

**STANDARDS FOR
FIRST NATION PROPERTY TAXATION LAWS, 2016**

[Consolidated to ~~2020-06-25~~2024- -]

**PART I
PREAMBLE**

WHEREAS:

- A. Section 35 of the *First Nations Fiscal Management Act* gives the First Nations Tax Commission the authority to establish standards respecting the form and content of First Nation local revenue laws enacted under subsection 5(1) of the Act;
- B. Standards are established by the Commission to further the policy objectives of the Commission and the Act, including to ensure the integrity of the First Nations property taxation system and to assist First Nations to achieve economic growth through the generation of stable local revenues; and
- C. Section 31 of the Act requires the Commission to review every local revenue law and subsection 5(2) of the Act provides that such a law has no force and effect until it is reviewed and approved by the Commission.

**PART II
PURPOSE**

These Standards set out the requirements that must be met for First Nation property taxation laws enacted under paragraphs 5(1)(a) and (e) of the Act. These Standards are used by the Commission in its review and approval of First Nations' property taxation laws, pursuant to section 31 of the Act. The requirements established in these Standards are in addition to those requirements set out in the Act.

The Commission recognizes that each First Nation's property taxation system operates within the broader context of its fiscal relationships with other governments. These Standards are intended to support a more comprehensive First Nation fiscal framework within Canada.

**PART III
AUTHORITY AND PUBLICATION**

These Standards are established under subsection 35(1) of the Act and are published in the *First Nations Gazette* as required by subsection 34(1) of the Act.

**PART IV
APPLICATION**

These Standards apply to every property taxation law submitted to the Commission for approval under the Act.

**PART V
CITATION**

These Standards may be cited as the *Standards for First Nation Property Taxation Laws, 2016*.

**PART VI
DEFINITIONS**

In these Standards:

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

“annual rates law” means a law enacted under subparagraph 5(1)(a)(ii) of the Act, as required under subsection 10(1) of the Act;

“assessed value” means the value of an interest or right in reserve lands for assessment purposes, as determined under an assessment law;

“assessment law” means a law of a First Nation enacted under subparagraph 5(1)(a)(i) of the Act;

“base tax” means a uniform base amount of tax levied on every taxable property in a property class;

“child” includes a child for whom a person stands in the place of a parent;

“Commission” means the First Nations Tax Commission established under the Act;

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

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

“First Nation Entity” means

- (a) a corporation in which the First Nation beneficially owns or holds, directly or indirectly, shares
 - (i) having not less than fifty percent (50%) of the votes that could be cast at an annual meeting of the shareholders of the corporation, or
 - (ii) having not less than fifty percent (50%) of the fair market value of all of the issued shares of the capital stock of the corporation; or
- (b) a partnership in which the First Nation beneficially owns, directly or indirectly,
 - (i) not less than fifty percent (50%) of all voting rights of the partnership, or
 - (ii) interests in the partnership having not less than fifty percent (50%) of the fair market value of all of the interests in the partnership;

“holder”, in relation to an interest in reserve lands in Canada elsewhere than in Quebec, means a person

- (a) in possession of the interest,
- (b) entitled through a lease, licence or other legal means to the interest,
- (c) in actual occupation of the interest, or
- (d) who is a trustee of the interest;

“holder”, in relation to a right in reserve lands in Quebec, means a person

- (a) in possession of the right,
- (b) entitled through a lease, licence or other legal or contractual means to the right,
- (c) in de facto occupation of reserve lands, or any other immovable situated on reserve lands, or
- (d) who is a trustee of the right;

“interest”, in relation to reserve lands in Canada elsewhere than in Quebec, means any estate, right or interest of any nature in or to the lands, including any right to occupy, possess or use the lands, but does not include title to the lands that is held by Her Majesty;

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“Law” means a taxation law enacted under paragraphs 5(1)(a) and (e) of the Act, but does not include a property transfer tax law;

“property class” means a property class established in a First Nation’s assessment law;

“Province” refers to the province in which a First Nation’s reserve lands are situated;

“reference jurisdiction” means a taxing jurisdiction, located adjacent to a First Nation, that is identified for the purpose of comparing a First Nation’s tax rates;

“related individual” means, in respect of a member of the First Nation,

(a) that member’s spouse, child, grandchild, great-grandchild, parent, grandparent, great-grandparent or guardian,

(b) the spouse of that member’s parent, grandparent, great-grandparent, child, grandchild or great-grandchild, or

