

# Taxation

The Tsawwassen Final Agreement was negotiated by the Government of Canada, the Government of British Columbia and Tsawwassen First Nation. It is the second Final Agreement reached in the province under the British Columbia treaty process. The Final Agreement provides Tsawwassen First Nation with certain rights and benefits regarding land and resources, and self-government over its lands and resources and its members. It provides certainty with respect to ownership and management of lands and resources and the exercise of federal, provincial and Tsawwassen governmental powers and authorities.

The negotiation of a Final Agreement marks Stage Five of the six-stage British Columbia treaty process, and is the conclusion of substantive treaty negotiations. Once ratified by all parties, the Final Agreement will become a treaty through legislation. It will be a constitutionally-protected legal agreement that creates mutually binding obligations and commitments.

## TAXATION AND TSAWWASSEN FIRST NATION

Taxation is an important element of the Tsawwassen Final Agreement as it can contribute to the foundation upon which future revenue capacity for the Tsawwassen government can be built. The

main tax-related elements addressed through the treaty are: the tax powers of the Tsawwassen government, the tax treatment of members, and the tax treatment of the Tsawwassen government and of the various assets transferred or recognized under the treaty.

## TAXATION POWERS OF TSAWWASSEN FIRST NATION

The power to tax is a basic feature of governments. Not only does it provide financial resources to deliver various programs and services, it also serves as a means of the government's accountability to its taxpayers.

In the context of treaty negotiations, the Tsawwassen First Nation government will have the ability to levy direct taxes on its members within treaty settlement lands, known as Tsawwassen Lands. Outside of the treaty, Canada and British Columbia are prepared to negotiate how a Tsawwassen tax could also apply to non-

members within Tsawwassen Lands. In either case, the Tsawwassen government's tax powers will not be exclusive, and will operate concurrently with the continuing tax authority of Canada and British Columbia provided in the Constitution of Canada.

Canada has already negotiated such agreements with other First Nations in Canada. Under these agreements, Canada has vacated some of its tax room – that is, agreed not to impose a portion of its taxes – to allow the First Nation to impose sales or personal income taxes that are fully harmonized with the taxes vacated by Canada. These agreements coordinate the taxes and ensure that

### TSAWWASSEN FIRST NATION – LAND FACING THE SEA

The Tsawwassen are proud, sea-faring Coast Salish people who have long travelled and fished the waterways of the southern Strait of Georgia and lower Fraser River.

The main Tsawwassen community is located on the waterfront adjacent to Delta. Tsawwassen First Nation lists its membership at 358 people, about half of whom live on reserve.

the tax burden on taxpayers remains the same both on and off treaty settlement lands.

The Final Agreement contemplates that the Tsawwassen government could enter such arrangements for the coordination and harmonization of its taxes. Such arrangements would allow the Tsawwassen government to implement taxation in an effective and efficient manner, while avoiding the costs associated with the design, implementation and administration of an independent tax system.

## REAL PROPERTY TAXES

Under a non-treaty agreement with British Columbia, the Tsawwassen government will collect all real property taxes applicable to both Tsawwassen members and non-members

resident on Tsawwassen Lands. This agreement will apply to all Tsawwassen Lands but not those lands identified as Other Tsawwassen Lands. The Tsawwassen government will be responsible for providing local services to all residents on Tsawwassen Lands.

## TAX TREATMENT OF THE TSAWWASSEN GOVERNMENT

The tax treatment of the Tsawwassen government will be addressed primarily in an agreement outside the treaty called the Tax Treatment Agreement. For example, the Tax Treatment Agreement will:

- » provide refunds of the federal goods and services tax and provincial social service and motor fuel taxes for non-profit and public purpose activities of the Tsawwassen government; and

- » provide the Tsawwassen government the same exemption from income tax under the federal *Income Tax Act* as provided to other public bodies performing a function of government in Canada.

## TAX TREATMENT OF TSAWWASSEN MEMBERS

Under the Indian Act, status Indians are eligible for a tax exemption in respect of property (including income) situated on a reserve. As the relationship between the federal and provincial governments and Tsawwassen is redefined and the Indian Act ceases to apply after the effective date of the treaty, the tax exemption under the Indian Act will also cease to apply following a transition period.

The tax exemption will be phased out after eight years for transaction (e.g. sales) taxes and 12 years for all other taxes, including income taxes, to allow affected individuals to prepare and adapt to the change in their taxable status.

## NON-MEMBER REPRESENTATION

There will be non-member representation on any Tsawwassen First Nation public institution that makes decisions relating to taxation matters that directly and significantly affect non-members. The non-member representative will be selected by non-members and will have the ability to participate in discussions and vote on taxation matters that directly and significantly affect non-members. Non-members will have the same rights of appeal as members.

*If you would like more information about the Tsawwassen Final Agreement, contact:*



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