

USING THE SAMPLE FMA ANNUAL TAX RATES LAW

The Commission provides sample laws to assist First Nations in their law development work. The attached sample First Nation Annual Tax Rates Law (“sample law”) complies with the FMA requirements, the Regulations and the Commission’s Annual Tax Rates Law Standards. It provides a best practices sample for use and adaptation by First Nations in drafting their own FMA rates laws. Sample laws are intended to assist a First Nation in developing their own laws. The First Nation should ensure that its law reflects its circumstances and that it obtains legal and other advice as necessary.

Under subsection 10(1) of the FMA, a First Nation must make a law establishing tax rates at least once each year at a time fixed by regulations, if any, or by Commission Standards. Under the Commission *Standards for the Timing of First Nations Annual Tax Rates and Expenditure Laws, 2017*, this law must be made on or before November 30 of the taxation year to which the law applies. However, First Nations should follow the timing for making the annual rates law that is set out in their own taxation laws.

The following are some notes about the format of the sample law:

1. Instructions are shown in square brackets and bold. All instructions should be deleted from the final version of the law.
2. Missing information to be completed is shown with an underline. All information should be inserted, and the underlining deleted, from the final version of the law.
3. The Schedule sets out a rates template for each province. The applicable provincial template should be used, and all of the others deleted. For British Columbia, there are two possible templates and the inapplicable template should be deleted.
4. Where new sections are added, or sample sections are deleted, remaining sections need to be renumbered for continuity.

If you have any questions as you are preparing this law, please do not hesitate to contact the FNTC staff.

----- FIRST NATION
ANNUAL TAX RATES LAW, 20__

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 and interests or rights in reserve lands, including laws to establish tax rates and apply them to the assessed value of those lands and interests or rights;

B. The council of the First Nation has made a property assessment law and a property taxation law; and

C. Subsection 10(1) of the *First Nations Fiscal Management Act* requires a first nation that has made a property taxation law to, at least once each year, make a law setting the rate of tax to be applied to the assessed value of each class of lands and interests or rights;

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

1. This Law may be cited as the ----- *First Nation Annual Tax Rates Law, 20__*.

2. In this Law:

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

“Assessment Law” means the ----- *First Nation Property Assessment Law, 20__*;

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

“property taxation law” means a law enacted by the First Nation under paragraph 5(1)(a) of the Act;

“taxable property” has the meaning given to that term in the Taxation Law; and

“Taxation Law” means the ----- *First Nation Property Taxation Law, 20__*.

3. Taxes levied pursuant to the Taxation Law for the taxation year 20__ shall be determined by imposing the rates set out in the Schedule upon the assessed value of all taxable property in each property class.

[Note to First Nation: If your property taxation law provides for a minimum tax, insert the amount of the minimum tax in this section. If your property taxation law does not provide for a minimum tax, delete this section and renumber the remaining sections of the law.]

4. Notwithstanding section 3, where the amount of the tax levied on taxable property in a taxation year is less than ____ dollars (\$ ____), the taxable property shall be taxed at ____ dollars (\$ ____) for the taxation year.

5. Except where otherwise defined, words and expressions used in this Law have the meanings given to them in the Assessment Law and the Taxation Law.

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

7. 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.

8. The Schedule attached to this Law forms part of and is an integral part of this Law.

9. 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 _____.

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]

**SCHEDULE
TAX RATES**

[Note to First Nation: Include only those classes applicable to your Province and delete all other provinces.]

PROPERTY CLASS	RATE PER [insert applicable rate]
presentation]	
<u>British Columbia</u>	
Class 1 - Residential	
Class 2 - Utilities	
Class 4 - Major Industry	
Class 5 - Light Industry	
Class 6 - Business and Other	

Class 8 - Recreational Property/Non-Profit Organization
Class 9 - Farm

[Note to BC First Nations: If you establish a different rate for land and improvements, use the following format:

PROPERTY CLASS	RATE PER \$1,000 of assessed Value Improvements Land
Class 1 - Residential	
Class 2 - Utilities	
Class 4 - Major Industry	
Class 5 - Light Industry	
Class 6 - Business and Other	
Class 8 - Recreational Property/Non-Profit Organization	
Class 9 - Farm	

PROPERTY CLASS	RATE PER [insert applicable rate]
presentation]	
<u>Alberta</u>	
Class 1 - Residential	
Class 2 - Non-Residential	
Class 3 - Farmland	
Class 4 - Machinery and Equipment	

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Saskatchewan

Non-Arable (Range) Land and Improvements

Other Agricultural Land and Improvements

Residential

Multi-Unit Residential

Seasonal Residential

Commercial and Industrial

Elevators

Railway Rights-of-Way and Pipeline

Manitoba

Residential 1

Residential 2

Residential 3: Condominiums and Co-operatives

Farm Property

Pipeline Property

Railway Property

Institutional Property

Designated Recreational Property

Other Property

Ontario

Residential

Multi-Residential

Commercial

Industrial

Pipeline

Farm

Managed Forests

[Optional classes:

New Multi-Residential

Office Building

Shopping Centre

Parking Lots and Vacant Land

Large Industrial

Professional Sports Facility

Resort Condominium]

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Quebec

Industrial Immovables
Other Non-Residential Immovables
Immovables Consisting of Six or More Dwellings
Other Residential Immovables
Serviced Vacant Land

New Brunswick

Residential
Non-Residential

Nova Scotia

Residential
Commercial
Resource Property

Prince Edward Island

Non-Commercial
Commercial

Newfoundland & Labrador

Residential
Part Residential
Commercial
Part Commercial

Yukon

Residential
Non-Residential
Agriculture and Grazing

NWT

Class 1 - Commercial
Class 2 - Industrial
Class 3 - Extraction and Processing of Hydrocarbons
Class 4 - Extraction and Processing of Minerals
Class 5 - Pipeline
Class 6 - Electrical, CCTV, Railway, Natural Gas
Class 7 - Residential
Class 8 - Residential Mobile Home
Class 9 - Residential (low-density multi)
Class 10 - Residential (mid-density multi)

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Class 11 - Residential (high-density multi)

Class 12 - Non-Profit Institutional

Class 13 - Non-Profit Recreational

Class 14 - Agricultural

Class 15 - Classes 7-11 within 50 km of municipal taxation area with all-season road access

Class 16 - Classes 1-2 within 50 km of municipal taxation area with all-season road access

Nunavut

Class 1 - Commercial

Class 2 - Industrial

Class 3 - Extraction and Processing of Hydrocarbons

Class 4 - Extraction and Processing of Minerals

Class 5 - Pipeline

Class 6 - Electrical, CCTV, Railway, Natural Gas

Class 7 - Residential

Class 8 - Residential Mobile Home

Class 9 - Residential (low-density multi)

Class 10 - Residential (mid-density multi)

Class 11 - Residential (high-density multi)

Class 12 - Non-Profit Institutional

Class 13 - Non-Profit Recreational

Class 14 - Agricultural

Class 15 - Classes 7-11 within 50 km of municipal taxation area with all-season road access

Class 16 - Classes 1-2 within 50 km of municipal taxation area with all-season road access