



TSLEIL-WAUTUTH NATION

PEOPLE *of the* INLET

COMMUNITY LAW SERIES

The New Property Tax Laws

Understanding The FSMA

First Nations Fiscal and Statistical Management Act.

The Tsleil-Waututh Nation (“TWN”) has had a property tax system in place since 2000, using taxation bylaws drafted under the *Indian Act*.

The FSMA was enacted in 2005, and TWN is one of the 51 First Nations that have signed on to the FSMA Schedule.

TWN was added to the FSMA Schedule on January 30, 2009 and on that date, TWN’s former tax bylaws became laws under the FSMA. However, TWN drafted new Property Taxation, Property Assessment, Rates, and Expenditure Laws, as they better fit within the FSMA, and provide better protection to TWN and its taxpayers.

Council approved the proposed Taxation and Assessment Laws on August 19, 2009. The 60-day notice period started on October 14, 2009, and we expect that the Laws will come into effect on December 14, 2009, in time to be used for the 2010 taxation year.

Differences between Property Taxation under the FSMA and under the *Indian Act*

- The taxation regime under the FSMA was created by First Nations, for First Nations. The *Indian Act* bylaws were created by Indian and Northern Affairs Canada.
- Under the FSMA, the taxation laws are approved by the First Nations Tax Commission (“FNTC”), a First Nations organization. Our old taxation bylaws were approved by the Minister of Indian and Northern Affairs. We have found the FNTC to be much more flexible and responsive to our needs.
- Under the FSMA, Tsleil-Waututh has the power to borrow money against its tax revenues to build large-scale infrastructure. This will help to attract business on reserve, which will help TWN to increase economic development on reserve.
- The laws under the FSMA are drafted much more clearly than the bylaws under the *Indian Act*.
- The FSMA laws provide much better recourse against taxpayers who don’t pay their taxes.

- The FSMA laws also provide better provisions for taxpayers, as there are clear requirements for taxpayer notice and due process, including procedures for appeals.

Questions & Answers

Here are some of the specifics of the FSMA, presented in a question and answer format:

Q What are the new laws?

A There are four new laws:

- 1) The *Tsleil-Waututh Nation Property Assessment Law, 2009* provides a system for the assessment of taxable properties, and for appeals of those assessments.
- 2) The *Tsleil-Waututh Nation Property Taxation Law, 2009* creates TWN's taxation system, including tax grants and tax exemptions, and collection and enforcement procedures.
- 3) Each year, Council will pass a Tsleil-Waututh Nation **Rates** Law, which will set out the tax rates for each class of properties for that taxation year.
- 4) Each year, Council will pass a Tsleil-Waututh Nation **Expenditure** Law, which will set out the budget for the use of tax revenues for that taxation year.

Q Does this mean that TWN members will now have to pay property taxes?

A No, TWN members continue to be exempt from property taxes on reserve under Part V of the Taxation Law.

Q What will happen to the homeowner grants?

A Eligible taxpayers continue to be eligible to apply for the homeowner grant, under subsection 10(2) of the Taxation Law.

Q What are property tax revenues used for?

A Property taxes are used to pay for infrastructure, assessment, service agreements, cultural events, bylaw enforcement, community development, and capital projects.

Q Could property tax revenues be used to provide additional services, such as recreational facilities?

A Yes, these are some examples of services that TWN could consider providing with its property tax revenues. New decisions on how to spend the money will be made every year.

Q Isn't TWN just making a huge profit on my taxes?

A No, under the FSMA, tax revenues must be allocated and spent each taxation year. A small percentage may be set aside for contingencies for unexpected shortfalls, and some may be set aside in reserve funds for future needs, but the majority of the tax revenues must be spent on services, infrastructure, and other items set out in the Expenditure Law.

Q How does TWN set the tax rates?

A The FSMA tax system is designed to closely model local property tax systems. TWN rates are based closely on the rates of the surrounding municipalities, but they are calculated to meet TWN's needs. Each year, TWN:

- 1) Develops a detailed budget (set out in the Expenditure Law) for the projects it wishes to build and the services it needs to provide for that taxation year; then
- 2) Calculates the rates for each property tax class (set out in the Rates Law), based on the budget set out in the Expenditure Law, and taking into consideration the rates of the District of North Vancouver, TWN's reference jurisdiction.

Q What happens to people who don't pay their taxes?

A Under the new laws, there are much better enforcement procedures. Being able to collect property taxes from *all* taxpayers will help to keep taxes low for everyone, and will allow TWN to provide high-quality services and build high-quality infrastructure.

Under the Taxation Law, TWN has several options for dealing with delinquent taxpayers:

- 1 After July 2nd of each taxation year, a penalty of 10% of the unpaid taxes will be added to the total remaining, and this new total will be charged 15% interest (see Part XI).
- 2 Under section 29, unpaid taxes become a lien on the taxable property, and TWN has the right to apply to have a court protect or enforce the lien.
- 3 As set out at Part XIV, TWN has the right to seize and sell personal property, such as cars and boats, in order to pay for unpaid taxes. The taxpayer is responsible for the costs of the seizure and sale.
- 4 Part XV provides that, when taxes have been unpaid for a long period of time, TWN has the right to seize and sell the taxable property. The taxpayer is responsible for the costs of the seizure and sale.

- 5 As in the old bylaw, TWN has the right to cancel a taxpayer's interest in TWN land if the taxes remain unpaid (Part XVI)
- 6 TWN has the right to discontinue services to a taxable property that is delinquent in its taxes (Part XVII).

Q What rights do taxpayers have under the new laws?

A The notice periods for all enforcement actions are clearly defined in the Taxation Law. Under the Assessment Law, taxpayers who are unhappy with the assessed value of their property can request reconsideration from the assessor, or file an appeal with the Assessment Review Board.

Q Can I review the laws?

A Yes, you can pick up a hard copy of the Laws at the TWN Taxation Office, at 3075 Takaya Drive, or you can contact Calvin George, Property Taxation Administrator for a copy:
by telephone: (604) 929-3454
or by email: ccgeorge@twntation.ca

Q I would like to comment on the laws. Who can I contact to give feedback?

A Until December 14, 2009, you can provide written comments to:

Chief and Council, Tsleil-Waututh Nation
ATTN: Calvin George, Tax Administrator
Tsleil-Waututh Nation
3075 Takaya Drive,
North Vancouver, BC
V7H 3A8

Council will consider any comments it receives, and will then forward the laws to the First Nations Tax Commission for approval. People who provide comments to Council will be invited to provide comments to the FNTC within a 30-day period.

A community forum will be held:

7:00 pm
November 2, 2009
TWN Cultural Centre
3010 Sleil-Waututh Road

Persons attending this public meeting will be given an opportunity to make oral representations to Council respecting the Proposed Laws and may also submit written representations to Council.