

Public Consultations

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All of the meetings encompassed a detailed review of the regulations with an opportunity for any interested parties to ask questions and offer comments. Comments made toward the five regulations concerning the First Nations Tax Commission focused on dates for setting tax rates, definition of “assessable property”, rights to obtain and inspect information, and review procedures.

Legal counsel for ITAB, the Department of Justice, DIAND and the other institutions were on hand to respond to all comments and, as a result of the consultations, are all working together to incorporate as many comments as possible into new drafts of the regulations.

All of the proposed regulations are posted to the www.fnfi.ca website in the draft form they were consulted upon. A special FSMA regulations edition of the *First Nations Gazette* was also produced and distributed. The revised regulations resulting from this phase of consultations will be put forward for passage through the federal regulatory system. The revised regulations will be available for additional comments as they will be published in the *First Nations Gazette* and the *Canada Gazette* for a mandatory three week general public consultation period, expected early in 2006.

National Tax Meeting

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First Nations were provided with a detailed presentation on the differences between property tax under the FSMA and section 83 of the *Indian Act*. The new services available from the FNTC, and the other FSMA institutions, were also outlined.

Based on the discussions at the meeting, taxing First Nations are eager to learn more about the forthcoming changes to the regulation of property tax on-reserve with the coming-into-force of the FSMA in 2006. As well, many expressed interest in ITAB’s proposed bylaw conversion program (*Indian Act* to FSMA). ITAB is taking steps to develop the transition program which would address the need to provide assistance for those First Nations that choose to exercise property taxation with the FSMA.

In addition to the update on the legislative changes, ITAB provided a “First Nations Taxation Report.”

The report was on the progress that is being made in First Nations property taxation across the country, including a presentation on the changes the tax system will see over the next few years. ITAB also reported on the state of First Nation taxation across Canada, training initiatives, policy initiatives, and important recent legal developments in First Nation taxation. Delegates were also provided with an overview of the future approach to services currently provided by ITAB.

The second day of the National Meeting dealt with the proposed regulations associated with the FSMA. Each of the FSMA institutions outlined their respective regulations and answered questions from the assembled delegates. The National Meeting was the second of four consultation events with respect to the proposed FSMA regulations.

CLASS

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To support the review, the committee has developed a questionnaire for CLASS users in order to collect information and gain a better perspective of the software with a view to determine what changes to software and service are required in order to provide the best product, technical support and training.



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Public Consultations on the FSMA Regulations

As reported in the last edition of Clearing the Path, the *First Nations Fiscal and Statistical Management Act* (FSMA) has a number of associated regulations which will be required to govern the development, approval, implementation and enforcement of local revenue laws, the operation of the borrowing and investment pools and the carrying out of the associated responsibilities of the First Nations Tax Commission (FNTC), the First Nations Finance Authority (FNFA), First Nations Financial Management Board (FMB) and the First Nations Statistical Institute (FNSI).

A public consultation process, starting in July 2005 and concluding on September 30, 2005 was initiated by Canada and participating institutions. The purpose of these consultations was to inform First Nations, taxpayers and other affected and interested parties about the regulations and to obtain feedback. The Indian Taxation Advisory Board, in conjunction with the Department of Indian Affairs and Northern Development (DIAND), FNFA, and the advisory panels of the FMB and FNSI jointly conducted consultations on nine regulations which were identified as being required for the four institutions to commence effective operations.

Four national consultation meetings were held in Moncton (NB), Calgary (AB), Richmond (BC), and Kelowna (BC). The meetings in Moncton and Kelowna were specifically for First Nations and the general public. The other two meetings focused on two separate groups: a meeting for First Nation tax authorities (Richmond) and one for the Canadian Property Tax Association (Calgary).

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Tax Authorities Gather for National Meeting

Interest in First Nations property taxation continues to show strong growth as close to 200 delegates attended a National Tax Authorities Meeting on September 14-15, 2005 in Vancouver, British Columbia. Representing 61 First Nation governments with tax jurisdiction, the authorities gathered to discuss the recent passage of the FSMA and the implications for those First Nations currently collecting property tax.

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Representatives of First Nations involved in the review of the CLASS software program gather for photo at the First Nations Tax Administrators Association Annual Meeting.

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Chairman's Message

As we approach another exciting New Year, I want to take this opportunity to look back on a few of the historic events that made this past year memorable.

The passage of the *First Nations Fiscal and Statistical Management Act* (FSMA) in March was clearly the highlight. The culmination of close to two decades of work by countless dedicated individuals, the FSMA was an historic accomplishment. The Act is a turning point for First Nations that are ready to move beyond the *Indian Act* and begin to utilize the FSMA's economic development tools. What is most gratifying is the fact that 16 First Nations have already passed band council resolutions asking to have their name added to the schedule of the *First Nations Fiscal and Statistical Management Act* and many more are inviting us into their communities for information sessions.



