

Yale First Nation Final Agreement - Taxation

The Yale First Nation Final Agreement was negotiated by the Government of Canada, the Government of British Columbia and Yale First Nation. The Final Agreement provides Yale First Nation with certain rights and benefits regarding land and resources, and self-government over its lands and resources and its Members. It provides certainty with respect to ownership and management of lands and resources and the exercise of federal, provincial and Yale First Nation governmental powers and authorities.

Taxation and Yale First Nation

Taxation is an important element of the Final Agreement as it can contribute to the foundation upon which future revenue capacity for Yale First Nation Government can be built. The main tax-related elements addressed through the Final Agreement are: the tax powers of the Yale First Nation Government, the tax treatment of its Members, and the tax treatment of the Yale First Nation Government and of the various assets transferred or recognized under the Final Agreement.

Taxation Powers of Yale First Nation

The power to tax is a basic feature of government. Not only does it provide financial resources to deliver various programs and services, it also serves as a means of increasing the Yale First Nation Government's accountability to their Members.

In the context of treaty negotiations, the Yale First Nation Government will have the ability to levy direct taxes on its members within Treaty Settlement Lands, known as Yale First Nation Lands. Outside of the Final Agreement, Canada and British Columbia are prepared to negotiate how Yale First Nation taxes could also apply to non-members within Yale First Nation Lands. In either case, the Yale First Nation Government's tax powers will not be exclusive, and will operate concurrently with the continuing tax authority of Canada and British Columbia provided in the *Constitution Act of Canada*.

Canada has already negotiated such agreements with other First Nations in Canada. Under these agreements, Canada has vacated some of its tax room – that is, agreed not to impose a portion of its taxes – to allow the First Nation to impose sales or personal income taxes that are fully harmonized with the taxes vacated by Canada. These agreements coordinate the First Nation and federal taxes and ensure that the tax burden on taxpayers remains the same both on and off Yale First Nation Land.

The Final Agreement contemplates that the Yale First Nation Government could enter into such arrangements for the coordination and harmonization of its taxes.

Such arrangements would allow the Yale First Nation Government to implement taxation in an effective and efficient manner, while avoiding the costs associated with the design, implementation and administration of an independent tax system.

Real Property Taxes

Under an agreement with British Columbia, outside of the Final Agreement, the Yale First Nation Government will collect all real property taxes applicable to both Yale First Nation Members and non-members resident on Yale First Nation Lands. This agreement will apply to all Yale First Nation Lands. The Yale First Nation Government will be responsible for providing local services to all residents on Yale First Nation Lands.

Tax Treatment of the Yale First Nation Government

The tax treatment of the Yale First Nation Government will be addressed primarily in an agreement outside the Final Agreement called the Tax Treatment Agreement. For example, the Tax Treatment Agreement will:

- provide refunds of sales taxes and provincial motor fuel taxes for non-profit and public purpose activities of the Yale First Nation Government; and
- provide the Yale First Nation Government the same exemption from income tax under the federal *Income Tax Act* as provided to municipalities and other public bodies performing a function of government in Canada.

Tax Treatment of Yale First Nation Members

Under the *Indian Act*, Status Indians are eligible for a tax exemption in respect of property (including income) situated on a reserve. As the relationship between the federal and provincial governments and Yale First Nation Government is redefined and the *Indian Act* ceases to apply after the Effective Date of the Final Agreement, the tax exemption under the *Indian Act* will also cease to apply following a transition period.

The tax exemption will be phased out after eight years for transaction (e.g. sales) taxes and 12 years for all other taxes, including income taxes, to allow affected individuals to prepare and adapt to the change in their taxable status.

Non-Member Representation

There will be non-member representation on any Yale First Nation public institution that makes decisions relating to taxation matters that directly and significantly affect non-members. The non-member representative will be selected by non-members and will have the ability to participate in discussions

and vote on taxation matters that directly and significantly affect non-members. Non-members will have the same rights of appeal as Members.