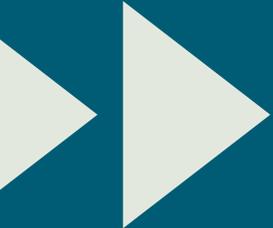




First Nations Tax Commission

Commission de la fiscalité des premières nations



# Overview of the FNTC Benefits, Programs and Services

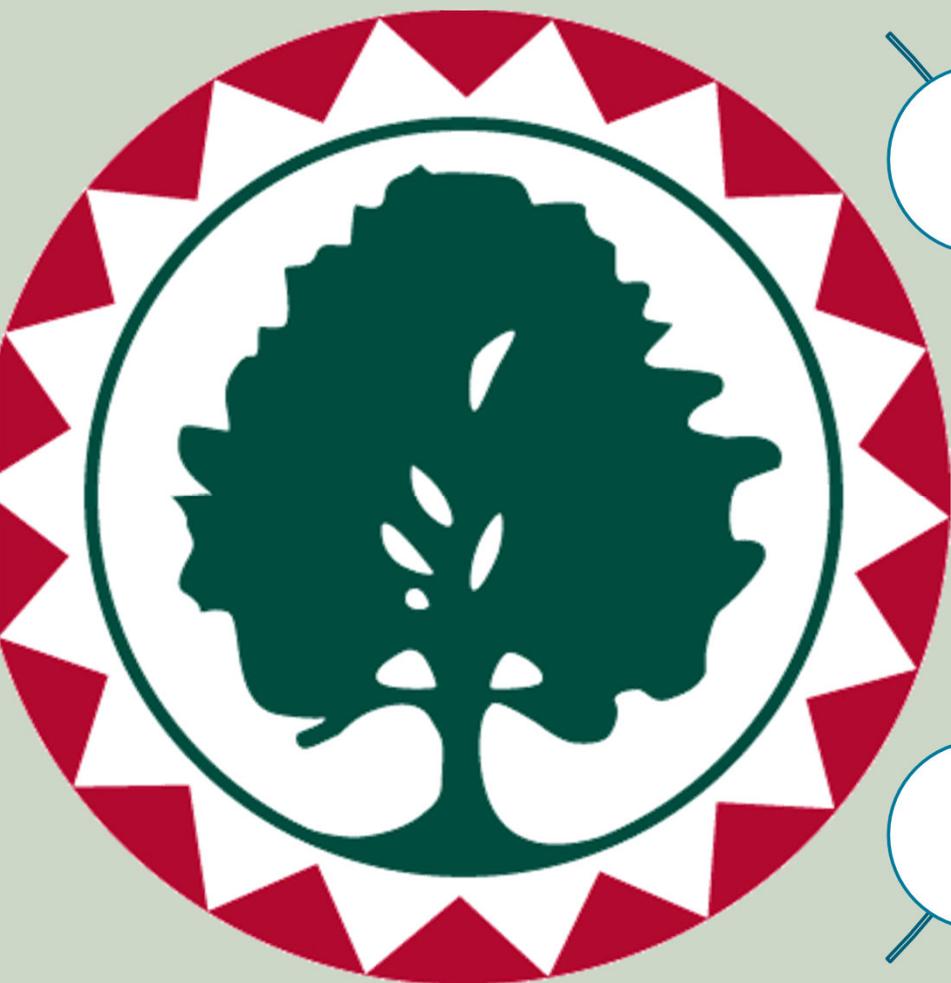
Financial Governance Workshop

Hosted by the First Nations Lands Management Resource Centre

January 15, 2020



# Overview

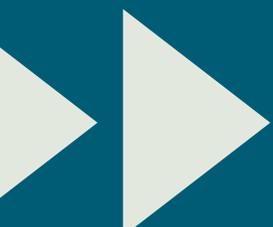


Introduction to the FNTC Property Tax Jurisdiction

Property Tax Jurisdiction

Legal Framework

Looking Forward



# Introduction to the First Nations Tax Commission



# FNTC Services

- ▶ Assists First Nation governments to build and maintain fair and efficient property tax systems that support sustainable economic development through the generation of stable revenues.
- ▶ Provides law development support, including sample laws and funding.
- ▶ Provides regulatory oversight for FMA and *Indian Act* First Nation tax systems.
- ▶ Provides support for determining tax revenue potential.
- ▶ Assists with obtaining assessment services, rate-setting, budgeting & service agreement negotiations.
- ▶ Funded the development of First Nation tax administration software.
