

CLEARING THE PATH

INDIAN TAXATION ADVISORY BOARD

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First Nations Move Forward as FSMA Comes into Force

April 1, 2006, marked another milestone for the *First Nations Fiscal and Statistical Management Act* (FSMA) as the legislation came into force.

The legislation, which received Royal Assent on March 23, 2005, establishes four institutions: the First Nations Tax Commission (FNTC is a successor institution to ITAB), First Nations Finance Authority (FNFA), First Nations Financial Management Board (FMB), and First Nations Statistical Institute (FNSI). These institutions are designed to work together to improve First Nation economies by attracting private investment to reserves.

The work on the transition from the Indian Taxation Advisory Board to the First Nations Tax Commission will continue over the coming months. Next steps include the passage of the 10 supporting regulations, and the appointment of a Chief Commissioner and 9 other Commissioners.

ITAB staff continue to work closely with those First Nations who have decided to participate in the FSMA to ensure a smooth transition is made.

Currently, eight new sample FSMA laws are in development. When completed, these prototypes, like the ITAB sample bylaws, will significantly reduce costs associated with legal drafting and review and facilitate transition.

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23 First Nations Benefit from Tax Transfer Agreement

On March 24, 2006, twenty-three First Nations and the Province of British Columbia signed tax transfer agreements with respect to revenue collected by the province on railway rights-of-way. The agreements are retroactive to 2004.

The agreement provides grants to the First Nations equivalent to the school and rural area property tax collected by the Province on approximately 532 hectares of CN Rail rights-of-way. The assessed value of the CN property on or adjacent to First Nation reserves has been used to determine the amount of revenue each First Nation will receive.

For the past two years, ITAB has worked closely with all parties to facilitate the deal.

"I am pleased we have been successful in facilitating these negotiations," said C.T. (Manny) Jules, ITAB Chairman. "This is a significant agreement for the participating First Nations."

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Chairman's Message

I am pleased to report that we have reached another important milestone in the evolution of the First Nations property tax system. The *First Nations Fiscal and Statistical Management Act* has been brought into force, demonstrating Parliament's support and continued confidence in the work that First Nations are doing in property taxation. The First Nations' response to the FSMA has been tremendous. First Nations continue to request more information on the new legislation and how they can participate. We have enjoyed meeting with communities across the country who are looking to develop their economies using property taxation and we will continue to respond to these important requests.



This is an exciting transition: for ITAB, for First Nations, and for on-reserve property taxpayers. Over the next year we will move closer to the active operation of a First Nations Tax Commission that will provide services to First Nation tax authorities choosing the FSMA, and continue to support First Nations utilizing section 83 of the *Indian Act*.

In March, ITAB hosted a meeting for the 24 First Nations who have stepped forward to be the first to participate in the FSMA. I was pleased to engage in a dialogue with the delegates on how to implement the FSMA for their First Nation. Our work will continue to support the transition requirements of participating First Nations through each step of the way. Currently, ITAB is developing sample FSMA laws in preparation for the FNTC. In the same manner that the ITAB developed sample *Indian Act* bylaws in the past, these samples will help to ensure a smooth transition. As always, we will be working closely with each community and their counsel to complete the cross-over to the FSMA.

Finally, I wish to commend the work completed by a dedicated group of First Nations and the provincial government to create a new tax transfer agreement with respect to CN rail rights-of-way in British Columbia; it is a significant advancement that has taken many years to complete.

Have a great summer, and I look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink that reads "Manny".

C.T. (Manny) Jules
Chairman

Tax Transfer Agreement

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Under the agreements, grants for 2004 and 2005 will be issued immediately and annual grants will follow each July. Annual grants to all 23 First Nations involved total \$353,000.

Grants will be administered by the BC Ministry of Community Services.

BC Finance Minister, Carole Taylor was pleased with these results and said, "These agreements reflect a willingness to set aside different perspectives on tax jurisdiction and to adopt a practical approach to accommodating each party's interests."

This is the second agreement concerning railway rights-of-way in British Columbia. ITAB facilitated the agreement between CP Rail and nine BC First Nations in 2001.

Millbrook First Nation

Interview with Jim Prodger, Tax Administrator

Can you tell me a little bit about your First Nation?

Millbrook First Nation has 4 parcels of land with the largest being located in Truro, Nova Scotia. The membership is over 1400, with slightly more than half living off reserve. The First Nation is using economic development, including property taxation, to become economically self-sufficient.

When did you enact a property taxation bylaw?

1996

What type of taxable property is located on your reserve?

Millbrook has a retail development on the Truro Reserve lands and two apartment buildings totaling 105 units on the Halifax Reserve lands.

How much revenue is generated from property taxation by your community?

At the present time, we generate approximately \$200,000 from 10 portfolios.

