

# AFOA Saskatchewan

## Key Tax Considerations for First Nations and First Nation Organizations



Presented by: **Angela Chang and Curtis Ziola**

Date: **September 21, 2016**

# Disclaimer & Notice of Copyright

*This presentation is provided for information purposes and is intended for general guidance only. It should not be regarded as comprehensive or a substitute for professional advice. Tax law is subject to continual change, at times on a retroactive basis. Before taking any particular course of action, contact your MNP advisor to discuss these matters in the context of your particular situation.*

*Copyright MNP LLP. All rights reserved. MNP LLP are trademarks and/or registered trademarks of MNP LLP. The trademarks or service marks of all other products or services mentioned in this document are identified respectively.*

## Introductions



**Angela Chang**, CPA, CGA, CAFM  
Partner, Taxation Services

(604) 685.8408  
Suite 2200, MNP Tower  
1021 West Hastings Street  
Vancouver, BC, V6E 0C3  
[angela.chang@mnp.ca](mailto:angela.chang@mnp.ca)



**Curtis Ziola**, CPA, CA  
Manager, Taxation Services

(306) 665.6766  
119 4th Ave South, Suite 800  
Saskatoon, SK, S7K 5X2  
[curtis.ziola@mnp.ca](mailto:curtis.ziola@mnp.ca)

## Agenda

- a) Technical “Stuff”
- b) Employment
- c) Community Organizations
- d) Businesses
- e) Other

## a) Technical “Stuff”

- Indian Act

Section  
87

- Income Tax Act

Section  
149(1)

- Excise Tax Act

GST

## a) Technical “Stuff”

- Indian Act

Section  
87

.... the following property is exempt from taxation:

- The personal property of an Indian or band situated on a reserve.

## a) Technical “Stuff”

Section 149(1) refers to other exemptions from paying income tax, such as:

- Income Tax Act

Section  
149(1)

1. A municipal or public body performing a function of government in Canada,
2. A corporation owned by the Band and activities on reserve, or
3. Non-profit Organization

## a) Technical “Stuff”

- Excise  
Tax Act  
GST

Exemptions for Indian bands and status Indians are provided in Bulletin B-039.