- ▶ Education through Tulo ([www.tulo.ca](http://www.tulo.ca)).
- ▶ Dispute resolution support and adjudication.

# Leading the way

WORKING IN  
~~LEGISLATION~~  
DEPENDENCE

A CHANGE IN THE MINDS OF BUREAUCRATS:  
WE ARE

**GOVERNMENTS.**

~~CONSULTATION~~  
Partnership.

REMEMBER HOW WE  
WORK TOGETHER.

~~FUNDING~~  
Revenue.

OUR NATIONS ARE  
ECONOMIC  
DRIVERS

reclamation,  
REPATRIATION &  
resilience  
LOOKS LIKE

**LEGISLATION**

by TAKING CARE  
OF OURSELVES +  
OUR  
PEOPLE...

WE DRAIN  
benefit  
THE CANADIAN  
ECONOMY.

NOTHING ABOUT US,  
Without US.

FISCAL POWER  
= JURISDICTION.



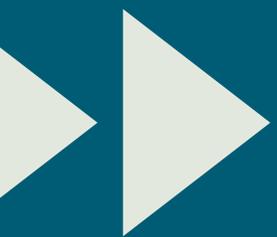
THERE IS NO  
bluePRINT FOR WHERE

WE'RE ABOUT TO GO.  
the time is RIGHT.

WHAT + WHO  
ARE THE  
LEADERS?  
IN GOVERNMENT  
IN COMMUNITIES  
How Do  
STAY  
UNITED

QUESTIONS  
We A  
DECISION  
MAKING  
on the  
WE ARE MAKING  
HISTORY

HORIZONTAL  
RELATIONSHIPS



# Property Tax Jurisdiction





# First Nation Property Taxation Jurisdiction

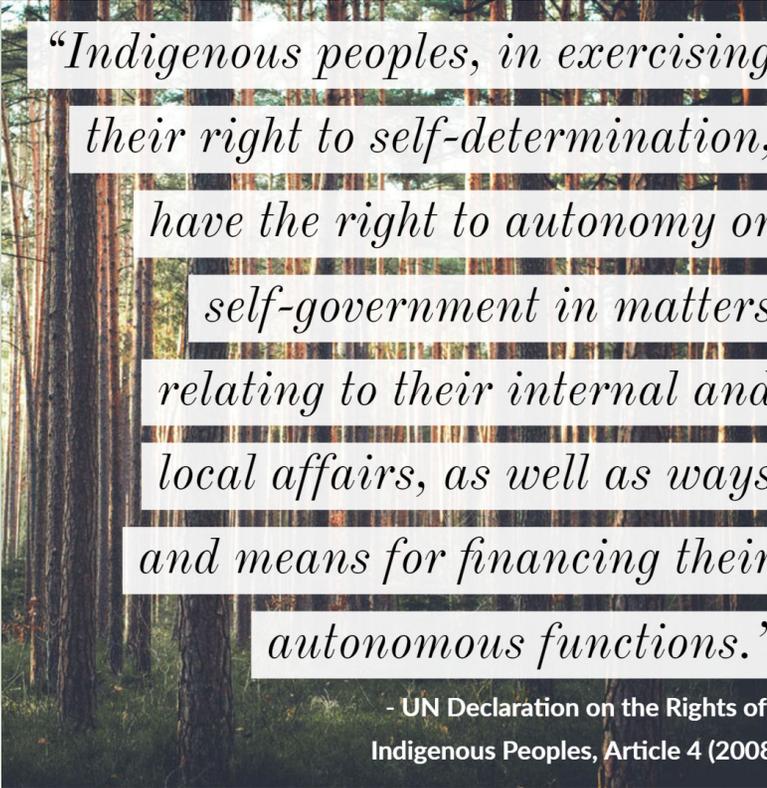
First Nation tax jurisdiction has been recognized as a key to aboriginal self-determination and self-government.