What has the revenue been used for?

The revenue is used to provide services to the businesses already located in the retail development and to further develop the infrastructure on the site.



The Millbrook Seniors Centre is one of many development projects made possible as a result of property taxation.

What would you like to see the revenue used for? Are there development plans in the works right now?

Millbrook presently has plans to double the size of the retail development on the Truro Lands. We also have three more apartment buildings and an office building planned for the Halifax lands. The office building is for General Dynamics Canada as part of Canada's new helicopter program.

Do you remember what the deciding factor was when the First Nation first contemplated property taxation?

The Town of Truro was taxing the only non-native owned business on the reserve while Millbrook was paying for the infrastructure.

What type of response do you get from your membership about property taxation?

The Band Members have no problem because they do not have to pay taxes and it benefits the finances of the First Nation.

What about from the taxpayers?

The Province of Nova Scotia still has a business occupancy tax of 50% of the property tax which is added to the property tax. Millbrook does not have such a tax. So, the taxpayers know they are getting a good deal.

Has Millbrook requested to be added to the schedule of the FSMA?

Yes.

FSMA Comes into Force

Continued from p.1

ITAB is also examining existing s.83 bylaws of First Nations who have requested to be added to the FSMA schedule. This analysis will identify any necessary amendments in order to ensure that their laws are compatible with the FSMA. The FNTC will make a final determination of any additional amendments required, once it is operational. ITAB anticipates the FNTC becoming operational in the fall of 2006.

First Nations Choose FSMA

The *First Nations Fiscal and Statistical Management Act* is an important step for many First Nations on the road to self-government and has generated much interest from First Nations wishing to benefit from it.

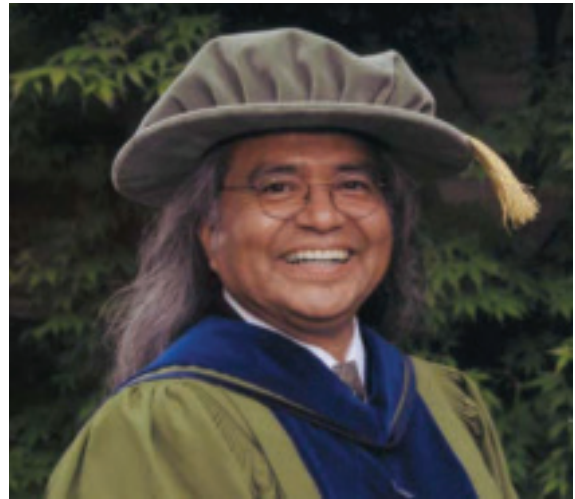
On March 28, 2006, ITAB convened a meeting with First Nations which have passed band council resolutions requesting they be added to the FSMA schedule. Seventeen of the total twenty-four First Nations were represented.

Delegates were given an overview of FSMA law-making by ITAB legal counsel, focussing on the conversion of s.83 *Indian Act* bylaws to FSMA local revenue laws. The FMB, FNFA and FNSI were invited to the event and provided an overview of their products and services under the FSMA.

Another presentation informed participants about what the FNTC and FMB could do to help improve First Nations' access to capital within the FSMA process. The FMB and FNTC will establish a regulatory framework which must meet the requirements of rating agencies in order for First Nations to access capital.

The meeting was also attended by representatives of First Nations who are interested in using the FSMA to exercise tax jurisdiction on their jointly held reserve. There are more than 50 jointly held reserves across Canada, and the taxation of these is not possible under the *Indian Act*. The FSMA contains a delegation of authority provision to overcome the problems.

ITAB Chairman Jules, pleased with the meeting and the advancing of the FSMA, summed it up by saying, "We are on the leading edge of a new movement in this country... creating a future where we can take care of ourselves."



On June 9, 2006, ITAB Chairman, Mr. C.T. (Manny) Jules, received an Honorary Doctorate of Laws from Thompson Rivers University. Mr. Jules was honoured as an Aboriginal leader and innovator for devoting over 30 years of his life to the betterment of First Nations entrepreneurship and self-government.

First Nation Tax Administrators Association Annual Meeting

CALGARY, ALBERTA
SEPTEMBER 27, 28, 29, 2006

Conference Highlights

National Tax Administrators Dialogue
Alberta First Nation Tax Authority Issues
First Nations Oil and Gas and Moneys
Management Act
Service Agreements for Local Government
Services
Assessment practices and changes to the
Alberta Assessment Act

Canadian Property Tax Association, Inc. 40th Annual National Workshop

"EQUITY AND FAIRNESS – HOW ARE YOU
BEING TREATED?"

THE DELTA CENTRE-VILLE,
MONTRÉAL, QUÉBEC
SEPTEMBER 24 - 27, 2006

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