(c) the child, grandchild, great-grandchild, parent, grandparent or great-grandparent of that member’s spouse;

“reserve” means a reserve of a First Nation within the meaning of the *Indian Act*;

“reserve fund” in this Standard does not include a reserve fund established for development cost charges purposes or a debt reserve fund established by a borrowing member;

“resolution” means a motion passed and approved by a majority of Council present at a duly convened meeting;

“right”, in relation to reserve lands in Quebec, means any right of any nature in or to the lands, including any right to occupy, possess or use the lands and any right of a lessee, but does not include title to the lands that is held by Her Majesty;

“spouse” includes a common law partner;

“tax administrator” means a person appointed by Council to administer and enforce a Law;

“tax district” means a geographically defined area comprising all or portions of one or more reserves that is established for the purpose of setting tax rates;

“tax notice” means a notice of taxes owing sent to a holder of taxable property under a Law;

“tax roll” means a list of persons liable to pay tax on taxable property;

“taxable property” means an interest or right in reserve lands that is subject to tax under a Law;

“taxation year” means the calendar year to which an assessment roll applies for the purposes of taxation;

“taxes” includes

(a) all taxes on interests or rights in reserve lands imposed, levied, assessed or assessable under a local revenue law, and all penalties, interest and costs added to taxes under a Law; and

(b) for the purposes of collection and enforcement, all taxes on interests or rights in reserve lands imposed, levied, assessed or assessable under any local revenue law of the First Nation, and all penalties, interest and costs added to taxes under such a Law;

“taxpayer” means a person liable for taxes in respect of taxable property; and

“transition period” means the first five (5) years during which a First Nation implements taxation under a Law.

For greater certainty, an interest or right, in relation to reserve lands, includes improvements.

Except as otherwise provided in these Standards, words and expressions used in these Standards have the same meaning as in the Act.

[am. FNTC Resolution 2018-06-25; 2018-12-12; 2019-02-13; 2020-06-25-; 2024- - .]

PART VII STANDARDS

1. Appointment of Tax Administrator

1.1 The Law must provide for the appointment by Council, by resolution, of a tax administrator to oversee the administration and enforcement of the Law.

1.2 The Law must provide that the tax administrator is responsible for the day-to-day management of the First Nation's local revenue account.

2. Tax Liability

2.1 The Law must provide that

- (a) for reserve lands elsewhere than in Quebec, the Law applies to all interests in reserve lands;
- (b) for reserve lands in Quebec, the Law applies to all rights in reserve lands; and
- (c) all interests or rights in reserve lands are subject to taxation unless exempted from taxation in accordance with the Law.

2.2 The Law must provide that taxes must be levied on each interest or right in reserve lands by applying the applicable tax rate against the assessed value of the interest or right, except as provided in subsections 2.3 and 2.5.

2.3 If a First Nation wishes to establish a minimum amount of tax to be levied on taxable property in a property class, the Law must provide that the First Nation may set a minimum tax in one (1) or more property classes in its annual rates law each year.

2.4. A First Nation located in Saskatchewan may provide for a base tax to be levied on taxable property in one (1) or more property classes.

2.5 If a First Nation located in Saskatchewan wishes to provide for a base tax, the Law must provide that (a) the First Nation may set a base tax in one (1) or more property classes in its annual rates law each year;

(b) the amount of the base tax may be different for different property classes;

(c) the base tax must be applied uniformly to all taxable properties in a property class; and

(d) taxes must be levied on each taxable property in that property class by

(i) applying the applicable tax rate against the assessed value of the taxable property, and

(ii) applying the applicable base tax.

[am. FNTC Resolution 2019-02-13-; 2024- - .]

3. Tax Districts

3.1 Where a First Nation wishes to have one (1) or more tax districts, the Law must

- (a) establish each tax district; and
- (b) describe the reserves and parts of reserves included in each district, using either a map or written description that clearly defines the geographical boundaries of the tax district.

3.2 A First Nation may only establish a tax district where necessary to create a fair taxation regime because the First Nation

- (a) has multiple reserves and one (1) or more of the reserves or parts of reserves have differing levels of servicing requirements or different reference jurisdictions; or
- (b) has a single reserve and one or more parts of the reserve has differing levels of servicing requirements or different reference jurisdictions.

