shall not be less than the total of the amount of taxes, interest and penalties payable, calculated to the end of the redemption period described in subsection 14(1), plus 5% of that total.
Purchase by first nation	12. If no bid is equal to or greater than the upset price, the first nation is deemed to have purchased the right to an assignment of the taxable property for the amount of the upset price.
Notification of Minister	13. The tax administrator shall without delay notify the Minister in writing of the sale of a right to an assignment of taxable property that has been made in accordance with these Regulations.
Redemption period	14. (1) Within three months after the holding of a public tender or auction in respect of taxable property, the debtor may redeem the taxable property by paying to the first nation the amount of the upset price plus 3%.
Repayment and notice	(2) On redemption of the taxable property (a) if the right to an assignment was sold to a bidder in accordance with section 10, the first nation shall without delay repay to that bidder the amount of the bid; and (b) the tax administrator shall notify the Minister in writing of the redemption.
Effective date of assignment	15. (1) No assignment of the taxable property shall be made until the end of the redemption period described in subsection 14(1).
Assignment of taxable property	(2) Subject to subsection (3), at the end of the redemption period, the first nation shall assign the taxable property to the highest bidder in the public tender or auction held under subsection 10(1), or to itself as the deemed purchaser under section 12.
Restriction on assignment	(3) Taxable property shall not be assigned to any person or entity that would not have been entitled under the <i>Indian Act</i> or the <i>First Nations Land Management Act</i> , as the case may be, to obtain the interest or right constituting the taxable property.
Registration of assignment	(4) The tax administrator shall register an assignment of any taxable property assigned in accordance with these Regulations in every registry in which the taxable property is registered at the time of the assignment.
Proceeds of sale	16. At the end of the redemption period, the proceeds from the sale of a right to assignment of taxable property shall be paid to any holders of registered interests in the property and to the first nation in order of their priority at law, and any remaining proceeds shall be paid to the debtor.

SEIZURE AND SALE OF PERSONAL PROPERTY

Notice of seizure	17. (1) If a property taxation law provides for the seizure and sale of personal property to pay for unpaid taxes, interest or penalties, and taxes, interest or penalties remain unpaid more than 30 days after a tax arrears certificate was delivered to the debtor, the tax administrator may deliver to the debtor a notice of seizure and sale in respect of any personal property of the debtor that is located on the reserve.
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Limitation on seizure	(2) Personal property of a debtor that would be exempt from seizure under a writ of execution issued by a superior court of the province in which the property is located is exempt from seizure under a property taxation law.
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 debtor does not pay the unpaid taxes, interest and penalties, the tax administrator may seize the personal property described in the notice; and (b) if the debtor does not pay the unpaid taxes, interest and penalties and the cost of seizure of the property, the tax administrator may sell the seized personal property at any time after the publication requirements of section 18 have been met.
Timing of seizure	(4) Subject to subsection (2), if the taxes, interest and penalties remain unpaid more than seven days after delivery of the notice of seizure and sale of the personal property, the tax administrator may request a sheriff, bailiff or by-law enforcement officer to seize any personal property described in the notice that is in the possession of the debtor and is located on the reserve.
Receipt for personal property	(5) The person who seizes personal property shall provide to the debtor a receipt for the personal property seized.
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 consecutive issues of the local newspaper with the largest circulation.
Waiting period	(3) The first publication of the notice shall not occur until at least 60 days after the personal property was seized.
Sale by auction	(4) Subject to subsection (5), at any time after the second publication of the notice, the seized property may be sold by auction.
Court challenge	(5) If at any time before the seized property is sold a challenge to the seizure is made to a court of competent jurisdiction, the sale shall be postponed until after the court rules on the challenge.
Limitation	19. The application of sections 17 and 18 in respect of personal property subject to a registered security interest is subject to any laws regarding the seizure and sale of such property in the province in which the property is located.
Proceeds of sale	20. The proceeds from the sale of seized personal property shall be paid to any holders of registered security interests in the property and to the first nation in order of their priority under the laws applicable in the province in which the property was seized, and any remaining proceeds shall be paid to the debtor.
DISCONTINUANCE OF SERVICES	
Preconditions	21. (1) Subject to subsections (2) and (3), a first nation may discontinue a service that it provides to the taxable property of a debtor if (a) revenues from a property taxation law are used to provide that service to taxpayers;

(b) the property taxation law provides for the discontinuance of services to the taxable property for unpaid taxes, interest or penalties; and
(c) taxes, interest or penalties remain unpaid by a debtor more than 30 days after a tax arrears certificate was delivered to the debtor.

- Essential services (2) A first nation shall not discontinue
(a) fire protection or police services to the taxable property of a debtor;
(b) water or garbage collection services to taxable property that is a residential dwelling; or
(c) electrical or natural gas services to taxable property that is a residential dwelling during the period from November 1 in any year to March 31 in the following year.
- 30-day notice (3) At least 30 days before discontinuing any service, the tax administrator shall deliver to the debtor a notice of discontinuance specifying each service provided to the taxable property that is to be discontinued and the projected date of discontinuance.

DELIVERY OF DOCUMENTS

- Methods of delivery **22.** (1) Delivery of a document may be made personally or by sending it by registered mail.
- Personal delivery (2) Personal delivery of a document is made
(a) in the case of an individual, by leaving the document with that individual or with a person at least 18 years of age residing at that individual's place of residence;
(b) in the case of a first nation, by leaving the document with the individual apparently in charge, at the time of delivery, of the main administrative office of the first nation, or with the first nation's legal counsel; and
(c) in the case of a corporation, by leaving the document with the individual apparently in charge, at the time of delivery, of its head office or one of its branch offices, or with an officer or director of the corporation or the corporation's legal counsel.
- Time of delivery (3) A document shall be considered to have been delivered
(a) if delivered personally, on the day that personal delivery is made; and
(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](#).

[Footnote a](#)