

_____ **FIRST NATION**
PROPERTY TAXATION DELEGATION LAW, 20__

TABLE OF CONTENTS

PART I Citation

PART II Definitions and References.....

PART III Delegation of Powers.....

PART IV Requirements

PART V General Provisions.....

WHEREAS:

A. Pursuant to section 5 of the *First Nations Fiscal Management Act*, the council of a first nation may make laws respecting taxation for local purposes of reserve lands, interests in reserve lands or rights to occupy, possess or use reserve lands, including laws delegating to any person or body any of the Council's powers to make laws under any of sections 5(1)(a) to (e) of that Act;

B. The Council of the _____ First Nation deems it to be in the best interests of the First Nation to make a law delegating certain of the Council's law-making powers under the Act;

C. The Council has entered into an agreement with [insert name of delegate] which provides for the administration of the First Nation's taxation system; and

D. The Council has given notice of this Law and has considered any representations received by the Council, in accordance with the requirements of the *First Nations Fiscal Management Act*;

NOW THEREFORE the Council of the _____ First Nation duly enacts as follows:

PART I
CITATION

Citation

1. This Law may be cited as the _____ *First Nation Property Taxation Delegation Law, 20__* .

PART II
DEFINITIONS AND REFERENCES

Definitions and References

2.(1) In this Law:

Current ver. 2011-10-06

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

“assessment law” means a law referenced in paragraph 3(1)(a);

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

“delegate” means [insert name of person/body and address/contact information];

“expenditure law” means a law referenced in paragraph 3(1)(d);

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

“interest in land” or “property” means land or improvements, or both, in the reserve and, without limitation, includes any interest in land or improvements, any occupation, possession or use of land or improvements, and any right to occupy, possess or use land or improvements;

“rates law” means a law referenced in paragraph 3(1)(c);

“reserve” means any land set apart for the use and benefit of the 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; and

“taxation law” means a law referenced in paragraph 3(1)(b).

(2) In this Law, references to a Part (e.g. Part I), section (e.g. section 1), subsection (e.g. subsection 2(1)), or paragraph (e.g. paragraph 3(1)(a)) is a reference to the specified Part, section, subsection or paragraph of this Law, except where otherwise stated.

PART III

DELEGATION OF POWERS

Delegation of Certain Law-making Powers

3.(1) Council hereby delegates to the delegate, pursuant to paragraph 5(1)(f) of the Act, Council’s powers to make laws

(a) under subparagraph 5(1)(a)(i) of the Act, respecting the assessment of the value of interests in land, the requisition of any information necessary to conduct the assessment, and the inspection for assessment purposes of any interests in land that are subject to taxation for local purposes;

(b) under paragraph 5(1)(a) of the Act, respecting the taxation of interests in land for local purposes based on a property value tax;

(c) under subparagraph 5(1)(a)(ii) of the Act, respecting a mechanism to establish tax rates and apply them to the assessed value of lands, interests and rights;

Current ver. 2011-10-06

(d) under paragraph 5(1)(b) of the Act, respecting the expenditure of local revenues; and

(e) under paragraph 5(1)(e) of the Act, respecting the enforcement of laws made by the delegate under paragraphs (a), (b) and (c).

(2) For clarity, the law-making powers delegated under subsection (1) do not include the power to make laws under subparagraphs 5(1)(a)(iii), (iv) or (v) of the Act.

Delegate must Comply with Requirements

4. The delegate must exercise the powers delegated to it in accordance with

(a) the Act;

(b) all Commission standards and procedures established under section 35 of the Act;

(c) the requirements and limitations set out in this Law; and

(d) the requirements of other applicable enactments, including, without limitation, all applicable laws and by-laws of the First Nation.

Specific Requirements

5. Without limiting section 4, the delegate must, in respect of every law it proposes to make,

(a) give all notices,

(b) consider representations received,

(c) submit all required information and documentation to the Commission,

(d) seek and obtain all necessary approvals, and

(e) in every respect fulfill the obligations of Council in making a law under the Act,

as required under the Act and under Commission standards and procedures.

