



First Nations Tax Administrators Association

c/o Westbank First Nation 101-515 Highway 97 South, Kelowna BC, V1Z 3J2



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NEWSLETTER

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BE PREPARED: BC CARBON TAX REDUCTION MEASURES

The FNTAA encourages Tax Administrators to be proactive in securing up to date information in readiness for the 2011 property tax season.

In January 2011, the BC Government introduced Carbon Tax Reduction Measures. Municipalities which collect carbon tax, will offer grants through property taxes. First Nation tax authorities do not collect carbon tax and cannot offer a carbon tax grant without raising taxes to offset the cost.

March 15, 2011 the First Nations Tax Commission issued an Information Bulletin called *BC Carbon Tax Reduction Measures and Impact on First Nation Property Tax*. The bulletin is available on their website: fntc.ca.

If you are among the 35 affected tax authorities on BC, some of your taxpayers may be expecting an increase to their grant. Do you have an answer ready?

PRESIDENT'S MESSAGE

What is a First Nation Government Hybrid? Our First Nations Governments have evolved into a unique hybrid. We provide local government services similar to a municipal government but we go far beyond that with social, educational and health programs similar to those provided by Provincial and Federal governments.

Unlike our municipal neighbours we do not have provincial transfers contributing to tax revenues for local government services. And as we develop other sources of revenue to meet the social and health needs of our citizens, the provincial and federal governments seek to reduce the transfers intended to provide for these services.

It could be argued that we are more responsive to our citizens, we don't have the layers of administration and red tape which have evolved for other layers of government.

It seems as though as soon as we master the legislative tools available to us, other levels of government seek to create new barriers. And yet, we continue to develop sustainable economies. We are unlike any other type of government in Canada. We are a unique government hybrid.

Way' lim limp'
Ernest Jack, President

SASKATCHEWAN FIRST NATION TAX AUTHORITIES STRUGGLE TO STAY COMPETATIVE

The Province of Saskatchewan has effectively shifted the cost of education from Municipalities to the Province.

Saskatchewan Finance Minister Ken Krawetz recently announced the final stage of Education Property Tax reform which includes an 80 percent education tax reduction on farmland.

At the 2009 FNTAA Annual National Forum, FNTC Commissioner Lester Lafond presented on the impact of the Saskatchewan Education Property Tax Act on First Nation Tax Authorities.

First Nations Tax Authorities in Saskatchewan are faced with a dilemma. If they lower their farmland tax rate to remain competitive and encourage investment, they may face a dramatic decrease in tax revenues.

The Saskatchewan School Tax Issue is another example of the unique challenges facing First Nations Tax Authorities in Canada. Tax Administrators need to be well informed and ready to contribute to strategic planning.

FIRST NATIONS TAX ADMINISTRATORS ASSOCIATION

18th Annual National Forum

September 14, 15 and 16, 2011

Quaaout Lodge

Little Shuswap Lake, BC

Property Taxation in the Year 2050:
What will it look like and how do we get there from here?

Opening Dinner Reception, Keynote Address
FSMA Implementation, Training Opportunities,
Comprehensive Community Planning Lands Management Issues,
Land Tenure On First Nations Land, Economic Development

FNTAA Annual General Meeting
4rd Annual FNTAA Golf Tournament
Talking Rock Golf Course



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FIRST NATIONS TAX ADMINISTRATORS ASSOCIATION

18th Annual National Forum, September 14-16 2011

CONFERENCE REGISTRATION FORM

Name: _____

Title: _____

Organization: _____

Mailing Address:

Telephone: _____ Fax: _____

Email: _____

Special Mobility or Dietary Requirements:

Please RSVP for the following events:

Opening Reception Dinner Wed Sept 14th	Yes _____	No _____
Annual FNTAA Golf Tournament Wed Sept 14th	Yes _____	No _____

Conference Registration Fees: Members \$400.00 Non-Members \$450.00

Total \$ _____ Received by: _____ Date _____

Please mail payment to First Nation Tax Administrators Association
c/o 1500D Admirals Rd, Victoria BC, V9A 2R1

Forms may be faxed to 250-383-1084

For Conference Information call Christina 250-383-3719

Delegates are responsible for their own
travel and accommodation costs and arrangements

Hotel Information:

Mention: FNTAA 18th Annual National Forum to receive block room rate

QUAAOUT LODGE & TALKING ROCK GOLF COURSE

1663 Little Shuswap Lake Rd. Chase, BC V0E 1M0 1-800-663-4303

PROVINCIAL TAX JURISDICTION ON RESERVE LANDS

When K'omoks First Nation received a tax notice from the British Columbia Ministry of Finance, Rural Property Tax Branch, their first reaction was to call a lawyer. They had not been aware that the Province was collecting taxes from tenants of the Queneesh Mobile Home Park. It also came as a surprise that Queneesh Developments Ltd, one of several Band owned corporations in the K'omoks First Nation's economic development program, was subject to provincial property taxation for the common area of the park. Their next call was to the First Nations Tax Commission.

According to the First Nations Tax Commission, provincial tax authority on First Nations Lands has the following basis in law:

Under the Constitution Act, 1867, each of the federal and provincial governments have powers of taxation. Among the provincial taxation powers are taxes on land or real property taxation. Reserve land is held by the federal Crown; the land itself is not subject to taxation by any government. However, the right to occupy or possess the land may be taxed, so for example, a lessee of reserve lands may be subject to property taxation. The result is that, although reserve land is held by the federal government, a non-Indian occupier of reserve land may be taxed by the Province or local government. Under the *Indian Act*, the interest of Indians in their reserve lands is exempt from property taxation, and thus an Indian occupier of reserve is not subject to this taxation.

In B.C., the Province empowers municipalities and other local governments to assess property values, set rates and collect taxes. All of this is governed by provincial legislation. So using the K'omoks example, the regional district relies on provincial legislation to tax non-Indians residing on K'omoks lands.

The Kamloops Amendment in 1988 confirmed that First Nation governments have the jurisdiction to tax interests in their reserve lands. Two years later, the Province enacted the *Indian Self-Government Enabling Act* (ISGEA). Under the ISGEA, when a First Nation assumes authority for property taxation over interests on their reserve lands, the Province (including local governments) exit the field. The mechanism of the ISGEA is designed to recognize First Nations' taxing authority and to prevent someone from being subject to provincial property taxes as well as First Nations' property taxes; in other words, to prevent 'double' taxation of non-Indians on reserve lands. If the First Nation does not exercise its jurisdiction, the Province or local government could tax property interests of non-Indians on reserve lands. And if the First Nation does tax, then the Province does not.

Not all provinces have used their taxation powers to levy taxes on reserve. B.C. and Quebec are two provinces which do tax occupiers on reserve lands, unless and until a First Nation exercises the authority to tax. Other provinces chose to vacate the field of taxation on reserve many years ago. For example, the Province of Alberta passed legislation in the 1960s to vacate taxation on the reserve.

So in summary, both First Nations and the provinces have the jurisdiction to tax non-Indians on reserve. Some provinces decided long ago to back out of the field. Others like B.C. and Quebec have maintained on reserve taxation until the First Nation assumes the tax jurisdiction

Provincial property taxation on K'omoks First Nation lands has motivated them to assume property tax jurisdiction under the *Fiscal and Statistical Management Act*. Property Taxation is an important expression of First Nations Government jurisdiction.



K'omoks First Nation