



FIRST NATIONS TAX COMMISSION  
COMMISSION DE LA FISCALITÉ DES PREMIÈRES NATIONS

## 2023 ANNUAL BY-LAW DEVELOPMENT UPDATE

The Annual By-law Development Update is issued by the First Nations Tax Commission (“FNTC”) to assist First Nation tax administrators in the development and submission of annual by-laws made under s.83 of the *Indian Act*.

### HIGHLIGHTS

The national rate of inflation for the 2023 Taxation Year is 6.32%

### ANNUAL TAX RATES BY-LAWS

Each year First Nation councils set the tax rates to raise revenue to cover the costs of local services. The tax rates are set for each class of property class and appear in a Schedule to the Annual Tax Rates By-law.

#### TAX RATE SETTING IN THE FIRST YEAR OF TAXATION

For First Nations entering the first year of taxation, tax rates must typically be consistent with the former tax authority or the reference jurisdiction (adjacent tax jurisdiction). This requirement ensures there is a smooth transition to First Nation tax jurisdiction.

For more information on rate setting in the first year please consult with an FNTC advisor.

#### TAX RATE SETTING IN SUBSEQUENT YEARS

FNTC Policy on tax rate-setting in subsequent years reflect a consideration of the needs of the First Nation government and the interests of taxpayers who share the burden of taxes. After the first year of taxation, First Nations may set rates that either:

- Result in an average tax bill change in each property class that does not exceed the national rate of inflation (for the 2023 tax year it is 6.32%) and/or does not exceed the average tax bill change in the same class in the reference jurisdiction.
- Are identical to those in the reference jurisdiction, provided the rates were identical to the reference jurisdiction's rates in the previous year.

When using the average tax bill comparison methods described above, new properties and new construction must be excluded from the comparison.

Please consult with an FNTC advisor if you have questions about setting tax rates.

## JUSTIFICATION FOR RATE INCREASES

In cases where First Nations establish tax rates that exceed requirements outlined above, the tax rates can be justified on one (1) or more of the following bases:

1. There is a significant anticipated increase to the cost of local services such as water, sewer, waste collection, fire protection and roads
2. The proposed rates are consistent with a First Nation's reference jurisdiction transition plan
3. There is taxpayer support for the increased rates within the affected class.

First Nation tax administrators should contact an FNTC advisor as early as possible if the First Nation intends to provide such a justification.

## ANNUAL EXPENDITURE BY-LAWS

Each year First Nation councils set budgets for the provision of local services. The annual expenditure by-law is comprised of the by-law and the Schedule that sets out the annual budget, and any required appendices.

## REVENUES

The annual budget includes estimates of property tax revenues and all other local revenues such as payments-in-lieu of taxation ("PILT"), penalties, interest and fees.

## PAYMENTS IN LIEU OF TAXATION

Local revenues include moneys raised under a local revenue by-law as well as payments received by a First Nation in lieu of taxation (PILT). A PILT is typically made by other governments or government entities like Crown corporations that occupy interests on reserve. Examples of PILTs include payments from the federal government for federal properties, BC Hydro's Community Development Fund, or grants payments made in lieu of railway taxation.



## EXPENDITURES

Local revenue budgets must identify planned expenditures using the expenditure categories and sub-categories outlined in the FNTC document [Expenditure Categories for the Annual Expenditure Law Budget](#) (includes explanatory notes).

## CONTINGENCY AMOUNTS

The Expenditure Policy requires the local revenue annual budget include a contingency amount between 1% and 10% of the total budgeted local revenues (i.e., revenues raised under a s.83 rates by-law or payments made in lieu of property tax) excluding:

- Any amounts transferred from local revenues to a reserve fund in the current year
- Any amounts transferred from a capital reserve fund into the current year's revenues
- Any revenues from a local improvement tax by-law.

## ACCUMULATED SURPLUSES/DEFICITS

Part 3 of the Schedule identifies any surplus or deficit from the prior tax year.

## TIMING AND NOTIFICATION OF ANNUAL BY-LAWS

First Nations typically enact their annual expenditure by-law and their annual tax rates by-law at the same time. The date when a First Nation's annual rates by-law must be enacted is set out in the First Nation's property taxation by-law.

The FNTC recommends that First Nations submit their annual by-laws at least 15 days in advance of the date tax notices are to be issued. This will allow sufficient time for the review and approval of your First Nation's annual by-laws. Tax administrators are encouraged to submit signed laws and all supporting materials to the Registrar, Tracey Simon ([tsimon@fntc.ca](mailto:tsimon@fntc.ca)) as soon as practicable.

You must provide notice of the entire annual rates by-law and annual expenditure by-law, including the budget and appendices (if applicable), prior to the by-laws being submitted to the Commission for review and recommendation for Ministerial approval. Notice can be provided by:

- Posting the proposed annual laws on First Nations Gazette ([www.fng.ca](http://www.fng.ca)), or on a prominent place on the First Nation's website
- Holding a public meeting at which taxpayers may meet with the tax administrator or members of council to discuss the proposed law.



## AMENDMENTS TO THE ANNUAL BUDGET DURING THE TAX YEAR

First Nations who wish to amend their local revenue budgets in the current year should amend their Annual Expenditure By-law and submit the by-law for FNTC review and Ministerial approval.

Amendments to the local revenue budget are required when a First Nation wishes to make an expenditure that is not included in the local revenue budget or wishes to amend a budget amount.



### COMMENTS OR QUESTIONS?

Please get in touch with an FNTC advisor or reach us at [mail@fntc.ca](mailto:mail@fntc.ca).