4. Transition Period for Certain Taxing First Nations

4.1 Where a First Nation is implementing taxation for the first time and, in the year prior to making the Law,

- (a) the interests or rights in reserve lands that will be subject to taxation under the Law were not subject to provincial taxation jurisdiction, and
- (b) the First Nation charged a fee for the provision of local services to holders of interests or rights in reserve lands in all or certain property classes,

the Law must include requirements for establishing tax rates during the transition period for those property classes that were subject to the fee referenced in paragraph (b), which requirements must comply with subsections 4.2 and 4.3.

4.2 Where subsection 4.1 applies to a First Nation, the Law must require the First Nation to establish tax rates in each year of the transition period that

- (a) are based on annual budgeting for the provision of local services to taxpayers; or
- (b) will move incrementally towards establishing tax rates that are identical to the tax rates set by the reference jurisdiction.

4.3 Where a First Nation's Law

- (a) applies paragraph 4.2(a), the Law must include a list of the services to be provided, the estimated costs of the services, and the anticipated tax rates in each applicable property class in each year of the transition period; or
- (b) applies paragraph 4.2(b), the Law must include a list of the services to be provided and the anticipated tax rates in each applicable property class in each year of the transition period.

4.4 For clarity, nothing in this section prevents a First Nation located in Saskatchewan from setting the full amount of base taxes starting in the first year of the transition period.

[am. FNTPC Resolution 2019-02-13-; 2024- - .]

5. Exemptions from Taxation

5.1 Where a First Nation wishes to provide for exemptions from property taxation under a Law, those exemptions must be set out in the Law.

5.2 Where exemptions from taxation are included in a Law, the exemptions must be in respect of interests or rights in reserve lands in one or more of the following categories:

- (a) an exemption for an interest or right held or occupied by the First Nation, a First Nation Entity, or a member of the First Nation;
- (b) an exemption for an interest or right occupied as a residence by one (1) or more members of the First Nation and related individuals of those members and by no other persons; or
- (c) an exemption in a class of exemption used by local governments in the Province.

5.3 Where a Law provides an exemption under paragraph 5.2(a), the Law must provide that where an interest or right in reserve lands is held by the First Nation, a First Nation Entity or a member of the First Nation and is wholly occupied by a person who is not the First Nation, a First Nation Entity or a member of the First Nation,

- (a) the exemption does not apply to the person who is not the First Nation, a First Nation Entity or a member of the First Nation;
- (b) that person is responsible for the taxes levied in respect of the interest or right; and
- (c) the taxes are a liability only on that person.

5.4 Where a Law provides an exemption under paragraph 5.2(a), the Law must provide that where an interest or right in reserve lands is occupied by the First Nation, a First Nation Entity or a member of the First Nation and is also occupied by a person who is not the First Nation, a First Nation Entity or a member of the First Nation,

- (a) the exemption does not apply to the person who is not the First Nation, a First Nation Entity or a member of the First Nation;
- (b) that person is responsible for the taxes levied in respect of that person's proportionate occupation of the interest or right; and
- (c) the taxes are a liability only on that person.

[am. FNTC Resolution 2018-06-25; 2018-12-12; 2019-02-13.]

6. Grants and Tax Abatement

6.1 Where a Law provides for a granting program, the Law must

- (a) set out the objectives of the program, which must relate to a community purpose or goal;
- (b) set out the qualifying criteria for the program;
- (c) provide that the grant
 - (i) may be given only to a holder of taxable property that is taxable in the current taxation year,
 - (ii) must be in an amount equal to or less than the taxes payable on the taxable property in the current taxation year, less any other grants, abatements or offsets, and
 - (iii) must be used only for the purposes of paying the taxes owing on the taxable property in the current taxation year; and
- (d) provide that Council will in each taxation year determine all grants that will be given and authorize those grants in an expenditure law.

6.2 The Law may provide for a form of tax abatement only where it is the same type and the same amount or percentage amount of abatement that is provided by the Province.

6.3 Where a Law provides for tax abatement, the qualifying requirements must be set out in the Law, and the amount of abatements given must be shown annually in the annual expenditure law.

[am. FNTC Resolution 2019-02-13.]

7. Reserve Funds

7.1 If a First Nation wishes to establish a reserve fund or use a reserve fund existing at the time the First Nation was added to the schedule to the Act,

- (a) the Law must include the provisions set out in this section; and

(b) each reserve fund must be established in an expenditure law.

