
FIRST NATION

BY-LAW No. ____

SAMPLE TELEPHONE COMPANIES TAXATION BY-LAW

WHEREAS pursuant to section 83 of the *Indian Act*, a band may, subject to the approval of the Minister of Aboriginal Affairs and Northern Development, make by-laws for taxation for local purposes of land, or interests in land, in the reserve including rights to occupy, possess or use land in the reserve;

AND WHEREAS it is the practice in the Province of _____ for telephone and telegraph companies to pay a tax upon a percentage of the gross receipts within a local jurisdiction;

BE IT THEREFORE RESOLVED, that the council of the _____ Band adopt the following by-law in an express exercise of its rights under section 83 of the *Indian Act*.

SHORT TITLE

1. This by-law may be cited as the _____ Telephone Companies Taxation By-law.

DEFINITIONS

2. In this by-law,

“band” means the _____ Band;

“council of the band” means the council of the _____ Band;

“customer” means a person who uses or purchases any kind of service from a telephone company;

“gross receipts” means all regularly recurring revenue arising from telephones and other equipment used by customers on the reserve and shall include revenue from long distance calls billed to customers on the reserve; and there shall be a deduction from “gross receipts” of any amounts related to uncollectible accounts on the reserve or amounts paid to other telephone or utility companies for the use of their equipment or in settlement with other telephone companies for long distance services;

“person” includes a corporation, partnership, agent or trustee, their heirs, executors, administrators or legal representatives;

“reserve” means the reserve(s) of the band as defined in the *Indian Act*, section 2(1), and special reserve(s) pursuant to section 36;

“Surveyor of Taxes” means the person appointed by the Council of the Band as the Surveyor of Taxes pursuant to this by-law;

“telephone company” includes a corporation, person or association of persons owning, controlling or operating a telephone system or line on the reserve or providing long distance telephone service through property, other than personal property, located on the reserve.

EXEMPTIONS

- 3.(1) The property or interest of a telephone company wholly owned by the band or any member of the band is exempt from taxation.

- (2) The council of the band may, by resolution, enter into an agreement with any person to exempt that person from taxation pursuant to this by-law, in whole or in part, where the council of the band considers such agreement and exemption to be in the best interest of the band.

ASSESSMENT AND TAXATION

4.(1) The on-reserve property interests of a telephone company shall be assessed on the basis of the gross receipts of that company from the reserve.

(2) Every telephone company owning, controlling or operating a telephone system or line on the reserve, shall provide the Surveyor of Taxes with a detailed statement by March 1st in each year, showing the gross receipts of the company from the reserve for the previous year ending on December 31st.

(3) The on-reserve property interests of a telephone company assessed pursuant to section 4(1) of this by-law are taxable at the rate equivalent to that imposed under provincial legislation in the province _____.

(4) Taxes payable under this by-law are a debt due to the _____ Band by the telephone company.

(5) The gross receipts tax provided for in this by-law shall be in lieu of all other tax which may be imposed on the telephone company's interest on the reserve.

ADMINISTRATION

5.(1) The council of the band shall by resolution appoint a Surveyor of Taxes.

(2) The Surveyor of Taxes shall be responsible for the administration and implementation of the provisions of this by-law.

(3) The Surveyor of Taxes shall prepare a report to the council of the band on or before April 1st in each year. The report shall include:

(a) A summary of the statements made under section 4(2);

(b) The amount of tax to be levied against each telephone company pursuant to section 4(3) for the current year; and

(c) The recommendations of the Surveyor of Taxes with respect to the administration of this by-law.

(4) Upon approval by the council of the band of the report made pursuant to section 5(3), the Surveyor of Taxes shall forthwith issue a Tax Notice to the telephone companies owning, controlling or operating a telephone system or line on the reserve.

(5) Taxes are due and payable twenty-one (21) days after the Tax Notice is posted.

(6) In addition to and separate from any penalty or enforcement that may be imposed under this by-law, interest shall run on all taxes that are due and payable at the rate of one and a half per cent (1.5%) interest per month.

TAX COLLECTION

6.(1) If the taxes imposed under this by-law remain unpaid after December 31st of the year in which they are levied, the council of the band may bring an action in a court of competent jurisdiction to collect the debt.

(2) Taxes due and payable are a special lien and encumbrance on the reserve interests of a telephone company.

IMPOSITION PROVISION

7.(1) The Surveyor of Taxes shall notify, forthwith, each telephone company owning, controlling or operating a telephone system or line on the reserve that this by-law is in effect, by registered mail.

(2) Every telephone company owning, controlling or operating a telephone system or line on the reserve shall commence tracking gross receipts from the reserve, for the purpose of preparing the report required under section 4(1), sixty (60) days after the notice under section 7(1) is mailed until December 31st of that year.

(3) For the first year that a tax is imposed under this by-law, the tax shall be ____ percent (%) of the gross receipts of each telephone company pursuant to section 7(2).

APPEALS

8. An appeal, by a telephone company or the council of the band, of the basis upon which the calculation of a gross receipt was made, pursuant to section 4(2), or an appeal of the amount or tax levied pursuant to sections 4(3), shall be made by way of action in a court of competent jurisdiction.

This by-law is hereby enacted by Council at a duly convened meeting held on the _____ day of _____ 20____.

Chief [please spell out the name here]

Councillor [please spell out the name here]

Councillor [please spell out the name here]