

**STANDARDS FOR
FIRST NATION PROPERTY ASSESSMENT LAWS, 2019**

[Consolidated to 2020-06-25]

**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 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 assessment laws enacted under subparagraph 5(1)(a)(i) of the Act. These Standards are used by the Commission in its review and approval of First Nations' property assessment 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 assessment law submitted to the Commission for approval under the Act.

**PART V
CITATION**

These Standards may be cited as the *Standards for First Nation Property Assessment Laws, 2019*.

**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;

“agricultural property” means an interest in reserve lands classified as “non-arable (range)” or “other agricultural” in Saskatchewan;

“assessable property” means an interest or right in reserve lands that is subject to assessment under a Law;

“assessed value” means the value of an interest or right in reserve lands for assessment purposes, as determined under a Law;

“assessment” means a valuation and classification of an interest or right in reserve lands;

“Assessment Review Board” means an independent appeal body established by a First Nation to hear and determine assessment appeals;

“assessment roll” means a list setting out interests or rights in reserve lands and their assessed values for the purposes of taxation and includes a supplementary assessment roll and any amendments to the assessment roll;

“chair” means a chair of the Assessment Review Board;

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

“complainant” means a person who commences an appeal of an assessment of assessable property;

“Council” has the meaning given to that term in the Act;

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

“holder”, in relation to an interest in reserve lands in Canada elsewhere than in Quebec, means a person

- (a) in possession of the interest,
- (b) entitled through a lease, licence or other legal means to the interest,
- (c) in actual occupation of the interest, or
- (d) who is a trustee of the interest;

“holder”, in relation to a right in reserve lands in Quebec, means a person

- (a) in possession of the right,
- (b) entitled through a lease, licence or other legal or contractual means to the right,
- (c) in de facto occupation of reserve lands, or any other immovable situated on reserve lands, or
- (d) who is a trustee of the right;

“interest”, in relation to reserve lands in Canada elsewhere than in Quebec, means any estate, right or interest of any nature in or to the lands, including any right to occupy, possess or use the lands, but does not include title to the lands that is held by Her Majesty;

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

“property class” means a category of interests or rights in reserve lands established for the purposes of assessment and taxation;

“Province” refers to the province in which a First Nation’s reserve lands are situated;

“reserve” means a reserve of a First Nation within the meaning of the *Indian Act*;

“resolution” means a motion passed and approved by a majority of Council present at a duly convened meeting;

“right”, in relation to reserve lands in Quebec, means any right of any nature in or to the lands, including any right to occupy, possess or use the lands and any right of a lessee, but does not include title to the lands that is held by Her Majesty; and

“taxable area” means the total area of the interest in reserve lands or portion of the interest in reserve lands, rounded to the nearest acre.

For greater certainty, an interest or right, in relation to reserve lands, includes improvements.

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

[am. FNTC Resolution 2020-06-25.]

PART VII STANDARDS

1. Appointment of Assessor

The Law must

- (a) provide for the appointment of an assessor to conduct assessments of assessable property in accordance with the Law and such other duties as set out in the Law; and
- (b) provide that any person carrying out valuations of assessable property must be qualified to assess real property for taxation purposes in the Province.

2. Assessment Dates

2.1 For those aspects of the assessment process that are set out in the Schedule to these Standards, the Law must incorporate the corresponding dates or time frames in the Schedule, if any.

2.2 Where the Schedule does not provide a date or time frame but allows a First Nation to select a date to be set in its Law, the Law must set a fixed date for that aspect of the assessment process.

2.3 The Law must set a date for mailing assessment notices that is on or before the date for mailing tax notices set in the First Nation’s taxation law.

3. Assessment Classification

3.1 The Law must

- (a) establish property classes for the purposes of assessment that are the same as those property classes established in the Province; and
- (b) require the assessor to classify interests or rights in reserve lands by using the provincial classification rules for each property class.

3.2 As an exception to subsection 3.1, Laws of First Nations located in British Columbia are not required to establish property class 3, supportive housing and property class 7, managed forest land.

3.3 As an exception to subsection 3.1, Laws of First Nations located in Ontario are not required to establish the managed forests property class.

4. Assessment Method

4.1 For the purposes of assessing interests or rights in reserve lands, the Law must

- (a) determine the assessed value of the interest or right as if the land or improvements are held in fee simple off the reserve; and
- (b) require the use of the provincial assessment practices and the provincial valuation methods, rates, rules and formulas for conducting assessments off reserve, except where otherwise provided in the Law.

4.2 Without limiting subsection 4.1,

- (a) Laws of First Nations located in Manitoba must establish percentages of assessed value for each

property class for which such a value is established by the Province, and must require the assessor to determine the portioned value of each interest in reserve lands using the applicable percentages of assessed values established in the Law; and

(b) Laws of First Nations located in Saskatchewan must establish percentages of assessed value for each property class for which such a value is established by the Province, and must require the assessor to determine the taxable assessment of each interest in reserve lands by multiplying the fair value assessment by the applicable percentage of value established in the Law.