7.2 The Law must include the following provisions respecting the use of reserve funds:

(a) except as authorized in the Law, money in a reserve fund and interest earned on it must be used only for the purpose for which the reserve fund was established;

(b) Council may, by expenditure law,

(i) transfer moneys in a capital purpose reserve fund to another reserve fund or account only where all projects for which the reserve fund was established have been completed,

(ii) transfer money in a non-capital purpose reserve fund to another reserve fund or account,

(iii) borrow money from a reserve fund where not immediately required, on condition that the First Nation repay the amount borrowed plus interest on that amount at a rate that is at or above the prime lending rate set from time to time by the principal banker to the First Nation, no later than the time when the money is needed for the purposes of that reserve fund, and

(iv) as an exception to subparagraph (iii), borrow money from a reserve fund where the First Nations Financial Management Board has assumed third-party management of the First Nation's local revenue account and, acting in the place of the Council, has determined that moneys must be borrowed from a reserve fund to meet the financial obligations of the First Nation; and

(c) all payments into a reserve fund and all expenditures from a reserve fund must be authorized by expenditure law.

7.3 Where a Law provides for the investing of moneys in a reserve fund that are not immediately required, it must allow for investment only in one or more of the following:

(a) securities of Canada or of a province;

(b) securities guaranteed for principal and interest by Canada or by a province;

(c) securities of a municipal finance authority or the First Nations Finance Authority;

(d) investments guaranteed by a bank, trust company or credit union; or

(e) deposits in a bank or trust company in Canada or non-equity or membership shares in a credit union.

8. Tax Payments

8.1 The Law must

(a) provide for the date on which taxes are due and payable; and

(b) set out the acceptable forms of payment and where payment must be made, if applicable.

8.2 Where the Law provides for tax payments by instalments, the Law must set out

(a) how a taxpayer may apply to pay taxes by instalments;

(b) the due date for each instalment;

(c) how each instalment amount will be calculated;

(d) any consequences of failing to pay an instalment by the instalment due date; and

(e) any penalties or interest that will be levied on unpaid instalment payments and when such charges will be imposed.

8.3 The Law may require taxpayers to make an interim tax payment before the First Nation establishes its annual tax rates, provided the Province permits interim tax levies in the provincial property taxation regime.

8.4 Where a Law requires an interim tax payment, the Law must set out

- (a) the date on which the interim payment is due and payable;
- (b) the calculation of the interim payment amount based on a specified percentage of the property value taxes levied on an interest or right in reserve lands in the previous taxation year;
- (c) the interim tax payment percentage for each property class;
- (d) that the interim tax payment will be applied towards the total taxes owing for that taxation year; and
- (e) any penalties or interest that will be levied on an unpaid interim tax payment and when such charges will be imposed.

8.5 The percentages required by paragraph 8.4(c) must not exceed the percentages permitted under the applicable legislation in the Province.

[am. FNTC Resolution 2019-02-13.]

9. Tax Roll and Tax Notices

9.1 The Law must provide for the tax administrator to create a tax roll each year by a date set out in the Law.

9.2 The Law must require the tax administrator to mail a tax notice in each year by a date set out in the Law that is at least thirty (30) days before the date that any taxes are due.

9.3 The Law must require the tax administrator to mail a tax notice to

- (a) each holder of taxable property subject to tax; and
- (b) each person whose name appears on the tax roll in respect of a taxable property.

9.4 The Law must require a tax notice to contain at least the following information:

- (a) a description of the interest or right in reserve lands;
- (b) the taxes imposed under the Law for the current taxation year, or the interim payment amount owing, as applicable;
- (c) when penalties will be added if taxes are not paid;
- (d) any unpaid taxes, penalties, interest and costs in respect of the interest or right in reserve lands; and
- (e) where payment must be made, the manner of payment, and the date or dates the taxes are due, including due dates for any interim tax payments and instalment tax payments.

9.5 The Law must provide for the mailing of amended tax notices where the tax roll is amended to reflect an amended, revised or supplementary assessment roll.

[am. FNTC Resolution 2019-02-13.]

10. Tax Refunds

10.1 The Law must set out procedures for providing refunds to taxpayers and the circumstances under which refunds will be given, and must include at least the following provisions:

- (a) a refund of excess taxes paid where a change in the assessment results in a reduction of taxes for an interest or right in reserve lands;

(b) payment of interest at a rate of two percent (2%) below the prime lending rate of the principal banker to the First Nation on the fifteenth day of the month immediately preceding the calculation of the interest for the following three (3) month period.

