



First Nations Tax Commission  
Commission de la fiscalité des premières nations

# SAVE THE DATE:

## “DEFINING A NEW FIRST NATIONS FISCAL RELATIONSHIP WITH THE CROWN”

WEDNESDAY, JUNE 7, 2017  
Musqueam Community Centre,  
6735 Salish Drive, Vancouver, BC

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### Dialogue Outline

The SCC in *Delgamuukw* has articulated that, “Three aspects of aboriginal title are relevant here. First, aboriginal title encompasses the right to exclusive use and occupation of land; second, aboriginal title encompasses the right to choose to what uses land can be put, subject to the ultimate limit that those uses cannot destroy the ability of the land to sustain future generations of aboriginal peoples; and third, that lands held pursuant to aboriginal title have an inescapable economic component.” Excerpt: *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010 at para. 166 (emphasis added)

“As a government, we recognize that the fundamental purpose of Section 35 is reconciliation of the prior occupation of indigenous peoples with Crown sovereignty. And we are fully committed to fulfilling the constitutional promise made to indigenous peoples in 1982 ...[and] reconciliation actually requires laws to change and policies to be rewritten... [but] if we are to get rid of the Indian Act, we need to determine how First Nations transition away from band government to something which is reflective of the proper title and rights holder... Only indigenous peoples can determine their institutions and shape their future.” Excerpt: Address given by Minister Jody Wilson-Raybould, February 15, 2017, Ottawa, Ontario.

“First Nations assertion of ownership within a geographic area, and associated requests for fees to operate on Crown lands, are not consistent with provincial laws of authority. To be clear, the Province maintains full jurisdiction on Crown lands, and does not view First Nation governments as possessing the authority to require companies to make access payments in return for being allowed to work in their respective territories. In addition, ***the Province does not support the imposition of revenue-generating processes on Crown lands and for Crown-authorized activities from any third party, and this includes First Nations.***” Excerpt: Letter from Minister John Rustad to Gavin Dirom, President and CEO, Association for Mineral Exploration B.C. June 2016.

## Purpose

This dialogue session is intended to assist all First Nations in moving beyond the existing First Nations fiscal relationship with the Crown and addresses the need for relevant and effective information-sharing to support First Nations in discussing key fiscal issues, capacity development and preparing for engagement with the Crown on a new fiscal relationship. A new fiscal framework that is not based solely on program and service delivery is needed in order to close the socio-economic gap experienced by most First Nations; it cannot be closed within the *status quo* framework instituted by the both levels of government.

# “DEFINING A NEW FIRST NATIONS FISCAL RELATIONSHIP WITH THE CROWN”

## DRAFT AGENDA

\*Session Chair, Leah George-Wilson, Co-Chair, First Nations Summit

WEDNESDAY, JUNE 7, 2017	
8:30 a.m.	REGISTRATION OPEN – No Pre- registration Necessary (Breakfast provided)
9:00 – 9:05 a.m.	<u>PRAYER, WELCOME</u> (Leah George-Wilson, Chair) <ul style="list-style-type: none"><li>Prayer, Larry Grant, Musqueam Elder</li></ul>
9:05 - 9:15 a.m.	Opening remarks (Jason Calla)
9:20 - 10:00 a.m.	Opening Keynote – National Chief Perry Bellegarde, AFN
THEME: SETTING THE STAGE	
10:00 – 10:30 a.m.	<b>1. Overview of the current fiscal landscape</b> (Presenter: Jason Calla & Dillon Johnson, Temixw Planning) <ul style="list-style-type: none"><li>Legal basis – economic component of Aboriginal title</li><li>What is a fiscal relationship?</li><li>Practical application in a modern treaty context</li></ul>

10:30 – 10:45 a.m.	<b>Questions and Answers</b>
10:45 – 11:15 a.m.	<p><b>2. S.91(24) and S.92 Issues</b></p> <p><i>Presenter: Robert Louie, Chair, First Nations Lands Advisory Board</i></p> <ul style="list-style-type: none"> <li>• Overview of key issues and implications</li> <li>• Limitations on the application of Provincial laws: development of Indigenous laws, paramountcy and limitation of concurrent application of provincial laws</li> </ul>
10:15-11:30 a.m.	<b>Questions and Answers</b>

**THEME:**  
**SUPPORTING SUSTAINABLE FIRST NATIONS GOVERNMENTS**

11:30 – 12:00 p.m.	<p><b>3. Current issues regarding programs and services</b></p> <p><i>(Presenter: Mike Mearns, AFOA BC, Matthew Mehaffey, Mehaffey Consulting)</i></p> <ul style="list-style-type: none"> <li>• AFOA Canada Engagement Report on findings and recommendations on a new fiscal relationship</li> <li>• Getting ready for negotiations – how do you know you are ready?</li> <li>• Importance of data to better understand the socio-economic gap</li> <li>• Negotiation of funding agreements, transfers, contribution agreements to support governance/administration</li> </ul>
12:00 – 12:15 p.m.	<b>Questions and Answers</b>
12:15 – 12:45 p.m.	<b>Lunch (Provided)</b>

**THEME:**  
**INSTITUTIONS IN SUPPORT OF GOOD GOVERNANCE**

12:45 – 2:00 p.m.	<p><b>4. Adequately resourcing First Nations Governments through a comprehensive s.91(24) path to implement s.35 jurisdiction</b></p> <p><i>(Presenters: Manny Jules, First Nations Tax Commission, Harold Calla, First Nations Financial Management Board and Ernie Daniels, First Nations Finance Authority, )</i></p> <ul style="list-style-type: none"> <li>• First Nation Governments and capacity-building: <ul style="list-style-type: none"> <li>○ Financial Management</li> <li>○ Land management using the authority of the <i>First Nations Land Management Act</i></li> </ul> </li> <li>• Revenue options: <ul style="list-style-type: none"> <li>○ Taxation</li> <li>○ Resource royalties</li> <li>○ Revenue sharing</li> </ul> </li> <li>• First Nation Governments’ access to capital using the authority of the <i>First Nations Fiscal Management Act</i></li> <li>• Certainty</li> <li>• Options for improving land title system</li> </ul>
2:00 - 2:15 p.m.	<b>Questions and Answers</b>
2:15 – 2:30 p.m.	<b>Break</b>
<p><b>THEME:</b></p> <p><b>ROAD MAP TO A NEW FIRST NATIONS FISCAL RELATIONSHIP WITH THE CROWN</b></p>	
2:30-3:00 p.m.	<p><b>5. Elements of a new First Nations Fiscal Relationship with the Crown</b></p> <p><i>(Panel presenters: Harold Calla and Manny Jules)</i></p>
3:00 – 4:30 p.m.	<b>Plenary dialogue: elements of a new First Nations fiscal relationship with the Crown</b>
4:30-4:45 p.m.	<p><b>Next Steps</b></p> <p><i>(Speaker: Jason Calla and Dillon Johnson)</i></p> <ul style="list-style-type: none"> <li>• Identify proposed next steps and conference wrap-up</li> </ul>