4.3 Despite subsection 4.1, a Law of a First Nation located in Saskatchewan must, for agricultural property taxed on the basis of the taxable area,

(a) direct the assessor to determine the taxable area; and

(b) provide that no valuation is required for the interest in reserve lands.

5. Assessment Roll

5.1 The Law must provide for the completion of an annual assessment roll that contains a list of every interest or right in reserve lands liable to taxation or for which payments-in-lieu may be accepted by the Council.

5.2 As an exception to subsection 5.1, Laws of First Nations located in Quebec may provide for the completion of an assessment roll every three (3) years, or such other time frame as established or permitted by the Province.

5.3 The Law must require the assessment roll to contain at least the following information in respect of each interest or right in reserve lands, as applicable:

(a) the name and address of the holder of the interest or right;

(b) a description of the interest or right;

(c) the classification of the interest or right;

(d) the assessed value by classification of the interest or right;

(e) the total assessed value of the interest or right;

(f) the taxable area of agricultural property, where the interest is taxed on the basis of taxable area;

(g) for First Nations located in Manitoba, the portioned value of the interest;

(h) for First Nations located in Saskatchewan, the taxable assessment of the interest; and

(i) for First Nations located in provinces other than Manitoba and Saskatchewan, the total assessed value of the interest or right liable to taxation.

5.4 The Law must provide for

(a) certification of the assessment roll by the assessor that the assessment roll was completed in accordance with the Law;

(b) delivery of the certified assessment roll by the assessor to the Council;

(c) inspection of the assessment roll by any person;

(d) a prohibition on using the information contained in the assessment roll for solicitation purposes; and

(e) a procedure where holders can apply to have their name, address or other information about the holder omitted or obscured from the assessment roll for reasons of safety or the mental or physical health of the holder or a member of the holder's household.

6. Correction of Errors and Omissions

The Law must provide procedures for the correction by the assessor of errors and omissions in the assessment roll through the use of one or more of revised, amended or supplementary assessment rolls.

7. Assessment Notice

7.1 The Law must provide for assessment notices to be delivered to all persons named on the assessment roll in respect of an assessable property.

7.2 The Law must require an assessment notice to contain at least the following information in respect of each interest or right in reserve lands, as applicable:

- (a) the name and address of the holder of the interest or right;
- (b) a short legal description of the interest or right;
- (c) the assessed value by classification of the interest or right;
- (d) the taxable area of agricultural property, where indicated on the assessment roll for that interest;
- (e) for First Nations located in Manitoba, the portioned value of the interest;
- (f) for First Nations located in Saskatchewan, the taxable assessment of the interest;
- (g) for First Nations located in provinces other than Manitoba and Saskatchewan, the total assessed value of the interest or right liable to taxation;
- (h) the opportunity to make a request for reconsideration of the assessment by the assessor and the deadline for making such a request; and
- (i) the right to appeal the assessment to the Assessment Review Board, how to appeal and the deadline for an appeal.

8. Reconsideration

The reconsideration procedures in the Law must

- (a) allow a person named on the assessment roll in respect of an assessable property to request that the assessor reconsider the assessment of that assessable property;
- (b) provide for at least twenty-one (21) days after the date of delivery of an assessment notice for a person to request a reconsideration by the assessor;
- (c) set out the grounds for reconsideration;
- (d) require the assessor to complete the reconsideration within a time frame set out in the Law, and
 - (i) notify the person that made the request that the assessment is confirmed, or
 - (ii) where the assessor determines that the assessable property should have been assessed differently, offer to modify the assessment; and
- (e) where the person that made the request agrees to a modification, provide for the assessor
 - (i) to amend the assessment roll,
 - (ii) to give notice of the amendment to the tax administrator and to all persons who received an assessment notice in respect of the assessable property, and
 - (iii) where a notice of appeal has been given in respect of an assessable property, to give notice of the amendment to the Assessment Review Board.

9. Assessment Appeals

9.1 The Law must set out, at a minimum, the following grounds for appeal to the Assessment Review Board:

- (a) the assessed value of the assessable property;

- (b) the assessment classification of the assessable property;
- (c) the applicability of an exemption to the assessable property; and
- (d) an alleged error or omission in the assessment.

9.2 If the Law provides for an administration fee for the filing of an assessment appeal, the fee must not exceed thirty dollars (\$30).

10. Assessment Review Board

10.1 The Law must

- (a) set out the powers, duties and functions of the chair;
- (b) provide for the appointment of members of the Assessment Review Board by Council resolution and for a term of appointment of those members of not less than two (2) years; and
- (c) set out when and how members of the Assessment Review Board may be removed from office.