10.2 Notwithstanding subsection 10.1, the Law may provide that excess taxes be applied as a credit on account of taxes or other unpaid amounts due to the First Nation.

[am. FNTC Resolution 2019-02-13.]

11. Penalties, Collection and Enforcement

11.1 Where the Law provides for a penalty to be imposed in respect of unpaid taxes, the Law must set out the date on which a penalty will be imposed if taxes remain unpaid.

11.2 The Law must set out the enforcement measures that may be taken by the First Nation to collect unpaid taxes.

11.3 If the First Nation wishes to recover its costs of enforcement, the Law must set out the types of costs and how the amounts are determined.

12. Confidentiality

The Law must provide for the confidentiality of information and documents obtained by the tax administrator, assessor, the Assessment Review Board and any other person who has custody or control of records obtained or created under the Law, except that disclosure may be made

- (a) in the course of administering the Law or performing functions under it;
- (b) in proceedings before the Assessment Review Board, a tribunal having jurisdiction, or a court of law;
- (c) where a holder gives written authorization for his or her agent to obtain confidential information relating to an interest or right in reserve lands;
- (d) by the tax administrator to a third party for research (including statistical) purposes, provided the information or documents do not include any information that is in an individually identifiable form; or
- (e) by Council to a third party for research (including statistical) purposes.

[am. FNTC Resolution 2019-02-13.]

PART VIII

REVOCATION AND COMING INTO FORCE

Revocation

The *Standards for First Nation Property Taxation Laws* that were established and effective as of October 22, 2007, are revoked.

Coming Into Force

These Standards are established and in effect as of April 1, 2016.

**PART IX
ENQUIRIES**

All enquiries respecting these Standards should be directed to:

First Nations Tax Commission
321 – 345 Chief Alex Thomas Way
Kamloops, BC V2H 1H1
Telephone: (250) 828-9857

**STANDARDS FOR
FIRST NATION ANNUAL TAX RATES LAWS, 2017**

[Consolidated to ~~2019-02-13~~2024- -]

**PART I
PREAMBLE**

WHEREAS:

- A. Section 35 of the *First Nations Fiscal Management Act* gives the First Nations Tax Commission the authority to establish standards respecting the form and content of First Nation local revenue laws enacted under subsection 5(1) of the Act;
- B. Standards are established by the Commission to further the policy objectives of the Commission and the Act, including to ensure the integrity of the First Nations property taxation system and to assist First Nations to achieve economic growth through the generation of stable local revenues; and
- C. Section 31 of the Act requires the Commission to review every local revenue law and subsection 5(2) of the Act provides that such a law has no force and effect until it is reviewed and approved by the Commission.

**PART II
PURPOSE**

These Standards set out the requirements that must be met for First Nation tax rates laws enacted under subparagraph 5(1)(a)(ii) and subsection 10(1) of the Act. These Standards are used by the Commission in its review and approval of First Nations' tax rates laws, pursuant to section 31 of the Act. The requirements established in these Standards are in addition to those requirements set out in the Act.

The Commission recognizes that each First Nation's property taxation system operates within the broader context of its fiscal relationships with other governments. These Standards are intended to support a more comprehensive First Nation fiscal framework within Canada.

**PART III
AUTHORITY AND PUBLICATION**

These Standards are established under subsection 35(1) of the Act and are published in the *First Nations Gazette* as required by subsection 34(1) of the Act.

**PART IV
APPLICATION**

These Standards apply to every property tax rates law submitted to the Commission for approval under the Act.

**PART V
CITATION**

These Standards may be cited as the *Standards for First Nation Annual Tax Rates Laws, 2017*.

**PART VI
DEFINITIONS**

In these Standards:

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

“agricultural property” means an interest in reserve lands classified as “non-arable (range)” or “other agricultural” in Saskatchewan;

“annual rate of national inflation” means the change in the Annual Average Consumer Price Index for Canada, All-Items, maintained by Statistics Canada;

“assessable property” means an interest or right in reserve lands that is subject to assessment under a First Nation’s assessment law;

“assessed value” means the value of an interest or right in reserve lands for assessment purposes, as determined under an assessment law;

“assessment law” means a law enacted by a First Nation under subparagraph 5(1)(a)(i) of the Act;

