



First Nations Tax Commission
Commission de la fiscalité des premières nations

Annual By-laws Bulletin Update (May 12, 2020)

FNTC COVID-19 Pandemic Response

Last month, in the FNTC Annual By-laws Bulletin, we advised taxing First Nations that the FNTC would be developing several measures to ensure First Nations have the greatest degree of flexibility in administering their tax systems while responding to the pandemic. We listened to the valuable insights shared by tax administrators in late March and early April. That information has been critical in developing the appropriate tools as we move forward. This update addresses three areas: by-law approvals, by-law submission procedures, and taxpayer relief (e.g., deferrals, discounts, rate reduction, and grants).

First Nation By-law Approvals

First Nations submitting by-laws to the Commission for review and recommendation to the Minister must provide evidence that the by-law was duly enacted by Chief and Council. Under current requirements, First Nations must submit the by-law originally signed by a quorum of Council. The by-law must also include an enactment clause stating that the by-law was duly enacted by Council on the date and at the location specified in the by-law.

Most First Nations, if not all, have moved to teleconferences and videoconferences in convening Council meetings. First Nations conducting Council meetings that are not in person may wish to modify the enactment wording that is at the end of the by-law, to reflect how the Council meeting was held, and that a quorum was present. For example:

THIS BY-LAW IS HEREBY DULY ENACTED by the Council at a duly called and conducted Council meeting conducted by [videoconference OR teleconference] on _____, 2020, at which the required quorum of __ councillors was present throughout.

The move away from in-person meetings also means it may not be possible to ensure by-laws are signed by Council. For First Nations who cannot obtain signatures on the by-law, the FNTC has developed a sample by-law approval

certification letter. The sample letter would be signed by the First Nation's designated officer and would confirm that the by-law was approved by Council at a duly convened meeting. To request a sample by-law approval certification letter please email lrichards@fntc.ca.

By-law Submission Procedures

FNTC requires original by-laws to be submitted to the Commission and placed in the Registry. Our practice of accepting digital copies of the original by-laws until the original by-laws are sent does not change. However, we recognize that some First Nations may encounter delays in submitting the original by-laws. We encourage you to submit original by-laws as soon as you are safely able to do so.

Taxpayer Relief (Deferrals, Discounts, Rate Reduction, and Grants)

Several First Nations are considering using mitigation measures that are similar to those offered by adjacent governments elsewhere in Canada. If your First Nation is considering an amendment to its property taxation by-law, or wishes to discuss developing a mitigation measure, please contact an FNTC advisor.

These measures include deferring tax due dates, offering tax discounts to incentivize early payment, reducing tax rates in certain property classes, and providing grants. While some measures can be implemented administratively (e.g., sending tax notices out at a later date than usual), other measures would require specific amendments to the property taxation by-law. Amendments to property taxation by-laws are subject to notification and information requirements. However, the Commission will consider requests for exemptions from these requirements given the need for First Nations to react swiftly. FNTC has developed a sample notification exemption request letter that will support these COVID-related amendments to proceed without the 30-day notification period.

As indicated in the Bulletin last month, FNTC has been working closely with the federal government to develop a broad-based mitigation support program. The program would provide every taxing First Nation with the flexibility to offer property tax relief without adversely affecting local services. We remain hopeful a federal government announcement will be made in the coming weeks.

FNTC will continue to provide technical assistance and updates as the response to COVID-19 evolves. Should you have questions on this update please contact your FNTC advisor. The health and safety of First Nation communities are of paramount importance. We stand with you.