



RC FIRST NATIONS LAND MANAGEMENT RESOURCE CENTRE

T M Training, Mentorship & Professional Development

In partnership with:

TULO CENTRE OF INDIGENOUS ECONOMICS

TZEACHTEN FIRST CHI'YAQTEL NATION

VIRTUAL WEBINAR

First Nation Property Transfer Tax under Fiscal Management Act

THURSDAY, OCTOBER 8, 2020

9:30 AM (PDT) **+** 90 min Session
+ 15 min Mix & Mingle

slido.com
#TMPD-OCT-08

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TMPD Virtual Webinar Welcome




RC FIRST NATIONS LAND MANAGEMENT RESOURCE CENTRE

Angie Derrickson
Manager: Training, Mentorship & Professional Development



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2020 Virtual Webinar Schedule



**FIRST NATIONS
LAND MANAGEMENT
RESOURCE CENTRE**

Training, Mentorship & Professional Development

TMPD Virtual Webinar & Workshop

2020 Schedule



13.	Property Transfer Tax, TULO Partnership (Tzeachten Case Study)	Oct 8
14.	Impacts COVID 19 – Part 5 – Community Perspectives	Oct 22
15.	Lands Advisory Board – Annual General Meeting	Oct 27-28
16.	Different meanings of Consultation & Engagement across Canada	Nov 5
17.	ATR/TLE, TULO Partnership (Brokenhead Case Study)	Nov 19
18.	Individual Agreement – Roles, Responsibilities & Expectations	Dec 3
19.	Treaties and the Framework Agreement	Dec 17

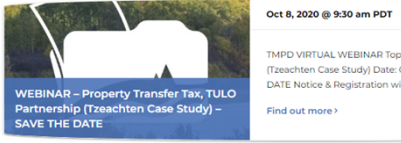
KNOWLEDGE PATHS
Lands Governance Under Framework Agreement



labrc.com/tmpd



**FIRST NATIONS
LAND MANAGEMENT
RESOURCE CENTRE**



Oct 8, 2020 @ 9:30 am PDT
WEBINAR – Property Transfer Tax, TULO Partnership (Tzeachten Case Study) – SAVE THE DATE
[Find out more >](#)




Oct 22, 2020 @ 9:30 am PDT
WEBINAR – Impacts COVID 19 – Part 5 – SAVE THE DATE
[Find out more >](#)




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TMPD Virtual Webinar Guidelines & Tools




Mute Devices




Recorded Session




Presentation & Materials







Questions



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**FIRST NATIONS
LAND MANAGEMENT
RESOURCE CENTRE**



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First Nation Property Transfer Tax under Fiscal Management Act

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Agenda

9:30	Welcome & Introduction
9:35	Land Governance Authority under FA & Land Code
9:45	Tzeachten First Nation's experience
10:15	Intro to First Nation Property Transfer Tax and the FMA
10:40	Questions & Discussion
11:00	Closing



11:00 - 11:15
Virtual Mix & Mingle




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TMPD Virtual Webinar Presenters



Resource Centre



Andrew Beynon
Director, Land Code Governance



Tzeachten First Nation



Deanna Honeyman
Lands and Property Taxation Manager



TULO Centre of Indigenous Economics







Marie Potvin
Legal Counsel, FNTC





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Collaboration on Capacity Development












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Land Governance Authority



A government to government agreement recognizing self-government authority of First Nations (FNs) over lands, resources and environment





The FA provides a flexible approach under which individual FN's decide how to govern their lands

Financial Management & Fiscal Decision Making

Interests in Lands

Land Administration

Land Registry

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Taxation & Framework Agreement

Framework Agreement on
First Nation Land Management

Does not include taxation authorities
or impose any obligation on
First Nations to enact taxation laws

Does not obstruct involvement in
other First Nation governance
initiatives and legislation




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Tzeachten First Nation Property Transfer Tax Law

Tzeachten is the 1st First Nation in Canada to be able to levy Property Transfer Tax on the purchase of houses and long-term leases.

On June 26, 2013, the FNLC approved the Tzeachten Property Transfer Tax Law. The law came into effect on June 27, 2013.