First Nation property tax jurisdiction is becoming a fiscal cornerstone for many aboriginal governments. Our National Tax Authorities meeting, in September, was the largest ITAB has ever hosted with participation by sixty-one taxing First Nations from across Canada. I remember the first such meeting ITAB hosted - 1991 in Kamloops - where ten First Nations, three of them collecting property tax - attended the session. Together, we've come a long way since that time.

As you know, 2005 also marked my return as ITAB Chairman. My time away gave me the opportunity to focus all of my energy on the passage of the FSMA. I would like to thank Chief Strater Crowfoot for sharing the heavy workload of this office during this time so that we could maintain services while building the new legislative authority.

It is now time to focus our energy and attention on expanding services to the First Nation tax system, with our continued role advising on Section 83 and our ongoing work supporting transition from ITAB to the FNTC. The passage of the legislation marks a new beginning. Much of our attention this year has been spent preparing for the transition to the First Nations Tax Commission. There is much more to do in 2006 and I am looking forward to the road ahead.

The holiday season is when we share time with friends and family and make resolutions that will create a better future. On behalf of the Indian Taxation Advisory Board, I would like to wish you good health, a very Merry Christmas and Happy New Year.

Sincerely,

C.T. (Manny) Jules
Chairman

FNTAA Holds Annual Meeting

The First Nations Tax Administrators Association held their annual meeting in Vancouver, BC on October 24-26, 2005. Approximately fifty participants heard presentations from the Indian Taxation Advisory Board, British Columbia Assessment Authority (BCAA), and representatives from the Westbank First Nation.

ITAB Chairman C.T. (Manny) Jules delivered the luncheon address to the delegates, which highlighted the growth of First Nation property tax and the development of the *First Nations Fiscal and Statistical Management Act*. Reminding the participants of the rationale for developing the legislation, Mr. Jules noted "150 years ago we were legislated out of the economy....its time we legislated ourselves back in."

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FNTAA Annual Meeting

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He also cited the level of professionalism among First Nation tax administrators as an important reason for the growth in First Nation property tax.

ITAB provided a presentation on the state of First Nation property tax across the country which included a discussion on the recently approved ITAB policy on taxpayer relations. The policy, which has emerged from consultation over the past two years, includes a provision that First Nations give 60 day notice prior to their initial property tax law or any subsequent major amendment or repeal of the law.

Tax administrators using the CLASS software joined the ITAB administration and announced their review of the administrative software program which is being completed with a view to improving the product and service. A survey was distributed to the delegates to support the review. ITAB also provided an update on training and the development of the School of Taxation. The FNTAA has been invited to participate in the education advisory committee for the school.

Delegates also heard from Westbank First Nation's Chief Robert Louie who gave a presentation on the weaknesses in the BC Treaty process to accommodate First Nation property taxation. Ms. Nancy Peck, legal counsel with the BCAA, summarized the outcome of recent assessment appeals and current legal developments concerning property taxation in BC.

The FNTAA renewed the term of its current Board of Directors for another year, and picked Calgary as the location for next year's annual meeting, tentatively slated for late October 2006.

Update: ITAB-FNTC Transition

As reported in the last edition of *Clearing the Path*, ITAB is moving forward with the work on its transition to the First Nations Tax Commission (FNTC). ITAB Chairman, C.T. (Manny) Jules, said: "For ITAB, our job now is to ensure that the transition to the FNTC is smooth for participating First Nations and their taxpayers. We want to make certain that we are able to deliver the continued level and quality of services they have come to expect."

With the coming into force of the FSMA scheduled for 2006, the FNTC will approve First Nation local revenue laws, establish the policy and regulatory framework for a fair and accountable property taxation system, provide training, prevent and facilitate the resolution of disputes, certify First Nation borrowing capacity, conduct research, and advise stakeholder groups on emerging issues. The services of the FNTC will be built upon the strong foundation laid by ITAB since its creation in 1989.

First Nation governments choosing to exercise their property taxation jurisdiction are free to enact their laws pursuant to the FSMA or Section 83 of the *Indian Act*. Current and future taxing First Nations can pick the system they wish to use. The FNTC will be responsible for maintaining the two parallel property tax systems. First Nations are moving quickly to participate in the expanded tax jurisdiction offered by the FSMA; the current list of First Nations requesting they be added to the schedule is nearing 20. These governments have chosen to exercise their jurisdiction by enacting property tax laws pursuant to the FSMA. The FNTC must be ready to offer its full range of services by the "Coming-into-Force" date for the FSMA, expected in 2006.

"I would encourage any First Nation wishing to take advantage of the FSMA next year to pass a band council resolution requesting to be added to the FSMA schedule," said Chairman Jules.

ITAB is planning to meet with the First Nations wishing to be added to the schedule to discuss transition issues. The meeting is expected to take place in February.

Review of CLASS Software

It has been 5 years since CLASS was developed as an administrative software program to support the First Nations tax system. The software was designed with the support of tax administrators to fill a gap in the First Nations taxation administrative tool box. The Indian Taxation Advisory Board is undertaking a review of the CLASS software program in order to assess its performance, relevance and viability. A CLASS Software Review Committee has been established and includes CLASS users/tax administrators, ITAB staff and software professionals.

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