“average tax bill” means either

- (a) the mean of the tax bills of all taxpayers in a property class, net of all grants; or
- (b) the median tax bill of a representative taxpayer in a property class, net of all grants;

“base tax” means a uniform base amount of tax levied on every taxable property in a property class;

“Commission” means the First Nations Tax Commission established under the Act;

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

“interest”, in relation to reserve lands in Canada elsewhere than in Quebec, means any estate, right or interest of any nature in or to the lands, including any right to occupy, possess or use the lands, but does not include title to the lands that is held by Her Majesty;

“Law” means a tax rates law enacted under subparagraph 5(1)(a)(ii) of the Act;

“property class” means a property class established in a First Nation’s assessment law;

“Province” refers to the province in which a First Nation’s reserve lands are situated;

“reference jurisdiction” means a taxing jurisdiction, located adjacent to the First Nation, that is identified for the purpose of comparing a First Nation’s tax rates;

“reference jurisdiction transition plan” means a plan that meets the requirements of section 11;

“reserve” means a reserve of a First Nation within the meaning of the *Indian Act*;

“right”, in relation to reserve lands in Quebec, means any right of any nature in or to the lands, including any right to occupy, possess or use the lands and any right of a lessee, but does not include title to the lands that is held by Her Majesty;

“tax district” means a tax district established in a First Nation’s taxation law;

“taxable area” means the total area of the interest in reserve lands or portion of the interest in reserve lands, rounded to the nearest acre;

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

“taxation law” means a law enacted under paragraphs 5(1)(a) and (e) of the Act, but does not include a

property transfer tax law;

“Taxation Law Standards” means the Commission *Standards for First Nation Property Taxation Laws, 2016*; and

“transition period” has the meaning given to that term in the Taxation Law Standards.

For greater certainty, an interest or right, in relation to reserve lands, includes improvements.

Except as otherwise provided in these Standards, words and expressions used in these Standards have the same meaning as in the Act.

[am. FNTC Resolution 2019-02-13.]

PART VII STANDARDS

1. Setting Tax Rates

1.1 Except as provided in subsection 1.2 and section 3, the Law must set a single tax rate for each property class.

1.2 The Law may set multiple tax rates in a property class where multiple tax rates are set in the First Nation’s reference jurisdiction, provided the Law

(a) sets the same number of tax rates in each property class that are set in the reference jurisdiction; and

(b) uses the same criteria that are used in the reference jurisdiction for the application of those tax rates in each property class.

1.3 The Law must set for each property class a tax rate as

(a) a rate for each dollar (\$1) of assessed value;

(b) a rate for each one hundred dollars (\$100) of assessed value; or

(c) a mill rate for each one thousand dollars (\$1000) of assessed value.

1.4 As an exception to subsection 1.3, a Law may set a tax rate for a property class on a different basis where

(a) the First Nation set a tax rate within that property class on a different basis at the time of being scheduled under the Act; or

(b) the First Nation’s reference jurisdiction sets a tax rate on a different basis within that property class.

1.5 For clarity, the requirement to set a tax rate does not apply to a property class where there are no assessable properties in that class.

2. Application of Tax Rates

Except as provided in sections [3.4](#) and [417](#),

(a) the Law must provide that taxes must be levied on each taxable property by applying the applicable tax rate against the assessed value of the taxable property; and

(b) the Law must provide for the tax rate in each property class to be applied equally to all taxable property in that class.

3. Tax Districts and Multiple Reference Jurisdictions

- 3.1 Where a First Nation has established one (1) or more tax districts,
- (a) the First Nation may set a tax rate for each property class in each tax district; and
 - (b) the requirements in these Standards respecting setting tax rates and establishing minimum tax must be interpreted to apply separately within each tax district.
- 3.2 Where a First Nation has multiple reserves and has more than one (1) reference jurisdiction in respect of its reserves, the Law may set different tax rates for different reserves, provided that those reserves with the same reference jurisdiction must have the same tax rate in each property class.

4. Minimum Tax

Where a First Nation's taxation law provides that a minimum tax may be established in one or more property classes,

- (a) the Law may, despite section 2, establish a minimum amount of tax to be levied on taxable property within one or more property classes; and
- (b) the amount of the minimum tax must not exceed one hundred dollars (\$100), except as provided in section 5.