The Property Transfer Tax Law is under Section 5 (1)(a) of the First Nations Fiscal Management Act (FMA)



TZEACHTEN FIRST
CHI'YAQTEL NATION

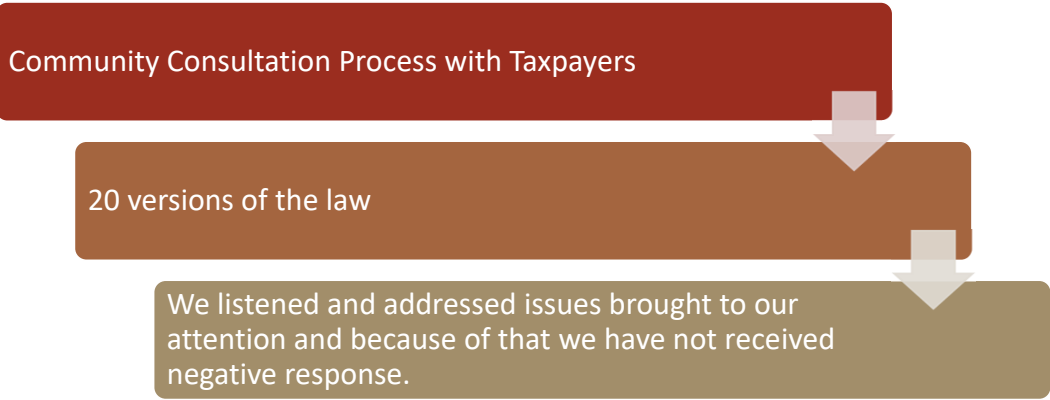




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The Process



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- € Purchasers are the ones paying the tax, those currently living on the reserve won't be directly affected.
- \$ Buyers are familiar with the tax being levied by the province – it didn't spark too much backlash
- ⚖ Recently amended the law to give an exemption to members purchasing in the leased developments.

Who pays the property transfer tax?



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What is a property transfer tax?

It is a tax imposed by a government on holder of interest in lands when a new holder receives a transfer of the interest.

In BC – Property Transfer Tax is imposed by the Property Transfer Tax Act and is payable when an application is made to register a transfer on another change to a title in the Land Title Office.

In the past, there has been a gap because purchases of homes in Chilliwack and elsewhere in BC paid Property Transfer Tax, except on Reserve land. This law closes that gap for our reserve.



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First year transition period

- Max levy was \$2000.00

As of June 27, 2014 – we began mirroring the Provincial tax

In the first year the law was enacted we collected \$56,570

Since 2018 we have collected approximately \$1,000,000 annually

1.) 1% on the first \$200,000 of fair market value of interest in land at time of transfer

2.) 2% on remaining



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Revenue

Tzeachten has over 1400 non-member homes (folios) currently which consists of 14 residential leases (five developments still in construction.)

We've estimated revenue of over \$1,000,000 annually



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Tzeachten Property Transfer Tax Law

The Tzeachten Property Transfer Tax Law only applies to residential lands; not commercial leases.

There are also some exemptions (similar to the provincial standards)

A few Examples of exemptions:

- transfers within a family
- switching from joint tenancy to tenancy in common
- transfer of CP lands between Tzeachten members
- First Time Home Buyer
- Transfer to or from a trustee



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Tzeachten Land Code Administration



As Tzeachten operates under our own Land Code, we register all Land related documents.

- We have registration forms, and checklists and fees in place for lawyers and notary offices to use
- We amended our Registration fees to be consistent with Provincial Land Title


No Transfer is registered until we:

- Receive proper forms/documents
- Receive payment of Property Transfer Tax
- Ensure Property Taxes are up to date



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"It will be money that will be set aside for new infrastructure and sidewalks. We want to get sidewalks on Chilliwack River and Promontory [roads]," Chief Glenda Campbell said. "It will help us with revenue coming in. We can do a lot of the infrastructure [improvements] we've been planning on doing."




PURPOSE OF THE LAW


Improve the quality of living for both members and the non-members living on Tzeachten.

Generate revenue that will be invested on improving local community infrastructure

- Roads, sidewalks, street lights, many community amenities



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**TZEACHTEN FIRST
CHI'YAQTEL NATION**


Contact information

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www.Tzeachten.ca


Questions ?



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**Tulo Centre of
Indigenous Economics**



**FIRST NATION PROPERTY
TRANSFER TAX USING THE FMA**

October 8, 2020



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Key Takeaways

- The FNTC has supported this emerging local revenue power through the development of Standards and sample laws.
- The best way to implement the PTT is to have a Land Code under the FNLMA. This enables the First Nation to collect the tax at the time of registration of transfers.
- In order to levy a PTT, a First Nation must enact its own FMA Property Transfer Tax Law using the law-making power in s. 5(1)(a).
- The PTT law creates the legal and administrative framework to levy the tax.
- The PTT Law development process is the same as for other FMA taxation laws.
- The FNTC provides law development grants, law development support, sample laws and standards.