*“[I]t is important that we not lose sight of Parliament's objective in creating the new Indian taxation powers. The regime which came into force in 1988 is intended to facilitate the development of Aboriginal self-government by allowing bands to exercise the inherently governmental power of taxation on their reserves.”*

Chief Justice Lamer, *Canadian Pacific Ltd. v. Matsqui Indian Band*, [1995] 1 S.C.R. 3

# The Importance of First Nation Taxation

- ▶ A core governmental power.
- ▶ The foundation for a real Nation to Nation relationship.
- ▶ Enables revenue generation without reliance on other governments.
- ▶ Enables First Nations to set their own policies and priorities.
- ▶ Enables economic development through service and infrastructure development.

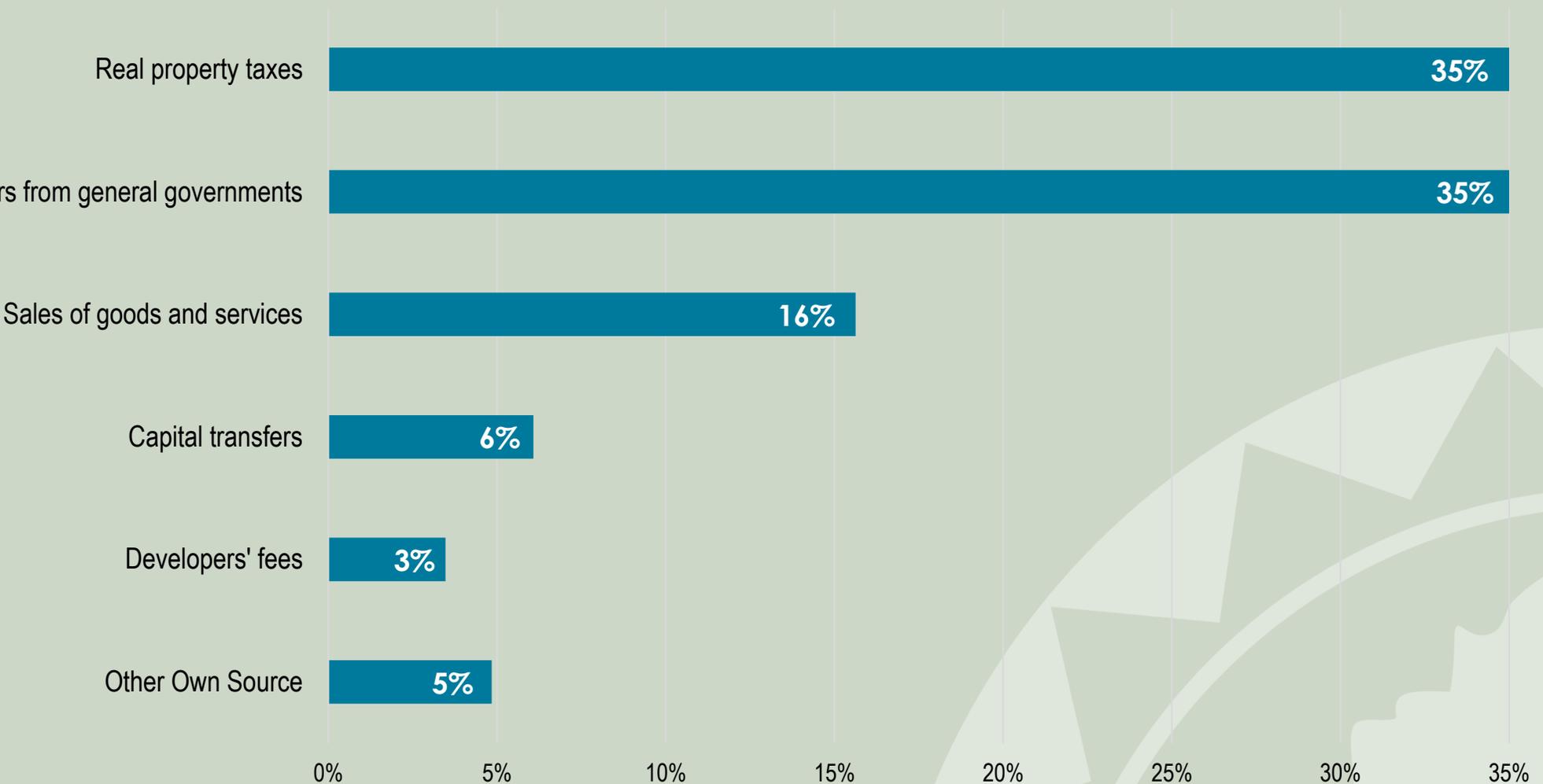


*“Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.”*

- UN Declaration on the Rights of Indigenous Peoples, Article 4 (2008)

# Property Tax - A Key Revenue Source

Canadian Local Government Revenues by Type - 2018





## As of 2019...

**30%** Or 190 First Nations have property tax jurisdiction (159) or are developing taxation (31) through either FMA or *Indian Act*.

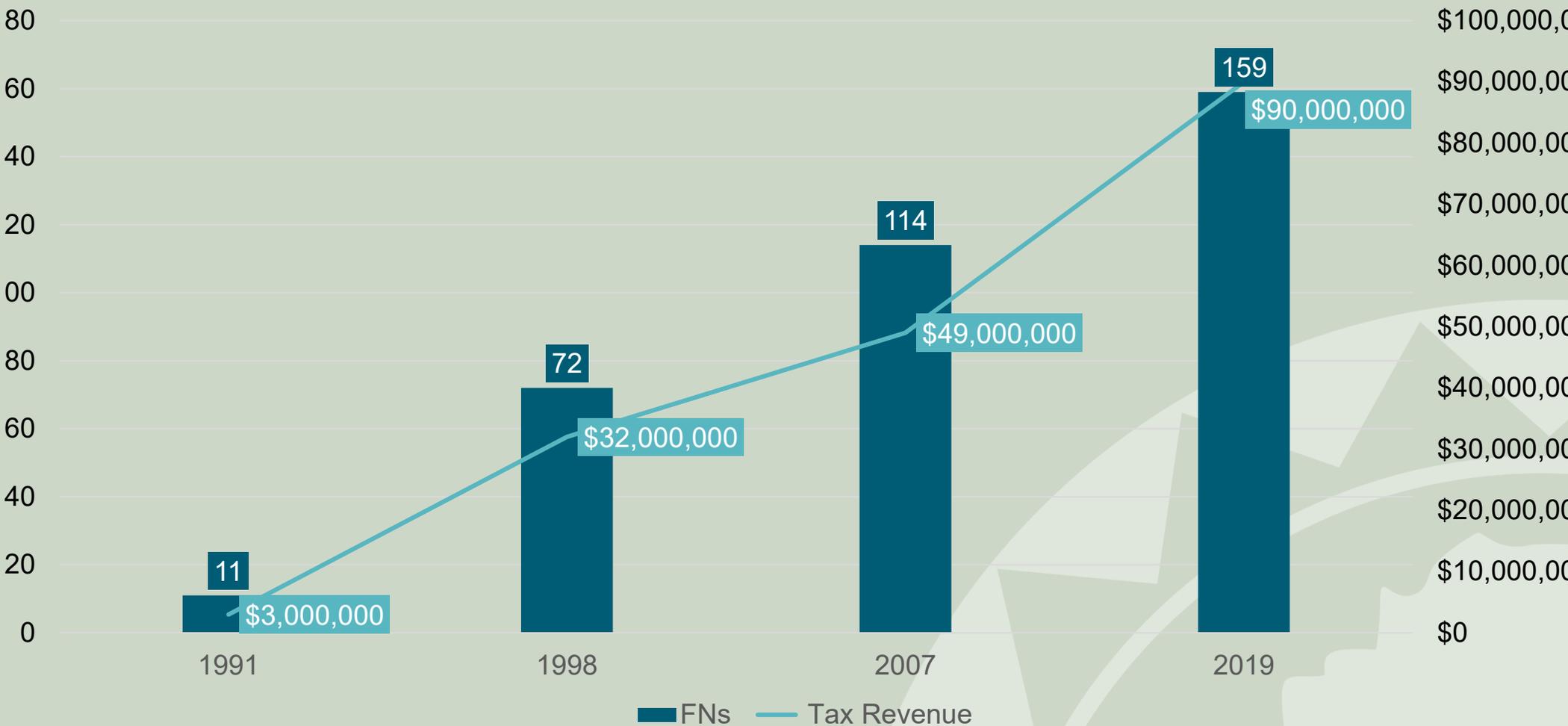
**238** First Nations on the FMA schedule (3 waiting to be added). A 30% increase since 2017.

