

STANDARDS FOR FIRST NATION TAX RATES LAWS

PART I PREAMBLE

WHEREAS:

- A. Section 35 of the *First Nations Fiscal and Statistical Management Act* gives the First Nations Tax Commission the authority to establish standards respecting the form and content of First Nation local revenue laws enacted under subsection 5(1) of the Act;
- B. Standards are established by the Commission to further the policy objectives of the Commission and the Act, including to ensure the integrity of the First Nations property taxation system and to assist First Nations to achieve economic growth through the generation of stable local revenues; and
- C. Section 31 of the Act requires the Commission to review every local revenue law and subsection 5(2) of the Act provides that such a law has no force and effect until it is reviewed and approved by the Commission.

PART II PURPOSE

These Standards set out the requirements that must be met for First Nation property rates laws enacted under subparagraph 5(1)(a)(ii) and paragraph 10(a) of the Act. These Standards are used by the Commission in its review and approval of First Nations' rates laws, pursuant to section 31 of the Act. The requirements established in these Standards are in addition to those requirements set out in the Act.

The Commission recognizes that each First Nation's property taxation system operates within the broader context of its fiscal relationships with other governments. These Standards are intended to support a more comprehensive First Nation fiscal framework within Canada.

PART III AUTHORITY AND PUBLICATION

These Standards are established under subsection 35(1) of the Act and are published in the *First Nations Gazette* as required by subsection 34(1) of the Act.

PART IV APPLICATION

These Standards apply to every property rates law submitted to the Commission for approval under the Act.

PART V DEFINITIONS

In these Standards:

“Act” means the *First Nations Fiscal and Statistical Management Act*, S.C. 2005, c.9, and the regulations enacted under that Act;

“annual rate of national inflation” means the change in the Annual Average Consumer Price Index for Canada, All-Items, maintained by Statistics Canada;

“assessed value” means the value of an interest in land for assessment purposes, as determined under an assessment law;

“assessment law” means a law enacted by a First Nation under subparagraph 5(1)(a)(i) of the Act that provides for the assessment of property;

“average tax bill” means the total assessed value for a property class multiplied by the tax rate for that property class divided by the number of folios in the property class;

“class rate multiple” means the ratio of the tax rates for a particular property class to the tax rates for the residential property class;

“Commission” means the First Nations Tax Commission established under the Act;

“converted assessed value” means the total assessed value in a property class multiplied by its class rate multiple;

“expenditure law” means a law enacted by a First Nation under paragraph 5(1)(b) of the Act;

“First Nation” means a band named in the schedule to the Act;

“interest in land” or “property” means land or improvements, or both, in a reserve and, without limitation, may include any interest in land or improvements, any occupation, possession or use of land or improvements, and any right to occupy, possess or use land or improvements;

“Law” means a property rates law enacted under subparagraph 5(1)(a)(ii) of the Act;

“local revenues” means moneys raised by a First Nation under a law enacted under subsection 5(1) of the Act;

“local revenue budget” means a budget of all expenditures that will be made using local revenues as set out in the First Nation’s expenditure law;

“non-property tax local revenues” means all local revenues except those derived from laws enacted under subparagraphs 5(1)(a)(i) and (ii) of the Act;

“property class” means each of the categories of property established in the First Nation’s assessment law for the purposes of assessment and taxation;

“Province” refers to the province in which the reserve is situated;

“reserve” means any land set apart for the use and benefit of a First Nation within the meaning of the *Indian Act*;

“reference jurisdiction” means the taxing jurisdiction that a First Nation specifies to the Commission for the purpose of setting tax rates and comparing local service standards;

“tax rate” means the rate payable for each property class, expressed as a percentage of the assessed value of the property; and

“total converted assessed values” means the sum of the converted assessed values for all property classes.

PART VI STANDARDS

1. The Law must establish for each property class a tax rate as a rate per one dollar (\$1) of assessed value, or a mill rate for each one thousand dollars (\$1000) of assessed value.
2. The Law must establish a tax rate for each property class established in the First Nation’s assessment law.
3. The Law must provide for the equal application of tax rates within a property class.
4. Where the Law establishes a minimum amount of tax to be levied on properties within a property class, the amount of the minimum tax must not exceed one hundred dollars (\$100), except as provided in section 5.
5. The Law may establish a minimum tax in an amount greater than one hundred dollars (\$100) where required to create a fair taxation regime because of one or more of the following circumstances:
 - (a) the First Nation had established a higher minimum tax amount in its taxation regime existing at the time of being scheduled under the Act;
 - (b) the First Nation wishes to harmonize with minimum tax amounts established in the Province or the reference jurisdiction; and
 - (c) the First Nation’s costs of providing services to properties with lower assessed values exceeds one hundred dollars (\$100).
6. Where a First Nation is exercising property taxation powers for the first time, its Law must

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- (a) establish the same tax rates used by the former taxing authority in the immediately preceding year; or
 - (b) where there is no former taxing authority, establish the same tax rates as the reference jurisdiction.
7. In the second and all subsequent years that a First Nation exercises property taxation powers, its Law must establish tax rates that when applied meet the following criteria:
- (a) the average tax bill increase for each property class must not exceed the average tax bill increase for each property class in the reference jurisdiction; or
 - (b) the average tax bill for each property class
 - (i) must not increase by more than the national rate of inflation from the previous year, and
 - (ii) must not increase over the three (3) years immediately preceding the current taxation year than the compounded annual rate of national inflation over the same three (3) year period.
8. Where a Law establishes tax rates that do not meet the criteria set out in section 7
- (a) those tax rates must be justified by written evidence of special projects, incremental growth, increases in local inflation above the national average, taxpayer support, or a fundamental change to the assessment methods for that property class; and
 - (b) the First Nation must have given notice to the taxpayers of the rate increase and the reasons for the increase.
9. For clarity, sections 7 and 8 do not apply to property classes with assessments equal to zero.
10. In the second and all subsequent years that a First Nation exercises property taxation powers, its Law must establish tax rates based on the First Nation's budget for the expenditure of local revenues, using one of the following formulas:
- (a) or a tax rate per one dollar (\$1) of assessed value:
 - 1.
$$\frac{(\text{local revenue budget} - \text{non-property tax local revenues})}{\text{base tax rate total converted assessed values}} = \text{base tax rate}$$
 - 2. base tax rate x class rate multiple = tax rate; or
 - (b) for a mill rate per one thousand dollars (\$1000) of assessed value:
 - 1.
$$\frac{(\text{local revenue budget} - \text{non-property tax local revenues})}{(\text{total converted assessed values}/\$1000)} = \text{base mill rate}$$
 - 2. base mill rate x class rate multiple = mill rate.

PART VII
COMING INTO FORCE

These Standards are established and in effect as of _____, 200_.

PART VIII
ENQUIRIES

All enquiries respecting these Standards should be directed to:

First Nations Tax Commission
321 – 345 Yellowhead Highway
Kamloops, BC V2H 1H1
Telephone: (250) 828-9857