



# Fiscal policy and the protection of land use and fragile economic growth

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CBA Aboriginal Law Conference

Friday, June 2, 2017

Winnipeg, Manitoba

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2. Federal OSR Policy
3. Growth of own source revenues in Québec
4. Challenges faced to raise OSR
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# 1. Introduction

RCAP (1996): Having own source revenues for the Aboriginal government is a key element of effective self-government

RCAP raised challenges however:

- Low levels of income and economic activity, hence low taxation revenues
- Small land and resource base
- Not necessarily commercial natural resources
- Tax collection is costly

## 2. Federal OSR Policy

- A portion of revenue generated by Aboriginal government is deducted from federal transfer payments
- Presently, only for First Nations having signed self-government agreements
- However there have been hints that could apply more broadly
- Health, education, social development transfers now protected (2015)



## 2. Federal OSR Policy (cont'd)

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### **Aboriginal Revenues included:**

- Tax Revenues
- Resource Revenues (IBA payments for projects on core governance lands)
- Aboriginal governmental business entity profits
- Business and property income of the government
- Fees and charges
- Miscellaneous revenues



## 2. Federal OSR Policy (cont'd)

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### **Tax Revenues can include:**

- First Nation members' income tax  
(employment, business income, dividends,  
etc.)
- Real property tax
- Sales tax
- FN corporations' income tax





## 2. Federal OSR Policy (cont'd)

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### **Revenues that are excluded:**

- IBA payments for off-land base projects
- Compensation for s 35 or specific claims
- Program transfers (federal or provincial)
- Provincial transfers (including transfer of taxation capacity)
- Portfolio investment income
- Gifts and donations

### 3. Growth of OSR in Québec

- Few self-government agreements
- JBNQA (1975) (Cree and Inuit)
- None concluded since
- Innu AIP (2004) & final?
- Cree Governance Agreement?
- Atikamekw AIP?





### 3. Growth of OSR in Québec (cont'd)

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- OSR (taxes, royalties, business income, property income)
- Not much enthusiasm for tax by-laws
- Only one property tax by-law (Uashat mak Maniutenam)
- Not much property income
- OSR is generated more through resource revenues and aboriginal governmental business profits



### 3. Growth of OSR in Québec (cont'd)

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- Hydro-Québec has signed several agreements recently for Rupert diversion (Cree) and La Romaine dam (Innu)
- Several mining IBAs (Raglan, Eleonore, Lac Bloom)
- Royalties: can be significant but irregular (mineral price)



### 3. Growth of OSR in Québec (cont'd)

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- IBAs include an Aboriginal preference for contracts
- Development of Aboriginal government and private businesses
- Contracts: Construction, road maintenance, lodging, restaurant business
- Joint ventures, transfer of expertise
- Generates revenue for Aboriginal government and private businesses



## 4. Challenges faced to raise OSR

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- High expectations
- Lack of expertise
- Training and transfer of knowledge is a slow process
- Difficult access to capital, loans, bonding
- Appropriate permitting
- Language barriers
- Compliance with regulations, taxes
- Isolation: transportation costs, internet

## 4. Challenges (cont'd)

- Artificial “Aboriginal” companies
- Non-Aboriginal company sub-contracts and reaps profit
- Low / irregular revenue – control by non-native company
- Certification of Aboriginal companies (PSAB, Nunavik, CNG)
- Easier for community-owned companies to meet the test and have access to financing



## 5. Problems with OSR Policy

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- Present OSR Policy could have several negative consequences
- OSR Policy is very broad (automatic inclusion of revenues)
- Cap on funding / population growth
- Pressure to generate OSR from resource revenues may erode free prior and informed consent to choose whether to protect or exploit territory
- May erode exercise of traditional way of life

## 5. Problems (cont'd)

- Governments' reluctance to transfer tax capacity to Aboriginal governments (i.e. exemption is lost, but often not transferred)
- Use of *Capacity* to raise tax revenues (rather than taxes *actually raised*)
- Use of *Deemed* Aboriginal governmental business entity profits (whether distributed or not to government)



## 5. Problems (cont'd)

- Gradual implementation (5 year holiday, then up to 50% after 20 years)
- Inclusion rate (maximum of 50%)
- May not be gradual enough, especially for isolated, more traditional communities
- Could lead to a reduction of economic development, and reduction of OSR

## 6. Recommendations

- Land base needs to be large enough to generate revenues AND practice traditional way of life
- Government entities should have the choice to reinvest or declare dividends, in order to have capital to reinvest and grow

## 6. Recommendations (cont'd)

- If loss of tax exemption is imposed, coming into force should be postponed
- If loss of tax exemption is imposed, all income tax (personal and corporate) should be paid to Aboriginal governments
- Tax revenues included in OSR should be actual not deemed
- Encourage taxation by demonstrating the benefits of taxation before including tax revenues in eligible revenues deducted

## 6. Recommendations (cont'd)

- **OSR Policy should be adapted to specific Aboriginal government**
- Isolated, higher costs
- More traditional, less formal education
- Less opportunities
- **Longer and more gradual transition regime to encourage economic development not impede it**

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