5. Exceptions to Minimum Tax Limit

5.1 The Law may establish a minimum tax in an amount greater than one hundred dollars (\$100) where required to create a fair taxation regime because of one or more of the following circumstances:

- (a) the First Nation had established a higher minimum tax amount in its taxation regime existing at the time of being scheduled under the Act;
- (b) the First Nation wishes to harmonize with minimum tax amounts established in the Province or the reference jurisdiction; and
- (c) the First Nation's costs of providing services to assessable properties with lower assessed values exceeds one hundred dollars (\$100).

5.2 As an exception to subsection 5.1, where a First Nation has included transition provisions in its taxation law in accordance with section 4 of the Taxation Law Standards, in each year of the transition period the Law must establish a minimum tax that is equal to the service fee charged by the First Nation in the year prior to its first taxation year.

6. Rate Setting in First Taxation Year

Where a First Nation is exercising property taxation jurisdiction for the first time, the First Nation must apply the same assessment practices as the former taxing authority, or the reference jurisdiction where there is no former taxing authority, and the Law must

- (a) set tax rates that do not exceed those set by the former taxing authority in the current year; or
- (b) set tax rates that do not exceed those set by the reference jurisdiction in the current year, where there is no former taxing authority.

7. Rate Setting in Subsequent Years Using Average Tax Bill

7.1 In the second and all subsequent years that a First Nation exercises property taxation powers, the Law must set tax rates based on the First Nation's budget for the expenditure of local revenues that, when applied, result in an average tax bill for each property class that has not increased from the previous year by more than

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(a) the annual rate of national inflation from the previous year; or

(b) the average tax bill increase for each property class in the reference jurisdiction from the previous year.

7.2 For the purposes of subsection 7.1, where a representative taxpayer is used to determine the average tax bill,

(a) that taxpayer must have been a taxpayer in the previous year and must be a taxpayer in the current year; and

(b) a change in the assessed value of the assessable property held by that taxpayer from the previous year that is attributable to new construction, to the addition of lands to the assessable property, or that results from an assessment appeal, must be excluded when determining the average tax bill increase.

7.3 For the purposes of subsection 7.1, where the mean of the tax bills of all taxpayers is used to determine the average tax bill,

(a) each taxpayer must have been a taxpayer in the previous year and must be a taxpayer in the current year; and

(b) any changes in assessed values to assessable properties in that property class that are attributable to new construction, to the addition of lands to assessable properties, or that result from assessment appeals, must be excluded when determining the average tax bill increase.

7.4 For the purposes of subsection 7.1, where the assessed value of an assessable property is determined using a rate set by reference to a provincial regulation,

(a) that assessable property may be excluded when determining the average tax bill increase in a property class; or

(b) the average tax bill may be calculated by excluding any increases or decreases in the assessed value of that assessable property from the previous year to the current year.

[am. FNTC Resolution 2019-02-13.]

8. Rate Setting in Subsequent Years Using Reference Jurisdiction

8.1 As an alternative to the approach set out in subsection 7.1, the Law may set tax rates that are identical to the tax rates set in the reference jurisdiction in the current year and the immediately preceding year, including by setting the same number of tax rates where the reference jurisdiction sets multiple tax rates within a property class.

8.2 Where a Law sets tax rates as provided in subsection 8.1, the First Nation must use assessment practices that are identical to the reference jurisdiction in the current year and the immediately preceding year.

9. Rate Setting Where First Nation Has Transition Provisions in Taxation Law

9.1 Where a First Nation has included transition provisions in its taxation law in accordance with section 4 of the Taxation Law Standards, in each year of the transition period the Law must set tax rates for the applicable property classes that are consistent with those transition provisions, and sections 6, 7 and 8 do not apply.

9.2 Where subsection 9.1 applies and a Law sets a tax rate that is higher than and not consistent with the

transition provisions in the First Nation's taxation law, the First Nation may provide justification of the rate for Commission consideration on the basis set out in paragraph 10.1(c).

[am. FNTC Resolution 2019-02-13.]

10. Justifications for Additional Rate Increases

10.1 Where a Law sets a tax rate that does not meet the criteria set out in subsection 7.1, the First Nation may provide justification of the rate for Commission consideration, on one (1) or more of the following bases:

- (a) the First Nation's costs of providing local services, such as water, sewer, waste collection, fire protection and roads, have increased significantly from the previous year;
- (b) the rate is consistent with the First Nation's reference jurisdiction transition plan; and
- (c) the taxpayers in the affected property class support the proposed rate.

