

**Presentation**

**to the**

**House of Commons Standing Committee on Finance**

**by the**

**First Nations Tax Commission**

**for the**

**2012 Federal Budget**

**August 2011**



**First Nations Tax Commission**  
**Commission de la fiscalité des premières nations**



## Pre-Budget Submission 2011 – House of Commons Standing Committee on Finance

### Executive Summary:

The First Nations Tax Commission (FNTC), formerly the Indian Taxation Advisory Board, began making pre-budget submissions to the House of Commons Standing Committee on Finance in 1997. These representations have been made on behalf of First Nations who wish to develop and exercise tax powers and pursue a path of investment-led economic development.

The theme of this year's submission is how Canada can achieve a sustained recovery, sustainable jobs and a balanced budget. We believe that the FNTC offers a successful model for making First Nations a part of this strategy. The FNTC believes that improving the ability of First Nations to participate in the Canadian economy represents the soundest investment Canada can make in its future.

First Nation investments are sound because Canada's fiscal and economic challenge is also a demographic challenge: an aging society with a rising dependency burden. Canada must either become more productive or suffer declining living standards. There are three salient points:

1. First Nations are a relatively young and a faster growing segment of the population. In fact, First Nations are the fastest growing component of the Canadian labour force. However, First Nations are also its most under-employed. If we can change this, we can create as much as \$140 billion of new wealth (2010 dollars) over the next twenty years.
2. First Nation lands represent some of the best desired sites for development in Canada. However, these sites are the hardest to develop owing to unclear property rights and bureaucratic procedure. This lack of development contributes to the underemployment of First Nation persons.
3. World-wide demand for natural resources is booming and yet Canada's ability to take advantage of this boom is limited by a lack of property right certainty with respect to aboriginals.

The FNTC believes that in order to change these facts, the credit, investment and property markets must work more effectively on First Nation lands, and First Nations must have the powers and fiscal and administrative capacities needed to take advantage of market opportunities.

The FNTC supports this strategy by:

- a) advocating for an improved system of property rights;
- b) supporting the development of core capacities in First Nations;
- c) building and enforcing a regulatory framework that creates investor confidence, supports the development of First Nation investment facilitation expertise and supports the development of standardized policy templates and standards;
- d) assisting First Nations in the development of service agreements and capital projects.

The First Nations Tax Commission, hereby requests that the House of Commons Standing Committee on Finance:

1. Provides formal support for the proposed First Nations Property Ownership Act; and,



2. Supports an integrated program for the implementation of infrastructure systems in qualified First Nation communities at a cost of \$17 million per year over the next 5 years. This \$17 million per year would include:

- a) an expanded mandate for the FNTC and expanded powers for FSMA (First Nations Fiscal and Statistical Management Act) First Nations to include the FNGST;
- b) a program to match FNGST funds that are invested in qualifying First Nation economic infrastructure; and,
- c) a qualifying process that requires the completion of a capital asset inventory, life cycle infrastructure planning, integrated capital, financing and economic plans and completion of accredited training to meet these requirements.

### 1. First Nations Property Ownership Act (FNPOA)

On September 28, 2010 the Standing Committee on Finance visited Kamloops to hear presentations concerning the proposed First Nations Property Ownership Act. This was well received by the Standing Committee who recognized its importance for developing First Nations and also making a meaningful change from the *Indian Act* regime.

FNPOA will provide a real change in First Nations' ability to participate in the economy. It will greatly improve the operation of the property market by creating property rights and registration systems that are similar to what exists in the rest of Canada. This new system will be more familiar to banks, real estate professionals and investors. This will be a significant improvement over existing property rights and registry systems which require these investment professionals to develop specialized expertise. Consequently, even relatively simple transactions such as processing a mortgage often take many times longer in the current system.

FNPOA will greatly improve the operation of the credit market by supporting the same system that is used in a non-First Nations context. First Nation persons holding title under the new system will be able to access the credit markets and earn equity in their land. Contractors working on First Nation lands will be able to enforce payment by registering liens.

It will greatly improve the operation of the investment market because it will create familiar property rights and allow substantial time savings in the existing process for approving transfers of title.

**Proposal:** FNPOA is an important step forward in the process of bringing First Nations into the economy and dismantling the *Indian Act*. We are asking that the Standing Committee support this initiative and, for the process of creating the institutional support to assist First Nations in fully employing this initiative, be confirmed in the 2012 Budget.



## 2. Improving First Nation Infrastructure

The FNTC is proposing that it work with the federal government on a program that would amplify the ability of First Nations to use local revenues in the development of self-sustaining infrastructure systems.

First Nations suffer from a serious community infrastructure deficit. Substandard and subscale infrastructure is creating a threat to health and safety in many communities. The full extent of the risk is unknown because infrastructure assets have not been inventoried in most communities. What is clear is that it is an enormous fiscal challenge, given the growth of these populations.

