

COVID-19 PANDEMIC EMERGENCY RESPONSE STANDARDS, 2020

[Consolidated 2022-03-23]

PART I PREAMBLE

WHEREAS:

- A. Section 35 of the *First Nations Fiscal Management Act* gives the First Nations Tax Commission the authority to establish standards;
- B. The Commission has established standards under its authority;
- C. Taxing First Nations are working to respond to the impacts from COVID-19, including potential impacts on taxpayers and the ability of the First Nation to continue to provide local services;
- D. The Commission has identified amendments to its standards that are required to support the needs of taxing First Nations to respond quickly to amend their local revenue laws and to enact annual tax rates laws and annual expenditure laws that support their taxation systems and mitigate the economic and fiscal impacts of the COVID-19 pandemic.

PART II PURPOSE

These Standards amend existing Commission standards to respond to the needs of taxing First Nations during the COVID-19 pandemic.

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 amend existing Commission standards as provided in Part VII.

PART V CITATION

These Standards may be cited as the *COVID-19 Pandemic Emergency Response Standards, 2020*.

PART VI DEFINITIONS

In these Standards:

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

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

“assessment law” means a law enacted under subparagraph 5(1)(a)(i) of the Act;

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

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

“property class” means a property class established in a First Nation’s assessment law;

“reference jurisdiction” means a taxing jurisdiction, located adjacent to the First Nation, that is identified for the purpose of comparing a First Nation’s tax rates; and

“taxation law” means a law enacted under paragraphs 5(1)(a) and (e) of the Act, but does not include a property transfer tax law.

Except as otherwise provided in these Standards, words and expressions used in these Standards have the same meaning as in the Act and in any Commission standards referenced in these Standards.

PART VII STANDARDS

1. Amendments to the *Standards for the Submission of Information Required under Section 8 of the Act, 2018*

Section 11 of the *Standards for the Submission of Information Required under Section 8 of the Act, 2018*, is amended by adding the following after subsection 11.2:

11.3 Despite subsection 11.1, where a Council enacts a local revenue law at a duly convened Council meeting held by teleconference or videoconference and the First Nation is not able to submit an originally signed and dated law, the First Nation may provide to the Commission a certification that the law was duly enacted at a duly convened Council meeting, in a form acceptable to the Commission, as evidence that the law was duly made by Council.

11.4 Despite subsection 11.2, where a Council enacts a local revenue law at a duly convened Council meeting held by teleconference or videoconference, the First Nation may include an enactment clause in the law that does not specify a location.

2. Amendments to the *Standards for First Nation Annual Tax Rates Laws, 2017*

2.1 Section 7 of the *Standards for First Nation Annual Tax Rates Laws, 2017*, is amended by adding the following after subsection 7.4:

7.5 Where a First Nation, to provide tax relief, enacts an annual rates law in any of 2020, 2021 or 2022, that sets tax rates in one or more property classes that are lower than are permitted under subsection 7.1, the First Nation may, despite subsection 7.1, enact an annual rates law in 2021, 2022 or 2023 that sets tax rates as though the tax rates set in 2020, 2021 or 2022, as applicable, had increased the average tax bill by the national rate of inflation in each property class.

2.2 Section 8 of the *Standards for First Nation Annual Tax Rates Laws, 2017*, is amended by adding the following after subsection 8.2:

8.3 Despite subsection 8.1, where a First Nation

- (a) sets tax rates identical to the tax rates set in its reference jurisdiction in 2019, and
- (b) to provide tax relief, enacts an annual rates law in any of 2020, 2021 or 2022 that sets tax rates in one or more property classes that do not match its reference jurisdiction rates,

the First Nation may enact an annual rates law in 2021, 2022 or 2023 that sets tax rates that are identical to the tax rates set in the reference jurisdiction in 2021, 2022 or 2023, as applicable.

[am. FNTC Resolution 2021-03-18; 2022-03-23.]

3. Amendments to the *Standards for First Nation Property Taxation Laws, 2016*

Subsection 7.2 of the *Standards for First Nation Property Taxation Laws, 2016*, is amended by adding the following after subparagraph (b)(iv):

(v) as an exception to subparagraph (iii), borrow money from a reserve fund that is not immediately required, without the payment of interest for a period of no more than five (5) years, where the Council determines that the First Nation requires money to address local services needs arising out of the COVID-19 pandemic.

4. Amendments to the *Standards for First Nation Expenditure Laws, 2017*

4.1 Section 2 of the *Standards for First Nation Expenditure Laws, 2017*, is amended by adding the following after subsection 2.6:

2.7 The annual budget must set out as revenues any moneys the First Nation will receive in the current budget year to replace local revenues through a federal revenue replacement program offered to taxing First Nations due to the COVID-19 pandemic.

4.2 Section 8 of the *Standards for First Nation Expenditure Laws, 2017*, is amended by adding the following after subsection 8.5:

8.6 As an exception to paragraph 8.4(a) and where authorized in the First Nation's taxation law, the Law may permit the First Nation to borrow money from a reserve fund that is not immediately required, without the payment of interest for a period of no more than five (5) years, where Council determines that the First Nation requires money to address local services needs arising out of the COVID-19 pandemic.

5. Amendments to the *Standards respecting Notices relating to Local Revenue Laws, 2018*

The *Standards respecting Notices relating to Local Revenue Laws, 2018*, are amended by adding the following after section 8:

9. Alternate Notification Options for 2020, 2021 and 2022

9.1 In 2020, 2021 and 2022, a public meeting referenced in paragraph 1.1(c) or 2(c) may be held by teleconference or videoconference.

9.2 In 2020, 2021 and 2022, an open house or public meeting referenced in paragraphs 5.3(b) and (c) may be held by teleconference or videoconference.

9.3 In 2020, 2021 and 2022, a taxpayer meeting referenced in section 7 may be held by teleconference or videoconference.

[am. FNTC Resolution 2021-03-18; 2022-03-23.]

PART VIII

COMING INTO FORCE

These Standards are established and in effect as of May 21, 2020.

PART IX

ENQUIRIES

All enquiries respecting these Standards should be directed to:

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