10.2 Where a First Nation proposes to justify a tax rate under paragraph 10.1(a), the First Nation must provide to the Commission a signed service agreement evidencing the increased costs, or written evidence of the increased costs signed by the First Nation's chief financial officer.

10.3 Where a First Nation proposes to justify a tax rate under paragraph 10.1(c), the First Nation must provide to the Commission letters of support from individual taxpayers or taxpayer associations representing

- (a) at least fifty percent (50%) of the taxpayers in that property class; and
- (b) taxpayers holding at least fifty percent (50%) of the total assessed values in that property class.

11. Justification on the Basis of Transition to Reference Jurisdiction Rate-Setting

A First Nation that proposes to justify an increase in its tax rates in one or more property classes in order to transition to setting tax rates that are identical to the reference jurisdiction must develop a reference jurisdiction transition plan that

- (a) provides a justification for the proposed increases in tax rates that relates either to providing a higher level of local services to the taxpayers, or to building new or replacement local service infrastructure; and
- (b) sets out how tax rates will increase incrementally in one (1) or more property classes over a period of not more than five (5) years in order to match the reference jurisdiction rates in all property classes.

[am. FNTC Resolution 2018-06-25.]

12. [am. FNTC Resolution 2018-06-25.]

PART VIII

STANDARDS FOR AGRICULTURAL PROPERTIES IN THE PROVINCE OF SASKATCHEWAN

13. Application of This Part

13.1 This Part applies to the setting of tax rates for agricultural property where a First Nation's ~~property~~ taxation law provides for taxation on the basis of the taxable area of the agricultural property.

13.2 Where this Part applies to the setting of tax rates in a property class, Part VII does not apply to the setting of tax rates in that property class.

14. Rate Setting Per Acre

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14.1 The Law must set a single tax rate in a property class that is equal to or less than the amount levied per acre in the same property class in the reference jurisdiction.

14.2 For the purposes of subsection 14.1, the amount levied per acre in the reference jurisdiction must be determined by dividing the total property tax revenues within the property class by the total number of acres of property within that property class.

15. No Minimum Tax

A Law must not establish a minimum tax in a property class to which this Part applies.

PART IX

STANDARDS FOR SETTING BASE TAX IN THE PROVINCE OF SASKATCHEWAN

16. Application of This Part

This Part applies where a First Nation's taxation law authorizes a base tax to be levied in one (1) or more property classes.

17. Setting Base Taxes

17.1 Where a First Nation's taxation law provides that a base tax may be levied in one (1) or more property classes,

- (a) the Law may set a base tax to be levied on taxable property in any of those property classes;
- (b) the amount of the base tax may be different for different property classes; and
- (c) the amount of the base tax must not exceed one thousand dollars (\$1000), except as provided in section 21.

17.2 Where a Law sets a base tax in a property class,

- (a) the Law must provide that taxes must be levied on each taxable property in that property class by
 - (i) applying the applicable tax rate against the assessed value of the taxable property, and
 - (ii) applying the applicable base tax; and
- (b) the Law must provide for the base tax to be applied equally to all taxable property in that property class.

18. Tax Districts and Multiple Reference Jurisdictions

Where section 3 applies, the provisions respecting setting tax rates apply equally to setting base taxes.

19. Minimum Tax

19.1 A Law must not establish a minimum tax in a property class where the Law sets a base tax.

19.2 Where section 5.2 applies, a First Nation may instead set a base tax equal to or greater than the service fee charged by the First Nation in the year prior to its first taxation year.

20. Base Tax in Subsequent Years Using Average Tax Bill

Where section 7 applies, any base tax levied in a property class must be included in the calculation of the average tax bill in that property class.

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21. Base Tax Using Reference Jurisdiction

Where section 6 or section 8 applies, the Law may set a base tax in a property class that is more than one thousand dollars (\$1000) provided it does not exceed the base tax set in the reference jurisdiction in that property class in the current year.

PART X

REVOCATION AND COMING INTO FORCE

Revocation

The *Standards for First Nation Tax Rates Laws, 2016* that were established and effective as of April 1, 2016, are revoked.

Coming Into Force

These Standards are established and in effect as of June 28, 2017.

PART XXI

ENQUIRIES

All enquiries respecting these Standards should be directed to:

First Nations Tax Commission
321 – 345 Chief Alex Thomas Way
Kamloops, BC V2H 1H1
Telephone: (250) 828-9857