No Further Delegation

6. The delegate must not delegate the powers given to the delegate in this Law.

PART IV REQUIREMENTS

Copy of Proposed Law to First Nation

7.(1) The delegate must deliver to the First Nation a copy of every law it proposes to enact under its delegated authority, as provided in this section.

(2) Where the delegate is required to give notice of a proposed law under section 6 of the Act, the delegate must deliver the proposed law to the First Nation at least ___ (__) days before it is considered by the delegate for approval for public input purposes.

(3) Where the delegate is not required to give notice of a proposed law under section 6 of the Act, the delegate must deliver the proposed law to the First Nation at least ___ (__) days before considering the law for final approval.

Comments on Proposed Law

8. Where the delegate delivers a proposed law to the First Nation under section 7, the First Nation may, within ___ (__) days of receiving the proposed law, provide comments to the delegate respecting the content of the proposed law.

Requirements for Assessment Laws

9. The delegate must ensure that any assessment law made under this delegated authority provides for

- (a) [insert requirements];
- (b) [insert other requirements].

Requirements for Taxation Laws

10. The delegate must ensure that any taxation law made under this delegated authority provides for

- (a) the taxation of all interests in land, except the following interests in land, which must be exempted from taxation: [insert exemptions];
- (b) the provision of a homeowner grant on the same terms and in an amount not more than the amounts provided in the *Homeowner Grant Act* (British Columbia); and
- (c) [insert other requirements].

Requirements for Rates Laws

11. The delegate must ensure that any rates law made under this delegated authority provides for

- (a) a minimum tax of no more than ___ dollars (\$__) for residential properties; and
- (b) [insert other requirements].

Requirements for Expenditure Laws

12. The delegate must ensure that any expenditure law made under this delegated authority provides for

Current ver. 2011-10-06

(a) a reserve fund for _____ purposes, and for the transfer into this reserve fund of _____ percent (___%) of the total annual local revenues in each taxation year; and

(b) [insert other requirements].

Restrictions on Expenditures

13. The delegate must not make a law authorizing an expenditure of local revenues on

(a) [insert restrictions];

(b) [insert other restrictions].

PART V

GENERAL PROVISIONS

Delivery

14.(1) Delivery of a document may be made personally or by sending it by registered mail.

(2) Personal delivery of a document is made

(a) in the case of an individual, by leaving the document with that individual or with an individual at least eighteen (18) years of age residing at that individual's place of residence;

(b) in the case of the First Nation, by leaving the document with the individual apparently in charge, at the time of delivery, of the main administrative office of the First Nation, or with the First Nation's legal counsel; and

(c) in the case of a corporation, by leaving the document with the individual apparently in charge, at the time of delivery, of the head office or one of its branch offices, or with an officer or director of the corporation or the corporation's legal counsel.

(3) A document is considered to have been delivered

(a) if delivered personally, on the day that personal delivery is made; and

(b) if sent by registered mail, on the fifth day after it is mailed.

Interpretation

15.(1) The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

(2) Where a provision in this Law is expressed in the present tense, the provision applies to the circumstances as they arise.

(3) Words in this Law that are in the singular include the plural, and words in the plural include the singular.

(4) This Law must be construed as being remedial and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

(5) Reference in this Law to an enactment is a reference to the enactment as it exists from time to time and includes any regulations made under the enactment.

(6) Headings form no part of the enactment and must be construed as being inserted for convenience of reference only.

Force and Effect

16. This Law comes into force and effect on the day after it is approved by the First Nations Tax Commission.

THIS LAW IS HEREBY DULY ENACTED by Council on the ____ day of _____, 20____, at _____, in the Province of British Columbia.

A quorum of Council consists of _____ (____) members of Council.

[Name]

Chief [please spell out the name]

[Name]

Councillor [please spell out the name]

[Name]

Councillor [please spell out the name]