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Key Elements of the PTT

Property Transfer Tax (PTT) is a tax:

- Levied each time an interest is transferred.
- Paid by the purchaser (or “transferee”) of the interest.
- determined by applying the tax rate (or rates) to the fair market value (FMV) of the interest that is being transferred.
- Generally collected at the time of registration of the transfer of the interest in the land title registry.



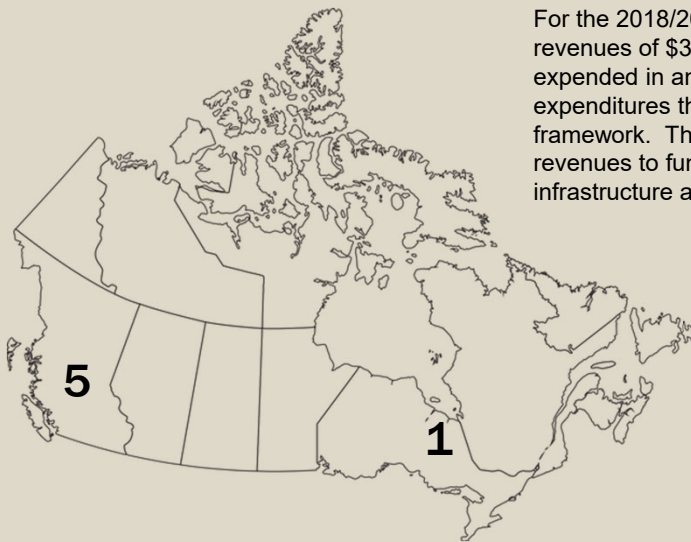
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Provincial PTT

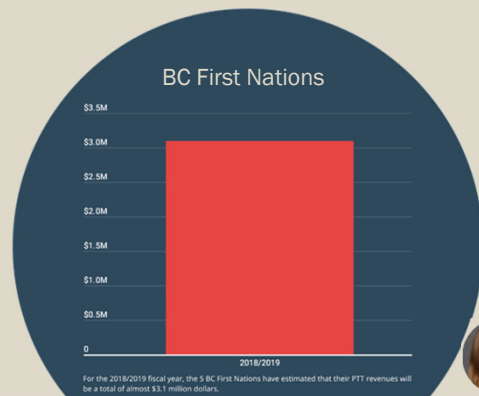
- PTT is levied by all provinces, except for Alberta, Saskatchewan, and Nova Scotia.
- Nova Scotia enables the collection of PTT by municipalities.
- Alberta and SK charge land registration fees with a property value component.
- There is significant variation in the provincial PTT regimes, in terms of the rates and the exemptions.
- Ontario, Quebec, Manitoba and BC have graduated rates. NB and PEI have flat rates of 1%.



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For the 2018/2019 year, BC First Nations estimated PTT revenues of \$3.1 million. These are revenues that can be expended in any of the categories of local service expenditures that are permitted under the FMA legislative framework. This means First Nations can use these revenues to fund priorities in their communities, such as infrastructure and expanded or new services.



For the 2018/2019 fiscal year, the 5 BC First Nations have estimated that their PTT revenues will be a total of almost \$3.1 million dollars.



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What are the key elements of the FMA PTT?

A tax on the interest in land (i.e. a lease), levied at the time of the transfer of that interest.

WHAT



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What are the key elements of the FMA PTT?

A tax on the interest in land (i.e. a lease), levied at the time of the transfer of that interest.

WHAT

HOW

The amount of tax payable is determined by applying the tax rate (or rates) to the fair market value of the interest that is being transferred.

$$\text{PTT RATE} \times \text{FMV} = \text{TAX PAYABLE}$$




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What are the key elements of the FMA PTT?

A tax on the interest in land, levied at the time of the transfer of that interest.

The amount of tax payable is determined by applying the tax rate (or rates) to the fair market value of the interest that is being transferred.

Paid by the purchaser (or “transferee”) of the property.



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What are the key elements of the FMA PTT?

A tax on the interest in land (i.e. a lease), levied at the time of the transfer of that interest.

The amount of tax payable is determined by applying the tax rate (or rates) to the fair market value of the interest that is being transferred.

