

**PROCEDURES RESPECTING THE APPROVAL OF
FIRST NATION LOCAL REVENUE LAWS, 2020**

~~[Amended September 14, 2016]~~

**PART I
PREAMBLE**

WHEREAS:

- A. Subsection 35(2) of the *First Nations Fiscal Management Act* gives the First Nations Tax Commission the authority to establish procedures respecting the approval of First Nation local revenue laws enacted under subsection 5(1) of the Act;
- B. Procedures are established by the Commission to provide transparent and efficient processes for the approval of local revenue laws by the Commission to assist the Commission in fulfilling its statutory obligations under the Act; 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 Procedures apply to the approval of local revenue laws submitted to the Commission under the Act.

**PART III
AUTHORITY AND PUBLICATION**

These Procedures are established under subsection 35(2) of the Act and are published in the *First Nations Gazette* as required by subsection 34(1) of the Act.

**PART IV
APPLICATION**

These Procedures apply to every local revenue law submitted to the Commission for approval under the Act. The requirements set out in these Procedures are in addition to any requirements set out in the Act.

**PART V
CITATION**

These Procedures may be cited as the *Procedures respecting the Approval of First Nation Local Revenue Laws, 2020*.

**PART VI
DEFINITIONS**

In these Procedures:

- “Act” means the *First Nations Fiscal Management Act*, S.C. 2005, c. 9, and the regulations enacted under that Act;
- “Commission” means the First Nations Tax Commission established under the Act;
- “Council” has the meaning given to that term in the Act;
- “First Nation” means a First Nation submitting a law to the Commission for approval;

“law” means a local revenue law made under subsection 5(1) of the Act; and

“standards” means any standards established by the Commission under subsection 35(1) of the Act.

Except as otherwise provided in these Procedures, words and expressions used in these Procedures have the same meaning as in the Act.

PART ~~VII~~ PROCEDURES

1. Review and Approval Consideration by Commission

1.1 When the Commission ~~receives~~considers a law for approval~~-consideration~~, the Commission will, in accordance with the Act, review the law, the accompanying information required by section 8 of the Act, any written representations received by the Commission in accordance with section 7 of the Act, and any other information it considers relevant in order to make an approval decision.

1.2 The Commission may ~~adjourn~~postpone its review of the law until it receives such further information requested from a First Nation under subsection 8(5) of the Act in order to review and ~~approve~~consider approval of the law.

2. Approval Where Compliance

Where a law complies with the Act and the standards, the Commission will approve the law as required by the Act.

3. Non-compliance with Legislative Requirements

Where a law does not comply with the Act and the standards, the Commission may decide not to approve the law.

4. ~~Adjournment~~Postponement of Law Review Where Non-compliance with Legislative Requirements

4.1 Where a law does not comply with the Act and the standards, the Commission may ~~adjourn~~postpone its review of the law and request that the Council consider amending the law, or withdrawing the law and submitting a new law, to comply with the Act and the standards.

4.2 Where the Commission ~~adjourns~~postpones its review of a law ~~review~~ under subsection 4.1, the Commission ~~may~~

~~(a) will~~ notify the First Nation of the ~~amendments necessary to comply with the legislative requirements;~~

~~(b) postponement and~~ advise the First Nation ~~whether the Commission considers~~of the areas of non-compliance with the Act and the standards that ~~the have been~~ identified~~amendments are not significant within the meaning of subsections 6(2) and 8(2) of the Act; and,~~

~~(c) set a time frame for~~ 4.3 Where the Commission has postponed its review of a law under subsection 4.1 and the First Nation ~~to make~~makes and submits an amending law ~~and submit the amending law~~ to the Commission for review and approval ~~in conjunction with the original law submitted to the Commission.~~

~~5. Proceeding with Review and Approval Consideration of Original Law~~

~~5.1 Where a First Nation notified under subsection 4.2 does not submit an amending law within the stipulated time frame, the Commission may without notice resume its review and approval consideration of the law originally submitted to the Commission for review and approval.~~

