

**STANDARDS FOR THE SUBMISSION OF INFORMATION
REQUIRED UNDER SECTION 8 OF THE ACT, 2018**

[Consolidated to 2020-03-19]

**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 in which information required under section 8 of the Act is to be provided to the Commission;
- 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 form in which the information required to be submitted to the Commission under section 8 of the Act must be provided to the Commission. These Standards are used by the Commission when receiving a local revenue law for its review and approval 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 when a local revenue law is submitted to the Commission for approval under the Act. Parts VII and VIII of these Standards do not apply to an annual tax rates law or to an annual expenditure law.

**PART V
CITATION**

These Standards may be cited as the *Standards for the Submission of Information Required under Section 8 of the Act, 2018*.

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 expenditure law” means a law required under subsection 10(2) of the Act;

“annual tax rates law” means a law required under subsection 10(1) of the Act;

“business activity tax law” means a law enacted under subparagraph 5(1)(a)(iv) of the Act;

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

“Council” means the Council of the First Nation within the meaning of the Act;

“development cost charges law” means a law enacted under subparagraph 5(1)(a)(v) of the Act;

“fee law” means a law enacted under paragraph 5(1)(a.1) of the Act;

“fee law report” means a report developed to support the fees established in a fee law, as required by the *Standards for First Nation Fee Laws, 2017*;

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

“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;

“Notice Standards” means the *Standards respecting Notices relating to Local Revenue Laws, 2018*;

“property transfer tax law” means a law enacted under paragraph 5(1)(a) of the Act that levies a tax on an interest or right in reserve lands at the time of the registration of a transfer in a respect of that interest or right in a land registry;

“reference jurisdiction transition plan” has the meaning given to that term in the *Standards for First Nation Annual Tax Rates Laws, 2017*;

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

“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;

“section 6 notice” means the notice of a proposed local revenue law required under section 6 of the Act;

“section 6 notification period” means the time period required under section 6 of the Act, and as extended by the Notice Standards where applicable; and

“taxpayer representation law” means a law enacted under paragraph 5(1)(c) of the Act.

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 2019-06-26.]

PART VII
STANDARDS FOR THE SUBMISSION OF PROPERTY TAXATION LAWS

1. Interests or Rights Subject to the Law

For a property taxation law, the First Nation must provide the Commission with a description of the interests or rights in reserve lands subject to the property taxation law, in the following forms:

- (a) the name, IR number, location or civic address of each reserve subject to the property taxation law;
- (b) if the property taxation law applies only to a portion of a reserve, a description of that portion and a map delineating that portion; and
- (c) a description of the interests or rights that will be subject to the property taxation law.

[am. FNTC Resolution 2019-06-26.]

2. Assessment Practices

For a law made under subparagraph 5(1)(a)(i) of the Act, the First Nation must provide the Commission with a statement confirming which provincial assessment practices will be applied in the law, including whether the law will follow the assessment review board procedures in the Act or those that are the same as the applicable province.

3. Services and Service Agreements

For a property taxation law other than a development cost charges law, the First Nation must provide the Commission with information regarding the services to be provided from local revenues, existing service agreements and any service agreement negotiations underway at the time the property taxation law is enacted, in the following forms:

- (a) a list of the services currently provided or that will be provided from local revenues; and
- (b) a summary of any service agreement negotiations underway, including the nature of the service and the proposed parties to the agreement.

4. Notice Confirmations

For a property taxation law, the First Nation must provide the Commission with a description of the notices that were given and any consultation undertaken by the Council before making the property taxation law, in the following forms:

- (a) confirmation that a section 6 notice of the proposed property taxation law was
 - (i) published in the *First Nations Gazette*, including the date of publication,
 - (ii) posted on the reserve in a public place, with a description of the location and the date of posting, and
 - (iii) mailed or emailed to the Commission, including the date the notice was provided;
- (b) confirmation that the section 6 notice of the proposed property taxation law was published in at least one (1) additional manner in accordance with subsections 5.1 and 5.4 of the Notice Standards, where applicable, including the date and manner of the publication;
- (c) confirmation that additional notice of the proposed property taxation law was given as required by subsections 5.3 and 5.4 to 5.6 of the Notice Standards, as applicable, including the form of the additional notice given;
- (d) a copy of the form or forms of notices referred to in paragraphs (a), (b) and (c);

