

Taxation: Band and Council Powers to Tax

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Marriott Pinnacle Hotel, Vancouver BC
April 12, 2011

Overview

In this presentation, we will look at:

- First Nations Sales Tax
- FNGST
- Provincial-Type Tax
- First Nations Personal Income Tax
- Property Taxation
- Future developments: Property Transfer Tax?

FNST

First Nations Sales Tax (“FNST”)

- tax of 5% charged on alcohol, fuel and tobacco purchased on reserve
- applies to members and non-members
- agreement with the federal government
- imposed under s. 83 bylaw
- no new agreements - moratorium in place
- as of July 2010, \$7 million+ for 9 FNs charging FNST

FNGST

First Nations Goods and Service Tax (“FNGST”)

- tax equivalent to current GST rate
- charged on all goods and services purchased or consumed on reserve by members and non-members
- by agreement with the federal government, under the *First Nations Goods and Services Tax Act*
- revenue-sharing with Canada under some circumstances

FNGST cont'd

- CRA collects the tax and enforces the law
- as of February 2011, 45 First Nations on the Schedule to the Act
- \$11.5 million per year as of July 2010 for 22 First Nations and Aboriginal governments charging FNGST

Provincial-Type Taxes

- by agreement with the province, under the *First Nations Goods and Services Tax Act*
- First Nations can pass a law that imposes a direct sales tax that parallels an existing provincial tax (such as a sales tax, fuel tax, or alcohol tax)
- province collects the tax and enforces the law
- for example, the Cowichan Indian Band and over 30 Manitoba First Nations have a tobacco tax, and several Saskatchewan First Nations have liquor consumption taxes

First Nations Personal Income Tax

First Nations Personal Income Tax (“FNPIT”)

- allows the First Nation to charge income tax to the members and non-members living on its reserves
- by agreement between Canada and a self-governing First Nation, and imposed by First Nations law
- not available to *Indian Act* bands
- collected, administered and enforced by CRA
- as of July 2010, \$14 million per year for the 12 First Nations charging FNPIT

Property Taxation

- taxation of interests in land on reserve
- can exempt members
- municipality or regional district may already be taxing non-member interests on reserve, and keeping all the revenue
- many types of taxpayers: commercial, residential, industrial, utilities, railways
- requires a taxation certificate under the *Indian Self-Government Enabling Act*

Property Taxation cont'd

- two regimes: can be done under the
 - ① *Indian Act*; or
 - ② *First Nations Fiscal and Statistical Management Act* (“FSMA”)
- in both systems, there are four “key laws”:
 - ① property taxation law or bylaw;
 - ② property assessment law or bylaw;
 - ③ annual rates law; and
 - ④ annual expenditure law

Property Taxation: *Indian Act*

- through section 83 Council bylaws
- bylaws are reviewed by First Nations Tax Commission (formerly the Indian Taxation Advisory Board (“ITAB”))
- bylaws are approved by the Minister

Property Taxation: FSMA

- taxation is done through Council laws under the FSMA
- laws are reviewed by First Nations Tax Commission (“FNTC”)
- laws are easier to use and understand than s. 83 bylaws
- laws provide better enforcement mechanisms
- FSMA allows First Nations to borrow against tax revenue at competitive rates through FNFA
- also under FNFA: development cost charges, local improvement charges, and business activity tax
- as of March 2011, 60 First Nations on the Schedule

Property Taxation: Increasing Tax Base

Property tax → better services and infrastructure, e.g.:

- street lighting
- sidewalks
- garbage, recycling, composting
- library
- community centre

Better services → more taxpayers → more revenue

Future Developments in Taxation?

Property Transfer Tax (“PTT”)

- in BC, the provincial government charges a tax on the total sale price of a property
- 1% on first \$200 000, 2% on the balance
- e.g. on a home sold for \$400 000, PTT would be \$6000
- Squamish First Nation has been lobbying for a First Nations PTT

Thank You!

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for Sustainable Growth

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