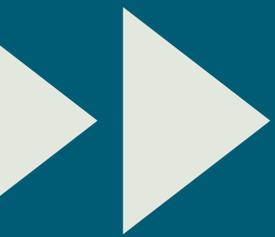
**109** First Nations collecting tax under FMA, generating \$56.6M.

**27** First Nations collecting property tax under the *Indian Act*, generating approximately \$33M.

**70%** Of the 31 First Nations developing property tax laws under the FMA are situated east of the Rockies.

# Three Decades of Growth





# Legal Framework

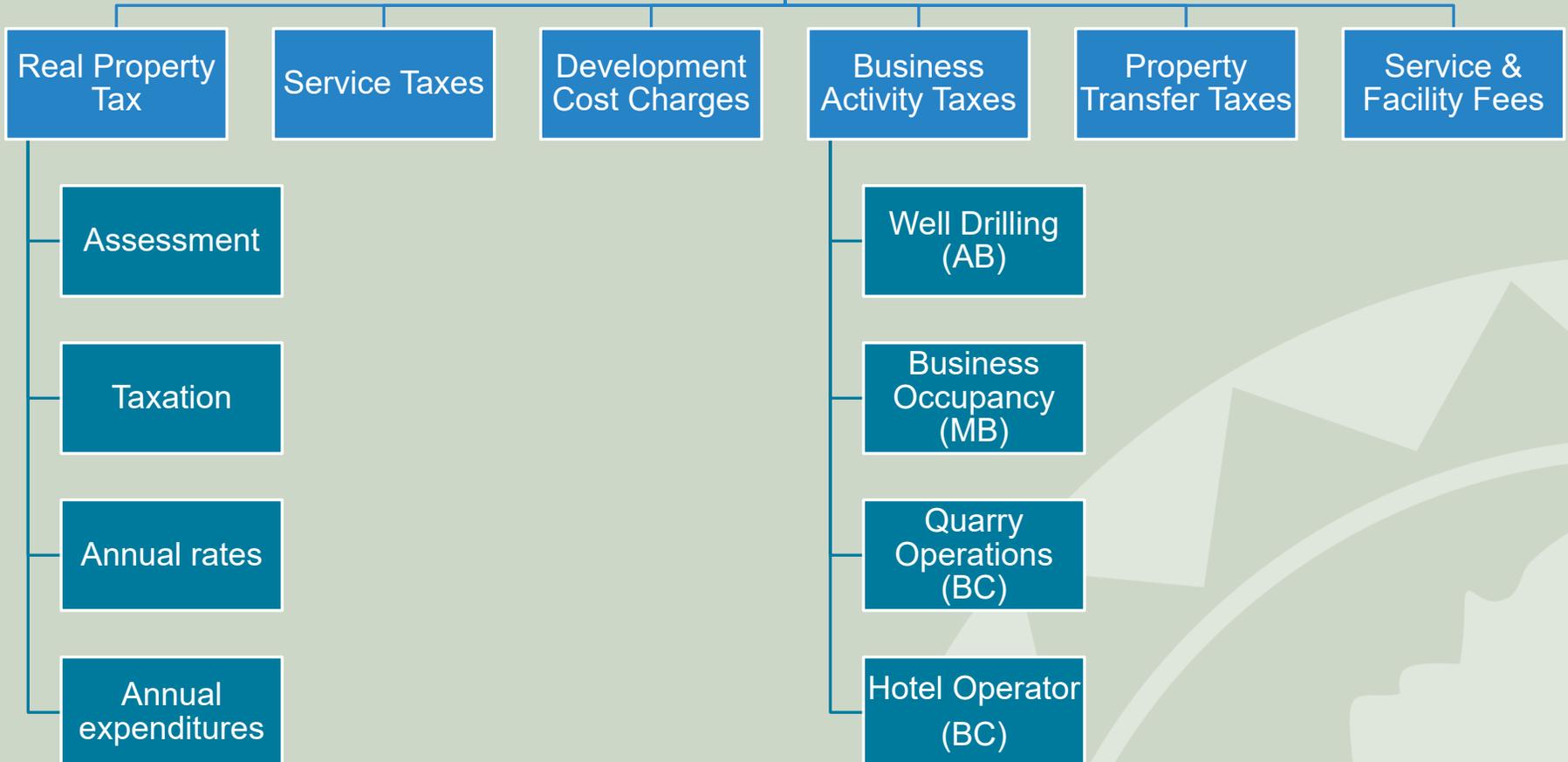


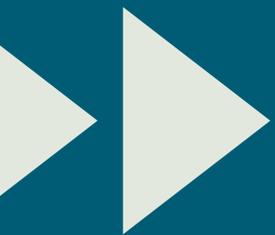
# Legal Framework: 2 Options

- ▶ First Nation taxation powers on reserve are a delegation of the federal taxation power under section 91(3) of the Constitution Act, 1867. (See *Westbank First Nation v. BC Hydro* (1999) 3 SCR 134).
- ▶ First Nations can use section 83 of the *Indian Act*, or the FMA.
  - ▶ Section 83 of the *Indian Act*:
    - ▶ 83 (1) Without prejudice to the powers conferred by section 81, the council of a band may, subject to the approval of the Minister, make by-laws for any or all of the following purposes, namely,
      - ▶ (a) subject to subsections (2) and (3), taxation for local purposes of land or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve;

# FMA Local Revenue Powers

SECTION 5 OF THE FMA PROVIDES FOR EXPANDED FIRST NATION LOCAL REVENUES





# Looking Forward





# Expanding the FMA: Current Proposals

- ▶ First Nations Infrastructure Institute
  - ▶ Cannabis
  - ▶ Tobacco
  - ▶ Aboriginal Resource Charge
  - ▶ First Nations Goods and Services Tax
  - ▶ Excise Tax Sharing
- 

# The FMA Model

- ▶ The FMA is the fastest growing First Nation led legislative innovation in Canadian history (almost ½ of all First Nations joined within 10 years)

Increased private investment      Over **\$1 Billion**

Expanded fiscal powers              Over **\$600M** in revenue

Expanded legal framework        Almost **1500** tax, fiscal and financial laws passed

Improved access to capital        AA rating for FNFA and **\$600M** in financing

Administrative capacity              **22** original accredited courses and over **200** students

Financial management capacity    Over **100** certified First Nations

- ▶ The FNTC and FMA Institutions are working to build on this successful model with new tax powers and new First Nation institutions.

# Protocol: First Nations for Economic Cooperation and Development





Thank you

First Nations Tax Commission

[www.fntc.ca](http://www.fntc.ca) | [mail@fntc.ca](mailto:mail@fntc.ca)