

factsheet



Assessment Services for First Nations (This fact sheet does not apply to assessment of treaty lands)

BCAssessment

First Nations and Taxation of Real Estate on Reserve Lands

Federal legislation

In 1998, federal government passed amendments to the *Indian Act* allowing First Nations to tax real property on reserve lands. In 2006, the federal government enacted the *First Nations Fiscal and Statistical Management Act* (“*FSMA*”) which also authorizes First Nations to carry out independent assessment and taxation on reserve lands. Some First Nations will continue to assess and tax pursuant to their powers under the *Indian Act*, while others have opted into the *FSMA* assessment and taxation system.

Provincial legislation

In 1990, the government of British Columbia passed the *Indian Self Government Enabling Act*, which addresses First Nations’ assessment and property taxation in British Columbia, under either the *Indian Act* or, subsequently, the *FSMA*.

Options

There are three options under the *Indian Self Government Enabling Act* for a First Nation to enter the property tax field:

1. Concurrent Taxation — allows First Nations and local governments to share taxation.
2. Independent Taxation — allows provincial taxes to be completely removed if First Nations wish to implement their own property tax system.
3. Indian District Taxation — allows First Nations with Indian District status to assume duties and functions similar to those of a municipality or other authority providing local services.

All independently taxing First Nations in British Columbia have chosen option 2— independent taxation. First Nations who independently assess and tax must pass property assessment and taxation

bylaws (*Indian Act*) or property assessment and taxation laws (*FSMA*). The federal First Nation Tax Commission (FNTC) supports the band as it develops the bylaws or laws and reviews them once they are completed. If the bylaws are passed under the *Indian Act*, then the federal Minister of Indian and Northern Affairs Canada must approve them. If the laws are passed under the *FSMA*, then the FNTC is the approval body. The FNTC is also available to intervene in disputes between the taxing First Nations and their ratepayers, to try and facilitate an agreement. Further information about the FNTC can be found at www.fntc.ca/main.phtml.

Process for First Nations Entering Real Property Assessment and Taxation

1. The First Nation sends a Notice of Intent to the B.C. Minister of Finance, setting out which reserves will be subject to independent assessment and taxation.
2. If bylaws (or laws) are enacted by a First Nation before March 1 of the calendar year of the notice, the bylaws/laws can take effect in either the current year (the taxes can be collected in the next calendar year) or the next calendar year (the taxes can be collected the year after that). If bylaws/laws are enacted after March 1, then the First Nation must confirm, in the notice, that the next calendar year will be the first for which the assessment laws will apply (and the taxes will be collected the year after that).
3. The Minister of Finance issues a certificate notifying other provincial tax authorities that the First Nation intends to proceed with independent taxation.
4. No later than June 1, the First Nation submits, to FNTC, its assessment and taxation bylaws/laws.
5. FNTC reviews bylaws/laws and either approves (if laws under *FSMA*) or refers them to Minister of Indian and Northern Affairs Canada for approval (if bylaws under *Indian Act*). Once the bylaws/laws are approved, the First Nation will

enter independent taxation for the next taxation year or the year after that (as specified by the bylaws/laws), and BC Assessment must remove the folios (Assessment Roll numbers) from the provincial roll.

6. The First Nation may contract with BC Assessment, hire a tax agent, or prepare the roll itself. If the First Nation contracts with BC Assessment, its assessment and taxation bylaws/laws must be provided to BC Assessment no later than July 31 or BC Assessment will not have sufficient programming time to create the upcoming assessment roll for the First Nation. The fee structure for basic assessment services to First Nation is currently the equivalent of the BC Assessment levy amount, plus a one-time per folio set-up fee.
7. The First Nation prepares its tax notices based on the assessment roll and sends them to the taxpayers (typically in early summer).

Role of BC Assessment

BC Assessment is a provincial Crown corporation that produces annual assessment rolls for and sends assessment notices to all assessable properties in British Columbia. For independently assessing First Nations, taxable occupiers of First Nations lands are assessed and taxed. Results of First Nations' assessment appeals are reflected on a subsequent roll. Depending on the timing of the appeal process, those results may or may not be reflected prior to the First Nation setting its tax rates for various classes of property.

Most property assessments in British Columbia are based on market value, which is the price an unencumbered property would sell for on July 1, if a reasonable amount of time is allowed to find a purchaser. Many First Nations' assessment bylaws/laws require the fee simple value to be determined as if the taxably occupied property were located off the reserve. For properties that typically do not trade in the real estate market, such as heavy industrial plants or public utilities, BC Assessment uses special valuation procedures or rates which are generally adopted by independently assessing and taxing First Nations.

BC Assessment also provides additional services to independently assessing and taxing First Nations, including:

- Setting up initial jurisdiction coding, identification and program modifications;
- Assistance in developing property and ownership records; upgrading the integrity of existing records in cooperation with First Nation clients;
- Reviewing and suggesting modifications of bylaws upon First Nation's request. First Nation bylaws may not exactly match the Assessment Act and could require additional legal consultation;
- Informing First Nations of changes to legislation and regulations affecting the provincial assessment process;
- Defending assessments through the review process, In accordance with the terms of the contract of services;
- Handling additional inquiries when tax notices are issued;
- Preparing detailed identification, creating new entries, amending old entries, and coding all continuous structures, such as pipelines and railways traversing First Nation lands; and
- Other professional assessment services not covered under the *Indian Self-Government Enabling Act*.

More Information

For more information contact:

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