Collected at the time of registration of the transfer in the Registry.

Paid by the purchaser (or “transferee”) of the interest.



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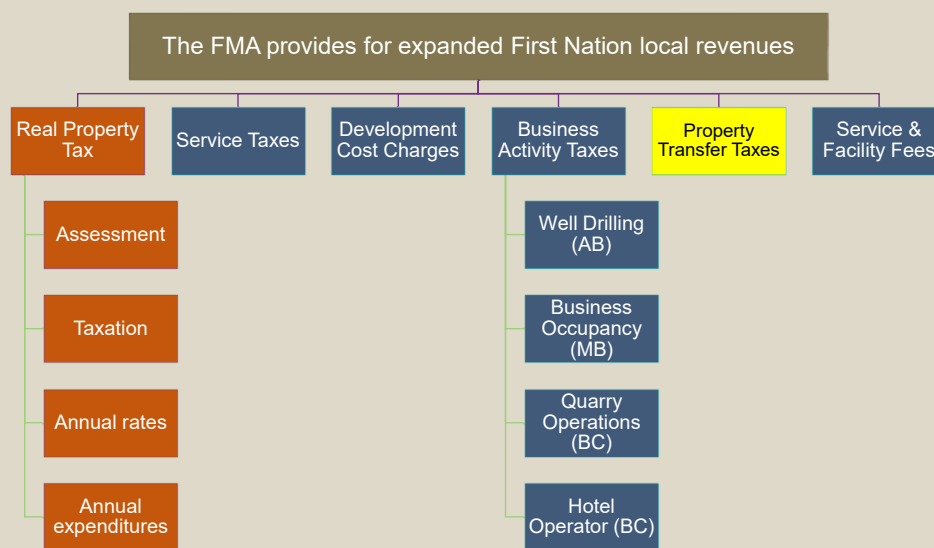
How is the FMA PTT implemented?

- The FMA authority is found in the “general” taxation power set out in section 5(1)(a) FMA,
- A First Nation must enact its own FMA Property Transfer Tax Law to create the legal and administrative framework to levy the tax.
- The PTT Law development process is the same as for other FMA taxation laws.
- The FNTC provides law development grants, law development support, sample laws and standards.



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The PTT is an FMA local revenue power



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What are the Administrative Requirements?

Implementing a PTT will require additional operational and administrative structures for the First Nation

MECHANISM	The First Nation must have a mechanism to collect the PTT at the time of registration of lease transfers. This generally means the First Nation must be operating under FA or have 53/60 powers.
DEPARTMENTAL COORDINATION	The First Nation must coordinate its tax department and land department, to ensure that transfers are not accepted unless a completed Return is delivered and any PTT owing is paid in full.
ADMINISTRATOR	An administrator must be appointed and trained to undertake all of the administrator's responsibilities, include to review all PTT Returns, issue assessments where necessary, undertake reconsiderations, collect PTT, refund PTT and keep records.
LOCAL REVENUE ACCOUNT	Revenues from the FMA PTT are "local revenues" and must be deposited in the First Nation's local revenue account, and expended only under the authority of an expenditure law.