Many First Nations also suffer from an *economic* infrastructure deficit. They need to develop infrastructure to a standard that will support investment before they can realize their economic potential. However, they lack the revenues to do this. Consequently, they remain mired in dependency. The FNTC has been working with these First Nations to develop the same tools that are used by most local governments in Canada, such as local improvement taxes, business activity taxes and development cost charges. These new tools are helping. However, there is a lot of under-utilized potential.

Without effective initial investments in economic infrastructure, First Nations can remain stalled in a development trap. This will slow the development of core infrastructure capacities within First Nations and reduce the fiscal benefits of reduced First Nation poverty to all governments in Canada. The FNTC proposes that First Nations who can demonstrate economic potential should be eligible for a different type of support, which aims to develop infrastructure systems rather than simply assets.

The FNTC has helped many First Nations use tax and local revenues to build infrastructure. Typically, our projects have solved both community and economic infrastructure deficits. Moreover, they have not simply built capital assets. They have also built the fiscal and administrative capacity that First Nations need to assume responsibility for infrastructure provision. They have built management capacity that will extend the life of infrastructure assets and make future investments more cost effective. Of course, these projects are also allowing these First Nations to meet the key challenge of improving the productivity of underemployed First Nation lands and people.

For example, projects include water, sewer, roads and community infrastructure development in Tsawout, Squamish, Tk'emlups, Shuswap and Whitecap Dakota Sioux to name a few. These projects show an approach that works:

1. These projects have proceeded from the bottom up. They are rooted in the economic aspirations of the community.
2. They utilize local resources.
3. The FNTC works with First Nations to develop all the relevant capacities during project development.
4. The FNTC works with First Nations to ensure that capital planning is integrated with fiscal planning. This, in turn, requires its integration into an economic plan.
5. The FNTC works to ensure that the arrangements that support the financing and development of infrastructure also support a sound investment climate.
6. The FNTC works to ensure that all First Nation infrastructure projects are conducted with a degree of standardization that supports the development of First Nation expertise with investors, lenders and government officials from outside the First Nation. First Nation infrastructure systems must ultimately become integrated with regional systems.
7. These projects are based on local responsibility and accountability.



As is evident, the FNTC does not simply focus on financing infrastructure projects. An infrastructure system creates the capacity within the administration to: identify infrastructure assets; identify infrastructure requirements; prioritize infrastructure projects based on fiscal criteria; finance and build that infrastructure; operate and maintain that infrastructure; and, ultimately repair and replace that infrastructure.

There are three keys to developing successful infrastructure systems. First, the FNTC works with First Nations to develop local fiscal and administrative capacities. Second, the FNTC works with First Nations to develop the ability to conduct comprehensive capital planning within a fiscal framework and an economic plan. This is accomplished through university accredited courses offered by the Tulo Centre of Indigenous Economics (Thompson Rivers University). Finally, the FNTC creates a framework to support the transferability of these skills and policy templates to other First Nations, and to support First Nation capital planning in cooperation with other governments within the context of their entire region.

**Proposal:** Infrastructure systems that are coordinated with the local revenue system are permanent solutions to First Nations infrastructure problems. They also create the foundation for economic growth. The federal government should support their development for both these reasons. It should therefore tailor its existing support to qualified First Nations so that it continues to ensure that community infrastructure needs are always met, but allows these funds to be more easily used in conjunction with FSMA funding towards infrastructure systems.

The FNTC believes that this can be done, at relatively modest cost of about \$17 million per year over the next 5 years, through a program with several dimensions.

1. The FNTC mandate should be expanded so that it can promote the implementation of First Nation GST (FNGST) systems. FNGST revenues should be added to FSMA local revenues to support infrastructure financing. The FNTC expects that this will expand the number of First Nations collecting FNGST.
2. The federal government should provide start-up funding for economic infrastructure based on qualification requirements described in the next two steps. This program could be funded by providing a matching fund to First Nations who wish to apply FNGST revenues to infrastructure development. The cost of such a program should be about \$15 million per year for the next five years.
3. A qualifying program for First Nations should be established for the FNGST matching fund that consists of three general elements. The cost of administering this program should be about \$2 million a year for the next five years.
  - a. Qualifying First Nations should develop a capital asset inventory that reflects life cycle financing requirements for replacement and maintenance. This requirement should parallel FSMA standards.
  - b. Qualifying First Nations should complete an integrated capital, financing and economic project plan that demonstrates the benefits of a proposed economic infrastructure project to First Nation and Canadian taxpayers. These requirements have already been established by the FNTC for FSMA First Nations that wish to borrow using local revenues. The federal government should adopt the FNTC planning and reporting requirements under the FSMA to meet the requirements of community infrastructure funding. The goal would be to create a single set of requirements that would qualify a First Nation to receive federal funding and to also borrow against the



local revenue account. Ideally, meeting these requirements would allow a First Nation to include transfer revenues in the local revenue account.

- c. Qualifying First Nations should have one or more members of their staff complete accredited training related to capital, financing and economic planning; and, borrowing using local revenues and expanding First Nation revenue options. Such accredited training is currently available through the Tulo Centre of Indigenous Economics.