

factsheet



Assessment Services for First Nations

BC Assessment

First Nations and Taxation of Real Estate on Reserve Lands

In 1998, federal government passed amendments to the *Indian Act* allowing First Nations to tax real property on reserve lands. In 1990, the government of British Columbia passed the *Indian Self Government Enabling Act*, which provides First Nations three options for entering 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. First Nations wishing to enter into independent taxation must pass property assessment and taxation bylaws. The federal Indian Taxation Advisory Board (ITAB) supports the band as it develops the bylaws and reviews them once they are completed. The ITAB may also intervene in disputes to try and facilitate an agreement. All bylaws must be approved by the Minister of Indian and Northern Affairs Canada. Upon the coming into force of the *First Nations Fiscal and Statistical Management Act (FNFSMA)*, SBC 2005, c. 9, the ITAB will evolve into the First Nation Tax Commission (FNTC). It is expected that the *FNFSMA* will come into force in 2006. Further information about the ITAB can be found at www.itab.ca and further information about the FNTC can be found at www.fntc.ca/main.phtml.
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.

Summary of Process for First Nations Entering Field of Real Property Taxation:

1. The First Nation sends a Notice of Intent to enter independent taxation for a specific year to the B.C. Minister of Provincial Revenue.
2. March 1 is a key date with regard to the Notice of Intent. If a band intends to enact bylaws before March 1 of the calendar year of the notice, the bylaw can take effect in either the current or the next calendar year. If a band intends to enact bylaws after March 1, then the Band must confirm, in the notice, that the next calendar year will be the first for which taxes will be imposed.
3. After receiving the Notice of Intent, the Minister of Provincial Revenue will issue a certificate notifying other tax authorities that the First Nation intends to proceed with independent taxation.
4. The First Nation submits Assessment and Taxation bylaws no later than June 1 of the year preceding intended taxation, to ITAB for review.
5. The Minister responsible for Indian and Northern Affairs Canada approves the bylaws. Once approved, the First Nation will enter independent taxation for the current or next taxation year (as specified by the bylaws), and the folios (Assessment Roll Numbers) must be removed from the provincial roll.
6. The First Nation can choose to contract with BC Assessment for assessment services, hire a tax agent to prepare the assessment roll or prepare the roll itself.

If the First Nation contracts with BC Assessment, then BC Assessment will prepare the assessment roll and act as assessor, as set out in the agreement for assessment services. As a general rule, the cost of assessment services will be the BC Assessment levy amount, plus a one-time setup fee.

7. The First Nation (or a contractor hired by the First Nation for this purpose) prepares its tax notices based on the assessment roll. Typically the tax notices are sent out in early summer.

Role of BC Assessment

BC Assessment is a provincial Crown corporation that produces annual assessment rolls for all assessable properties in British Columbia. In accordance with the *British Columbia Assessment Act*, the assessment roll is completed on December 31 each year and assessment notices sent to all assessed property owners. Following the period for appealing to the first level of review, BC Assessment creates a revised roll (an authenticated roll in the case of First Nations, as required by bylaws), which it provides to taxing jurisdictions (municipalities, some First Nations clients and the provincial government). These jurisdictions set tax rates for various classes of property, and send tax notices to each taxable property owner.

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. For unusual properties such as heavy industrial plants or public utilities, BC Assessment has special valuation procedures or rates. Independently assessing and taxing First Nations generally adopt these special valuation procedures or rates.

BC Assessment also provides additional services to First Nations who have independent assessment and taxation, 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, hydro lines 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:

Legal Services Division

BC Assessment
1537 Hillside Avenue
Victoria, BC
V8T 4Y2
250 595-6211

Or consult:

Amendments to the *Indian Act* (Bill C-115)
Indian Self-government Enabling Act (Bill 64)