- (e) confirmation that the section 6 notification period complied with section 6 of the Act or with section 4 of the Notice Standards where applicable;
- (f) a description of the types of consultation, if any, undertaken by Council before making the proposed property taxation law and the dates of such consultations;
- (g) confirmation that Council considered all written representations received under section 6 of the Act before making the property taxation law, and the date of the Council meeting at which representations were considered;
- (h) confirmation that the notice required by section 7 of the Act and a copy of the property taxation law was provided to all persons who made written representations to Council under paragraph 6(3)(c) of the Act; and
- (i) a copy of the form of the notice referred to in paragraph (h), and a list of each person to whom the notice was provided.

5. Additional Notice Requirements for Certain Property Taxation Laws

5.1 For a development cost charges law, the First Nation must

- (a) provide the Commission with confirmation that the First Nation included in its section 6 notice
 - (i) a reference to the long-term capital plan, other planning document or service agreement used by the First Nation to support the development cost charges levied in the law, and
 - (ii) a statement indicating where a copy of the long-term capital plan, other planning document or service agreement could be obtained;
- (b) provide the Commission with confirmation that the First Nation posted a copy of the long-term capital plan, other planning document or service agreement in a prominent place on the First Nation's website for the duration of the section 6 notification period; and
- (c) provide the Commission with a copy of the plan referenced in paragraph (a).

5.2 For a business activity tax law, the First Nation must provide the Commission with confirmation that the First Nation delivered the section 6 notice to each business located on the reserve that will be subject to the business activity tax, as required by subsections 5.2 and 5.4 of the Notice Standards.

[am. FNTC Resolution 2019-06-26; 2020-03-19.]

6. Additional Requirements for British Columbia and Quebec First Nations

6.1 First Nations located in British Columbia that are undertaking property taxation for the first time must provide a certificate of taxation issued by the Province of British Columbia under the *Indian Self Government Enabling Act* (BC).

6.2 First Nations located in Quebec that are undertaking property taxation for the first time must provide a copy of any Order in Council issued by the Province of Quebec approving an agreement made between the First Nation and a municipality under section 14.8.1 of the *Municipal Code of Quebec* or under section 29.10.1 of the *Cities and Towns Act*.

PART VIII
STANDARDS FOR THE SUBMISSION OF TAXPAYER
REPRESENTATION LAWS AND FEE LAWS

7. Taxpayer Representation Laws

The First Nation must provide the Commission with a description of the notices that were given and any consultation undertaken by the Council before making a taxpayer representation law, in the following forms:

- (a) confirmation that a section 6 notice of the proposed taxpayer representation law was
 - (i) published in the *First Nations Gazette*, including the date of publication,
 - (ii) posted on the reserve in a public place, with a description of the location and the date of posting, and
 - (iii) mailed or emailed to the Commission, including the date the notice was provided;
- (b) a copy of the form or forms of notices referred to in paragraph (a);
- (c) confirmation that the section 6 notification period complied with section 6 of the Act;
- (d) a description of the types of consultation, if any, undertaken by Council before making the proposed taxpayer representation law and the dates of such consultation;
- (e) confirmation that Council considered all written representations received under section 6 of the Act before making the taxpayer representation law, and the date of the Council meeting at which representations were considered;
- (f) confirmation that the notice required by section 7 of the Act and a copy of the taxpayer representation law was provided to all persons who made written representations to Council under paragraph 6(3)(c) of the Act; and
- (g) a copy of the form of the notice referred to in paragraph (e), and a list of each person to whom the notice was provided.

