

TSAWWASSEN TREATY INFORMATION ITEM – April 16, 2007

INTRODUCTION

The purpose of this Information Item is to provide the public, and Council, with information on the contents of the recently initialed Tsawwassen Treaty. In the Information Item, at the beginning of each Regular Council Meeting, we will look at the contents in small, comprehensible bites, in a Question and Answer format, so that the public may better understand what the Treaty contains.

The Items will then be posted on the Delta website to make them readily available to the public.

Today's Information Item addresses the questions of how the Tsawwassen Treaty relates to Taxation. Taxation is found in Chapter 20 of the Tsawwassen Final Agreement as well as two side agreements initialed at the same time as the Treaty.

The Treaty provides Tsawwassen First Nation (TFN) the ability to levy direct taxes on its members within treaty settlement lands.

Tax Treatment of TFN Members

Currently TFN members are eligible for tax exemptions under the federal *Indian Act*. The treaty provides for the phasing out of the tax exemptions. Eight years after the effective date of the Treaty, transaction taxes (i.e. GST, PST) will begin to be applicable to TFN members and twelve years after the effective date of the Treaty all other taxes, including income taxes, will apply. After the exemptions are phased out, BC will share with TFN 50% of the sales and income tax collected from TFN members. There are also provisions in the Treaty that similar agreements with respect to the Federal taxes may also be reached after the tax exemptions are phased out.

Side Agreements

Separate agreements outside of the Treaty will address specific details of TFN taxation, including how TFN taxes will apply to non-members. Two of these were initialed at the same time as the Treaty. They are the *TFN Real Property Tax Co-ordination Agreement* and the *Tsawwassen Tax Treatment Agreement*. TFN's tax powers will not be exclusive and will operate concurrently with the continuing tax authority of Canada and British Columbia.

Real Property Tax Co-ordination Agreement

This agreement states conditions that TFN must follow in order that TFN members will be subject to a TFN property tax, and not subject to the *School Act* or the *Taxation (Rural Area) Act*. Real property tax will apply to TFN members after a transition period of twelve years after the effective date of the Treaty.

The agreement provides a formula for the maximum tax rate under a TFN property tax law which is the sum of the equivalent School Tax, taxes required to pay for core GVRD services, and maximum municipal tax rate established by provincial law for the specific property class, if such a maximum exists. Currently the only provincial legislation that sets maximum tax rates for specific property classes relates to Port facilities and Utilities.

This agreement also has a provision that for during the twelve year transitional period where the *Indian Act* tax exemptions still apply to TFN members, the municipal portion of the tax rate set by TFN for non-members can not exceed the maximum rate set by The Corporation of Delta for

the specific property class. After the twelve year transition period, TFN real property taxation laws can not discriminate between TFN members and non-members.

Tsawwassen Tax Treatment Agreement

The *Tsawwassen Tax Treatment Agreement* specifies how specific Provincial and Federal taxes will apply to TFN. The following are some of the aspects of this agreement.

Under the federal *Income Tax Act* TFN will be exempt from income tax, the same as other public bodies performing a function of the Government of Canada. The agreement also provides for refunds of the federal GST and provincial social service and motor fuel taxes for non-profit and public purpose activities of the TFN government.

Tsawwassen Lands and improvements that are owned by TFN are exempt from real property taxation. TFN and Tsawwassen Public Institutions are not subject to tax under the *Property Transfer Tax Act*. Other Tsawwassen Lands (Boundary Bay parcels and Fraser River parcels) that are owned and used for government or not for profit activities by TFN or TFN government corporations are not subject to real property taxation under BC legislation.

TFN will not be subject to the *Mineral Tax Act* and the *Petroleum and Natural Gas Act* for activities on TFN owned lands by TFN or a TFN government corporation.

There is no fixed term for this agreement. It continues until a party gives notice that it wants the agreement to terminate. A minimum of 15 years is provided prior to when a party can give notice to terminate the agreement.

Federal Taxes

The Treaty recognizes that future agreements with Canada could be reached where the Federal Government will agree to not impose a portion of its taxes to allow TFN to impose sales or personal income taxes that would add up to the total taxes normally levied by Canada. These agreements harmonize the taxes so that taxpayers pay the same on and off treaty settlement lands. Canada has negotiated these types of agreements with other First Nations. Specific details with respect to the amount of federal taxes that would be returned to TFN have not yet been provided.

Non-Member Representation

There will be non-member representation on any TFN public institution that makes decisions relating to taxation matters that directly and significantly affect non-members. The *Real Property Taxation Agreement* specifies that at least one member of the TFN Institution that makes decisions regarding real property taxation will be selected by non-members and will have the ability to participate in discussions and to vote on taxation matters that directly affect non-members. There is nothing that precludes TFN from providing that a majority of the members of the TFN Institution must be TFN members.

Conclusion

That is an overview of how the Tsawwassen Treaty relates to Taxation. At the next Regular Meeting of Council, we will look at the Financial Components of the Treaty.