~~5.2 If the Commission did not set a time frame under subsection 4.2, the Commission may at any time give notice to the First Nation of its intention to resume its review and approval consideration of the law originally submitted on or after the date set out in that notice.~~

~~5.3 Where a First Nation notified under subsection 5.2 does not submit an amending law on or before the date set out in the notice, the Commission may without further notice resume its review and approval consideration of the law originally submitted to the Commission for review and approval.~~

6.— Submitting an Amending Law

~~6.1 Where the Commission has adjourned a law review under subsection 4.1, the First Nation may, within the stipulated time frame, if any, make an amending law and submit the amending law to the Commission for review and approval consideration.~~

~~6.2 Where the First Nation submits an amending law under subsection 6.1, the Commission may proceed with the review and approval consideration of the amending law in conjunction with the review and approval consideration of the original law submitted to the Commission.~~

~~6.3 Except 4.4 Where the Commission has exempted postponed its review of a law under subsection 4.1 and the First Nation from subsections 6(1) and 8(1) of the Act, withdraws the First Nation must comply law and submits a new law in its place, the Commission may proceed with the requirements in those subsections when making and submitting an amending review and approval consideration of the new law.~~

75. Compliance with Sections 6 and 8 of the Act

~~5.1 A First Nation submitting an amending law amendment of a law made under paragraph 5(1)(a), (a.1) or (c) of the Act for review and approval may request an exemption from subsections 6(1) and 8 subsection 6(1) of the Act by submitting a written request to the Commission and reasons in support of the request, either,~~

~~(a) at the time of 5.2 A First Nation submitting the amending an amendment of a property taxation law for review and approval; or~~

~~(b) before making the amending law, provided a copy of the proposed amending law is included with the may request.~~

~~an exemption from subsection 8.— Exemption Decisions under Subsections 6(2)–(1) of the Act by submitting a written request to the Commission and 8(2) reasons in support of the Act request.~~

~~8.15.3 When the Commission receives an exemption request under subsections subsection 6(2) and/or 8(2) of the Act concurrently with a request for the review and approval of an amending law, the Commission will consider and decide on the exemption request before beginning its review and approval process consideration of the law.~~

~~8.25.4 Without limiting the Commission’s discretion, the Commission may consider the following as part of its decision under subsections subsection 6(2) and/or 8(2) of the Act:~~

~~(a) whether the amendments are solely technical or typographical;~~

~~(b) whether the amendments are necessary to bring the original law into compliance with the Act or the standards; and~~

~~(c) the nature and extent of any impact on taxpayers, members of the First Nation or others who may be affected by the amending law.~~

~~8.35.5 Where the Commission gives an exemption under subsections subsection 6(2) or 8(2) of~~

the Act,

~~(a) the Commission may immediately proceed with its review and approval decision if the First Nation has concurrently submitted the amending law for review and approval; or consideration of the law.~~

~~(b) 5.6 Where the Commission does not give an exemption under subsection 6(2) or 8(2) of the Act, the Commission will advise notify the First Nation of the exemption so that the First Nation may proceed with the proposed amending law decision.~~

96. Notification to Person Making a Section 7 Representation

Where the Commission receives a written representation in accordance with section 7 of the Act, the Commission will

- (a) notify the person who made the representation that the Commission has received the representation; and
- (b) notify that person of the Commission's law approval decision.

107. Notice and Certificate of Approval

107.1 Where the Commission approves a law, the Commission will notify the First Nation of the decision and provide a certificate of that approval.

107.2 Where the Commission does not approve a law, the Commission will notify the First Nation of the decision.

PART VII

EFFECTIVE DATE

~~These Procedures are established and in effect as of June 10, 2009.~~

PART VIII

REVOCATION AND COMING INTO FORCE

Revocation

The Procedures Respecting the Approval of First Nation Local Revenue Laws that were established and effective as of June 10, 2009, are revoked.

Coming into Force

These Procedures are established and in effect as of _____, 2020.

PART IX

ENQUIRIES

All enquiries respecting these Procedures should be directed to:

First Nations Tax Commission
321 – 345 Chief Alex Thomas Way
Kamloops, BC V2H 1H1
Telephone: (250) 828-9857