8. Fee Laws

8.1 The First Nation must provide the Commission with a description of the notices that were given and any consultation undertaken by the Council before making a fee law, in the following forms:

- (a) confirmation that a section 6 notice of the proposed fee law was
 - (i) published in the *First Nations Gazette*, including the date of publication,
 - (ii) posted on the reserve in a public place, with a description of the location and the date of posting, and
 - (iii) mailed or emailed to the Commission, including the date the notice was provided;
- (b) confirmation that the section 6 notice of the proposed fee law was published in at least one (1) additional manner in accordance with subsections 5.1 and 5.4 of the Notice Standards, including the date and manner of the publication;
- (c) confirmation that an additional notice of the proposed fee law was given as required by subsections 5.3 and 5.4 to 5.6 of the Notice Standards, including the form of the additional notice given;
- (d) a copy of the form or forms of notices referred to in paragraphs (a), (b) and (c);

- (e) confirmation that the section 6 notification period complied with section 6 of the Act as extended by section 4 of the Notice Standards;
- (f) a description of the types of consultation, if any, undertaken by Council before making the proposed fee law and the dates of such consultation;
- (g) confirmation that Council considered all written representations received under section 6 of the Act before making the fee law, and the date of the meeting at which representations were considered;
- (h) confirmation that the notice given under section 7 of the Act and a copy of the law was provided to all persons who made written representations to Council under paragraph 6(3)(c) of the Act; and
- (i) a copy of the form of the notice referred to in paragraph (h), and a list of each person to whom the notice was provided.

8.2 For a fee law, the First Nation must

- (a) provide the Commission with confirmation that it posted, for the duration of the section 6 notification period, a copy of the fee law report in a prominent place on the First Nation's website; and
- (b) provide the Commission with a copy of the fee law report.

[am. FNTC Resolution 2020-03-19.]

PART IX

STANDARDS FOR THE SUBMISSION OF ANNUAL TAX RATES LAWS AND ANNUAL EXPENDITURE LAWS

9. Annual Tax Rates Law Requirements

9.1 The First Nation must provide the Commission with confirmation that the First Nation gave notice of its annual tax rates law as required by subsection 1.1 of the Notice Standards, including how the notice was given.

9.2 Where a First Nation intends to provide a justification for a tax rate under paragraph 10.1(a) or (b) of the *Standards for First Nation Annual Tax Rates Laws, 2017*, the First Nation must provide the Commission with confirmation that the First Nation complied with the requirement in subsection 1.2 of the Notice Standards, including how the notice was given.

9.3 In the first year that a First Nation proposes to justify its tax rates under paragraph 10.1(b) of the *Standards for First Nation Annual Tax Rates Laws, 2017*, the First Nation must provide the Commission with

- (a) a copy of the reference jurisdiction transition plan; and
- (b) confirmation that the First Nation, in the previous taxation year, completed the requirements set out in section 7 of the Notice Standards.

10. Annual Expenditure Law Requirements

The First Nation must provide the Commission with confirmation that the First Nation gave notice of its annual expenditure law as required by section 2 of the Notice Standards, including how the notice was given.

PART X

GENERAL STANDARDS

11. Evidence Law Duly Made

11.1 The First Nation must provide to the Commission a copy of a local revenue law, signed and dated by a quorum of Council, as evidence that the law was duly made by Council.

11.2 A law submitted under subsection 11.1 must contain an enactment clause stating that the law was duly enacted by Council on the date and at the location specified in the law.

12. Confirmation Requirements

Where these Standards require a matter to be confirmed by the First Nation, the confirmation

- (a) may be made by the Council or by an officer of the First Nation duly authorized by the Council to confirm the matters required on behalf of the First Nation; and
- (b) must be in writing and certified or sworn to be true by the authorized signatory for the First Nation.

PART XI

REVOCATION AND COMING INTO FORCE

Revocation

The *Standards for the Submission of Information Required under Section 8 of the Act* that were established and effective as July 9, 2008, are revoked.

Coming into Force

These Standards are established and in effect as of June 29, 2018.

PART XII

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