

Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

I, the Minister of Indian Affairs and Northern Development, HEREBY APPROVE, pursuant to section 83 of the *Indian Act*, the following by-law made by the Whitefish Lake Indian Band, in the Province of Ontario, at a meeting held on the 13th day of August 1996.

- **Telephone Companies Taxation By-law #96-01**

A handwritten signature in black ink, consisting of a large, stylized 'S' or 'D' shape with a horizontal line extending to the right.

Dated at Ottawa, Ontario this 16th day of September, 1996.

Canada

**BY-LAW #96-01
DATED - 1996-08-13**

**OF THE WHITEFISH LAKE INDIAN BAND NO. 6
TELEPHONE COMPANIES TAXATION BYLAW**

WHEREAS pursuant to section 83 of the Indian Act, a band may, subject to the approval of the Minister of Indian Affairs and Northern Development, make bylaws for taxation for local purposes of land, or interests in land, in the reserve including rights to occupy, possess or use land in the reserve;

AND WHEREAS it is the practice in the Province of Ontario for telephone and telegraph companies to pay a tax upon a percentage of the gross receipts within a local jurisdiction;

BE IT THEREFORE RESOLVED, that the Council of the Whitefish Lake Band No. 6 adopt the following bylaw in an express exercise of its rights under Section 83 of the Indian Act.

1. This bylaw may be cited as the Telephone Companies Taxation Bylaw.
2. In this bylaw:
 - (a) "band" means the Whitefish Lake Band No. 6;
 - (b) "council of the band" means the Council of the Whitefish Lake Band No. 6;
 - © "customers" means a person who uses or purchases any kind of service from a telephone company;
 - (d) "gross receipts" means all regularly recurring revenue arising from telephones and other equipment used by customers on the reserve and shall include revenue from long distance calls billed to customers on the reserve; and there shall be a deduction for "gross receipts" of any amounts related to uncollectible accounts on the reserve or amounts paid to other telephone or utility companies for the use of their equipment or in settlement with other telephone companies for long distance services;
 - (e) "person" includes a corporation, partnership, agent or trustee, their heirs, executors, administrators or legal representatives;
 - (f) "reserve" means the reserves of the band as defined in the Indian Act, section 2(1), and special reserves pursuant to section 36;

- (g) "Surveyor of Taxes" means the person appointed by the Council of the Band as the Surveyor of Taxes pursuant to this bylaw;
- (h) "telephone company" includes a corporation, person or association of persons owning, controlling or operating a telephone system or line on the reserve or providing long distance telephone service through property, other than personal property, located on the reserve.

EXEMPTIONS

- 3. (a) The property or interest of a telephone company wholly owned by the band or any member of the Whitefish Lake No. 6 Band is exempt from taxation.
- (b) The Council of the Whitefish Lake No. 6 Band may, by resolution, enter into an agreement with any person to exempt that person from taxation pursuant to this bylaw, in whole or in part, where the Council of the Whitefish Lake No. 6 Band considers such agreement and exemption to be in the best interest of the Whitefish Lake No. 6 Band.

ASSESSMENT AND TAXATION

- 4. (a) The on-reserve property interests of a telephone company shall be assessed on the basis of the gross receipts of that company from the reserve.
- (b) Every telephone company owning, controlling or operating a telephone system or line on the reserve, shall provide the Surveyor of Taxes with a detailed statement by March 1st in each year, showing the gross receipts of the company from the reserve for the previous year ending on December 31st.
- © The on-reserve property interests of a telephone company assessed pursuant to Section 4(a) of this bylaw are taxable at the rate of 5% of the receipts of the telephone company in the previous year.
- (d) Taxes payable under this bylaw are a debt due to the Whitefish Lake No. 6 Band by the telephone company.
- (e) The gross receipts tax provided for in this bylaw shall be in lieu of all other tax which may be imposed on the telephone company's interest on the reserve.

ADMINISTRATION

5. (a) The Council of the Whitefish Lake No. 6 Band, shall by resolution appoint a Surveyor of Taxes.
- (b) The Surveyor of Taxes shall be responsible for the administration and implementation of the provisions of this bylaw.
- © The Surveyor of Taxes shall prepare a report to the Council of the Whitefish Lake No. 6, on or before April 1st in each year. The report shall include:
 - (i) A summary of the statements made under the section 4(b);
 - (ii) The amount of tax to be levied against each telephone company pursuant to section 4© for the current year; and
 - (iii) The recommendations of the Surveyor of Taxes with respect to the administration of this bylaw.
- (d) Upon approval by the Council of the Whitefish Lake Band No. 6, of the report made pursuant to section 5(c), the Surveyor of Taxes shall forthwith issue a Tax Notice to the telephone companies owning, controlling or operating a telephone system or line on the reserve.
- (e) Taxes are due and payable 21 days after the Tax Notice is posted.
- (f) In addition to and separate from any penalty or enforcement that may be imposed under this bylaw, interest shall run on all taxes that are due and payable at the rate of 1.5% interest per month.

TAX COLLECTION

6. (a) If the taxes imposed under this bylaw remain unpaid after December 31st of the year in which they are levied, the Council of the Whitefish Lake Band No. 6, may bring an action in a court of competent jurisdiction to collect the debt.
- (b) Taxes due and payable are a special lien and encumbrance on the reserve interests of a telephone company.

IMPOSITION PROVISION

7. (a) The Surveyor of Taxes shall notify, forthwith, each telephone company owning, controlling or operating a telephone system or line on the reserve that this bylaw is in effect, by registered mail.
- (b) Every telephone company owning, controlling or operating a telephone system or line on the reserve shall commence tracking gross receipts from the reserve, for the purpose of preparing the report required under section 4(a), 60 days after the notice under section 7(a) is mailed until December 31st of that year.
- © For the first year that a tax is imposed under this bylaw, the tax shall be 5% of the gross receipts of each telephone company pursuant to section 7(b).

APPEALS

8. An appeal, by a telephone company or the Council of the Whitefish Lake Band No. 6, of the basis upon which the calculation of a gross receipt was made, pursuant to section 4(b), or an appeal of the amount or tax levied pursuant to section 4(c), shall be made by way of action in a court of competent jurisdiction.

THIS BYLAW IS HEREBY made at a duly convened meeting of the Council of the Whitefish Lake No. 6 Band this 13th day of August, 1996.

Voting in favour of the bylaw are the following members of the Council:

Chief Harvey C. Petahtegoose



Councillor Deborah J. Beaucage



Councillor Lisa J. Wabegijig



Councillor Elmer A. Shawbonquit



Councillor Douglas P. Nootchtai



Councillor Gerald T. Nootchtai



Councillor Gordon J. Naponse

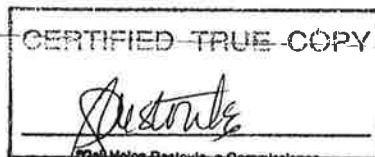


being the majority of those members of the Council of the Whitefish Lake No. 6, Band present at the aforesaid meeting of the Council.

The quorum of the Council is **four (4)** members.

Number of members to the Council present at the meeting of August 13th, 1996. 7

I, Harvey C. Petahtegoose, Chief of the Band do hereby certify that a true and exact copy of the foregoing By-Law No. 96-01 was mailed to the Minister of Indian Affairs pursuant to subsection 82(1) of the Indian Act, this 13th day of August 1996.



Paul Melan, Notary in Commission,
etc., Province of Ontario, for the
Government of Canada, Indian Affairs
and Northern Development
Expires October 28, 1997 *