10.2 The Law must establish practices and procedures for the conduct of Assessment Review Board hearings, including respecting

- (a) a party's right to be heard, have representation, present evidence and call witnesses;
- (b) the manner by which the Assessment Review Board may conduct a hearing; and
- (c) the evidentiary rules that apply during a hearing.

10.3 In establishing practices and procedures, the Law may

- (a) provide for additional practices and procedures to be established in a practices and procedures manual approved by Council resolution; and
- (b) permit the Assessment Review Board to determine its own procedure during a hearing to the extent not inconsistent with the Law.

10.4 The Law must provide for, at a minimum, the complainant, the assessor and the holder of the assessable property (if other than the complainant) to be parties to the appeal.

10.5 The Law must set out procedures for updating the assessment roll to reflect decisions of the Assessment Review Board.

11. Confidentiality

The Law must provide for the confidentiality of information and documents obtained by the tax administrator, assessor, the Assessment Review Board and any other person who has custody or control of records obtained or created under the Law, except that disclosure may be made

- (a) in the course of administering the Law or performing functions under it;
- (b) in proceedings before the Assessment Review Board, a tribunal having jurisdiction, or a court of law;
- (c) where a holder gives written authorization for his or her agent to obtain confidential information relating to an interest or right in reserve lands;
- (d) by the tax administrator to a third party for research (including statistical) purposes, provided the information or documents do not include any information that is in an individually identifiable form; or
- (e) by Council to a third party for research (including statistical) purposes.

PART VIII

REVOCATION AND COMING INTO FORCE

Revocation

The *Standards for First Nation Property Assessment Laws* that were established and effective as of October 22, 2007, are revoked.

Coming Into Force

These Standards are established and in effect as of February 13, 2019.

**PART IX
ENQUIRIES**

All enquiries respecting these Standards should be directed to:

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

SCHEDULE
ASSESSMENT TIMELINES

British Columbia

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| Assessment valuation date: | July 1 of year before taxation year |
| Physical condition and permitted use date: | October 31 of year before taxation year |
| Assessment roll and notices date: | December 31 of year before taxation year, where the First Nation has appointed the BC Assessment Authority as the assessor, or January 31 of taxation year, where the First Nation has appointed an assessor other than the BC Assessment Authority. |

Alberta

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| Assessment valuation date: | July 1 of year before taxation year |
| Physical condition and use date: | December 31 of year before taxation year |
| Assessment roll date: | a date set by the First Nation in its Law |
| Assessment notice date: | a date set by the First Nation in its Law |

Saskatchewan

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| Base date for valuation: | as established by Assessment Management Agency from time to time |
| Facts, conditions and circumstances: | January 1 of taxation year |
| Assessment roll date: | May 1 of taxation year |
| Assessment notice date: | within fifteen (15) days of completion of assessment roll |

Manitoba

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| Reference date for valuation: | as set by Province from time to time |
| Assessment roll date: | December 31 of year before taxation year |
| Assessment notice date: | a date set by the First Nation in its Law |

Ontario

Valuation date: January 1, 2016 for the years 2017-2020, and for each subsequent period consisting of four consecutive taxation years, January 1 of the year that precedes the period by two years, or such other date prescribed by the Ontario Minister of Finance

Classification date: June 30 of year before taxation year

Assessment roll date: not later than second Tuesday following December 1 of year before taxation year

Assessment notice date: no later than fourteen (14) days before assessment roll is completed

Quebec

Valuation and condition date: July 1 of second fiscal year preceding first fiscal year for which assessment roll is made

Assessment roll date: August 15 to September 15 of year before taxation year

Assessment notice date: March 1 of taxation year

New Brunswick

Real and True Value date: January 1 of year before taxation Year

Assessment roll date: December 31 of year before taxation year

Assessment notice date: a date set by the First Nation in its Law

Nova Scotia

Base date: January 1 of year before taxation year

Physical condition and use date: December 1 of year before taxation year

Assessment roll date: December 31 of year before taxation year

Assessment notice date: on completion of assessment roll by a date set by the First Nation in its Law

Prince Edward Island

Valuation date: as set by the First Nation in its Law
Assessment roll date: as set by the First Nation in its Law
Assessment notice date: fifth business day in May

Newfoundland & Labrador

Base date for valuation: January 1 of every third year after 2005
Assessment roll date: January 1 to September 30
Assessment notice date: on completion and delivery of assessment roll by a date set by the First Nation in its Law

Yukon Territory

Valuation date: July 31 of year before taxation year
Assessment roll date: November 15 of year before taxation year
Assessment notice: immediately on return of corrected roll to collector by a date set by the First Nation in its Law

Northwest Territories

Base year for valuation: as set by territory from time to time
Assessment roll date: October 31 of year before taxation year
Assessment notice date: twenty-one (21) days after certified roll sent to taxing authority

Nunavut

Base year for valuation: as set by territory from time to time
Assessment roll date: October 31 of year before taxation year
Assessment notice date: twenty-one (21) days after certified roll sent to taxing authority