



BY E-MAIL

June 25, 2024

c/o Director General, Personal Income Tax
Tax Policy Branch
Department of Finance Canada
90 Elgin Street
Ottawa ON K1A 0G5

consultation.legislation@fin.gc.ca,

Dear Sir or Madam:

RE: Consultation on Exempting Indigenous Settlement and Community Trusts from Alternative Minimum Tax

Thank you for the opportunity to provide comments on the Consultation on Exempting Indigenous Settlement and Community Trusts from Alternative Minimum Tax (the “**AMT Proposal**”), led by the Department of Finance (“**Finance Canada**”).

The First Nations Financial Management Board (the “**FMB**”) is a First Nations-led organization established under the *First Nations Fiscal Management Act*.¹

General Comments

We are generally pleased to see the expansion in this round of the AMT Proposal. As we stated in our November 2024 letter, all Indigenous trusts need to be exempted. This is in keeping with Budget 2024 which provides that

It's only fair that Indigenous communities build prosperity—on their own terms. And for that, they need new tools that are reflective of their unique needs and enable them to exercise their right to self-determination. The government is offering more flexible options for Indigenous Peoples to exercise tax jurisdiction; providing support for entrepreneurship, tourism, and clean energy; and facilitating access to affordable capital.²

The Alternative Minimum Tax (“**AMT**”) is an alternative tax rate that ensures that “the wealthiest Canadians pay their fair share and cannot excessively use deductions, credits, and other tax preferences to reduce tax”.³ It is plain that the spirit and intent of the AMT does not capture trusts that benefit Indigenous communities, governments, communities, and individuals.

¹ S.C. 2005, c. 9 (the “**FMA**”). The FMB works with clients to develop fiscal capacity and responsible fiscal governance, and further serves Indigenous people by advocating for the necessary inclusion of Indigenous interests in financial and economic policy matters throughout Canada and internationally.

² [Budget 2024, Chapter 6, A Fair Future for Indigenous Peoples](#) [emphasis added].

³ [Budget 2024, Chapter 8, Tax Fairness for Every Generation](#).



Questions

Can you please clarify the following:

1. It is our understanding that the effect of the amendment is to exclude **all** trusts that are settled for the benefit of Indigenous governments, communities, organizations and individuals with the result that all are exempt from the AMT calculation. Can you please advise that this understanding is correct?
2. Regarding new paragraphs 127.55(1)(f)(ix)(A)-(D): it does not appear that these trusts will operate to the exclusion of section 75(2) of the *Income Tax Act*. Can you please confirm that understanding? In the event this understanding is correct, we have made a recommendation regarding same, below.

Recommendation

To ensure that Indigenous trusts are secured for the benefit of their Indigenous beneficiaries, to the fullest extent, we recommend the following;

1. Regarding new paragraphs 127.55(1)(f)(ix)(A)-(D): we recommend that a change be made to paragraph 75(3) of the *Income Tax Act*, to exempt these trusts from the application of paragraph 75(2).

Please do not hesitate to contact us for further information should you have any questions.

Sincerely,

FIRST NATIONS FINANCIAL MANAGEMENT BOARD

Per:  _____

Harold Calla, FCPA, FCGA, CAFM
Executive Chair