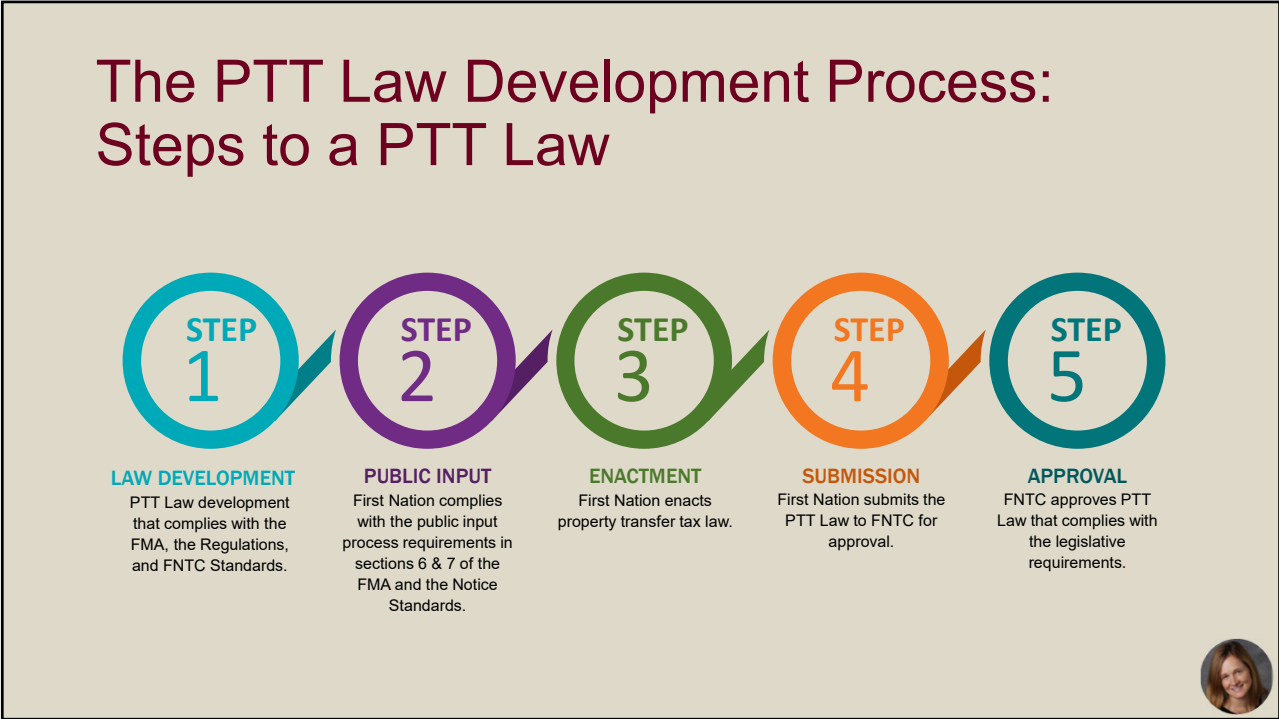
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How does PTT work with Land Code?

- Land Code First Nations can administer the PTT because they register all land-related documents into their own Registry Systems
 - Specific forms and documents
 - Checklists
 - Fee structures in place for efficient transactions
- Once all documents are received and the PTT paid, the transaction is filed by the First Nation
 - Forms and documents
 - Payment of PTT
 - First Nation will ensure all Property Taxes are current
 - First Nations don't proceed with registration unless the PTT is paid.



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Estimating PTT Revenue Potential


PTT rate set
by the First
Nation

Fair market
values of the
leases

Frequency of
lease transfers

Exemptions
given under the
First Nation law

*FNTC can assist First Nations in determining revenue potential.




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Standards

To support First Nation PTT laws, FNTC has developed Standards for First Nation Property Transfer Tax Laws. These Standards set minimum requirements for First Nation PTT laws that support the following objectives:

- Reflect best practices
- Provide for provincial harmonization where appropriate
- Support administrative efficiencies
- Ensure taxpayers have recourse

The Standards for First Nation Property Transfer Tax Laws can be found at the FNTC website, www.fntc.ca.



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Sample PTT laws

FNTC has developed sample PTT laws for British Columbia and for Ontario. The sample laws comply with the FMA requirements, the Regulations and the Property Transfer Tax Law Standards.

By using the sample law, a First Nation can ensure its law will contain all of the required elements to create the PTT legal and administrative framework, will comply with all of the legislative requirements, will include practices and procedures that reflect best practices, and will be in the required format for publication in the First Nations Gazette.

Importantly, by using the sample law a First Nation will save time and money on law development.



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Next Steps

If you are interested in considering a PTT for your First Nation, here are some steps you can take to get started:

- Contact FNTC to discuss your PTT revenue potential
- Review and evaluate the administrative requirements for PTT
- Consider arranging for FNTC to provide a PTT presentation to Chief and Council, and senior staff



If your First Nation wants to proceed to law development:

- Contact FNTC for a law development grant application
- Develop a law development work plan in conjunction with the FNTC
- Retain legal counsel to assist in law development
- Download the sample PTT law for your Province




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Additional Resources

First Nations Property Taxation
 In their own words: Members of participating First Nations speak of the benefits of Real Property Taxation
[https://youtu.be/ VryewcXqFM](https://youtu.be/VryewcXqFM)

What is First Nation Transfer Tax under the FMA
<https://youtu.be/P-CXE3tkGw>



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Questions & Discussion

Join at

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What we covered

What is property transfer tax?


What is the FMA property transfer tax?


How is the FMA PTT Implemented?


What are the administrative requirements?

PTT Law development

Community Discussion







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THANK YOU

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Virtual Mix
& Mingle

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