

December 20, 2019

Proposed Amendments to the Standards for First Nation Service Tax Laws, 2016

Standards established by the First Nations Tax Commission (FNTC) reflect best practices in property taxation, and are designed to support First Nation economic growth, First Nation jurisdiction, harmonization, and the interests of all stakeholders in the First Nation property tax system.

Under the *First Nations Fiscal Management Act* (the “Act”), the FNTC reviews and approves laws. Section 35(1) of the Act gives the FNTC the authority to establish standards, not inconsistent with the regulations. The standards established by the FNTC are additional requirements and, together with the Act and its associated regulations, form the regulatory framework supporting First Nation taxation under the Act.

As a matter of policy, the FNTC seeks public input prior to introducing or significantly amending its Standards. This input is critical in developing standards that are acceptable and effective for participating First Nations and their taxpayers.

The FNTC has established *Standards for First Nation Service Tax Laws, 2016* (“Standards”) to support First Nations wishing to enact service tax laws under subparagraph 5(1)(a)(iii) of the Act. First Nations may enact a service tax law to recover all or a portion of the cost of infrastructure used for the provision of local services. Under the current Standards, a First Nation must enact a service tax law before construction of the infrastructure that will be funded by the service tax, based on estimated costs. The FNTC is proposing amendments to the Standards to provide an option for First Nations to enact a service tax law after the completion of construction of the infrastructure, based on actual costs. The proposed amendments will provide First Nations with an additional option for implementing a service tax to fund needed infrastructure.

The proposed amendments to the Standards include:

- New definitions to support the proposed changes.
- A new subsection 1.4 to ensure that the service tax law is enacted not more than one year after the completion of the infrastructure.
- An amendment to subsection 3.1 to clarify that the opportunity to benefit from a service can be immediate or in the future.
- Amendments to section 5 to reflect that a First Nation will use either the estimated or actual costs, depending on the approach that is chosen.
- Amendments to subsection 10.1 and 10.3 to limit the requirements in subsection 10.1 to laws made before construction, and create new requirements in subsection 10.3 for laws made after completion of construction.

In addition to the above amendments, an amendment is proposed to section 8 to ensure that a service tax is levied for not less than five years. This change reflects that the cost of infrastructure should be amortized over a period of time.

The FNTC is seeking public input in respect of these proposed Standards. If you wish to learn more about the proposed changes, please contact the FNTC at mail@fntc.ca or by telephone toll free at 1 (855) 682-3682. Electronic versions of the proposed Standards (changes are highlighted in red) are available at www.fntc.ca or by clicking the link below:

[Proposed Standards for First Nation Service Tax Laws, 2016](#)

Please direct your written comments on or before February 3, 2020 to:

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