## b) Employment

1) Exemption for  
Employment  
Income Guidelines

2) Source  
Deductions

3) Benefits

4) Filing Tax  
Returns

## b) Employment

<p>1) Exemption for Employment Income Guidelines</p>	<p>-</p>
<p>-</p>	<p>-</p>

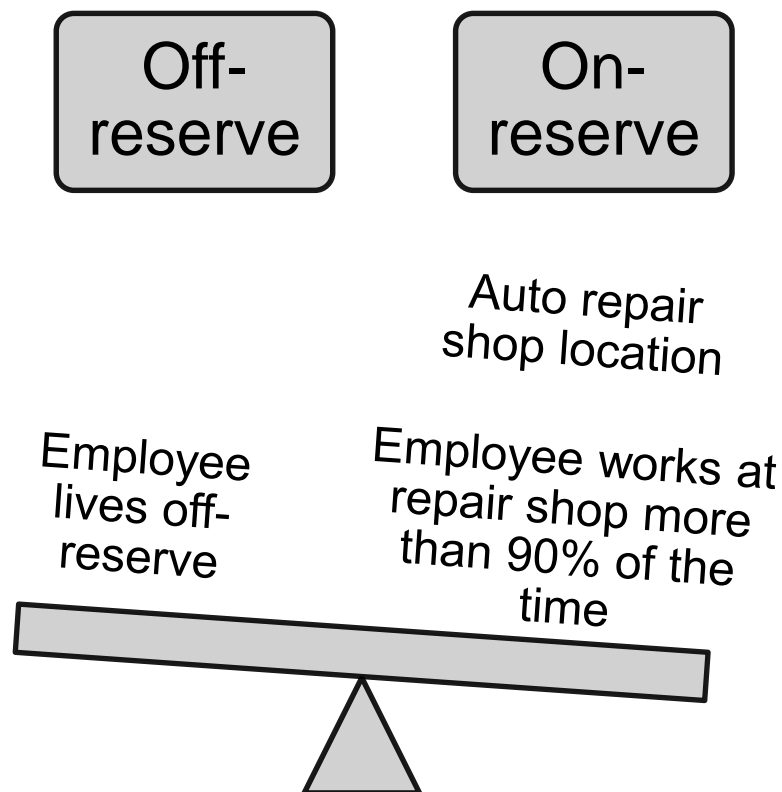
## b) Employment

- Example 1

Auto mechanic working at a garage on a reserve and lives off-reserve

## b) Employment

- Example 1



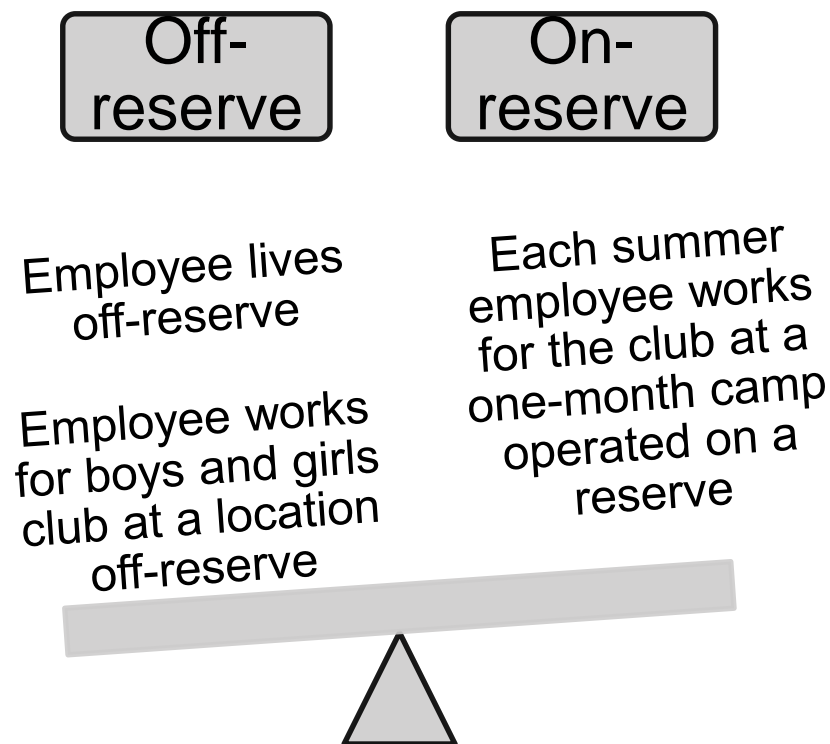
## b) Employment

- Example 2

Taxpayer lives off reserve and works for a boys and girls club location off-reserve for most of the year, but one month each summer the taxpayer works for the club at a location operated on reserve.

## b) Employment

- Example 2



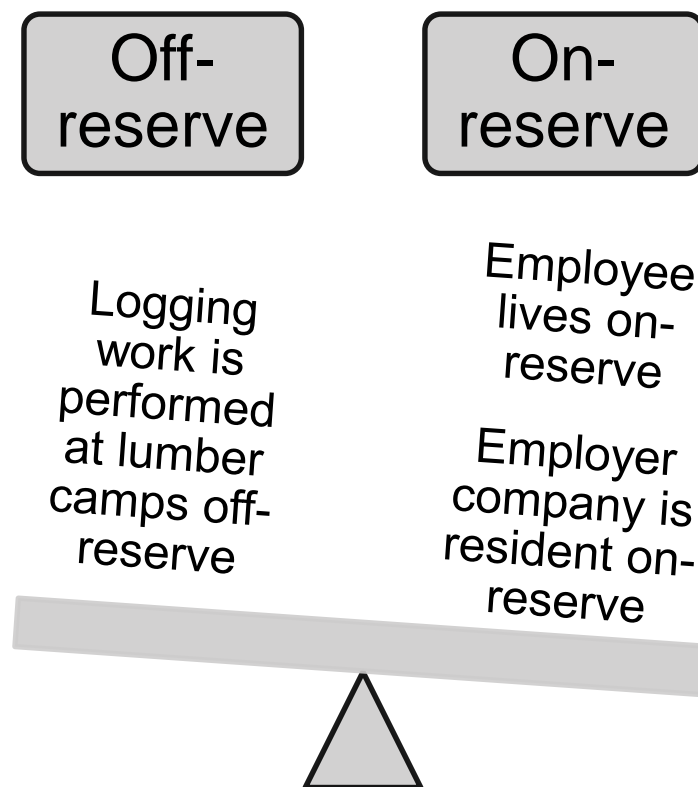
## b) Employment

- Example 3

Taxpayer lives on reserve and works for a logging company that is resident on reserve but work is performed at lumber camps off reserve

## b) Employment

- Example 3





## b) Employment

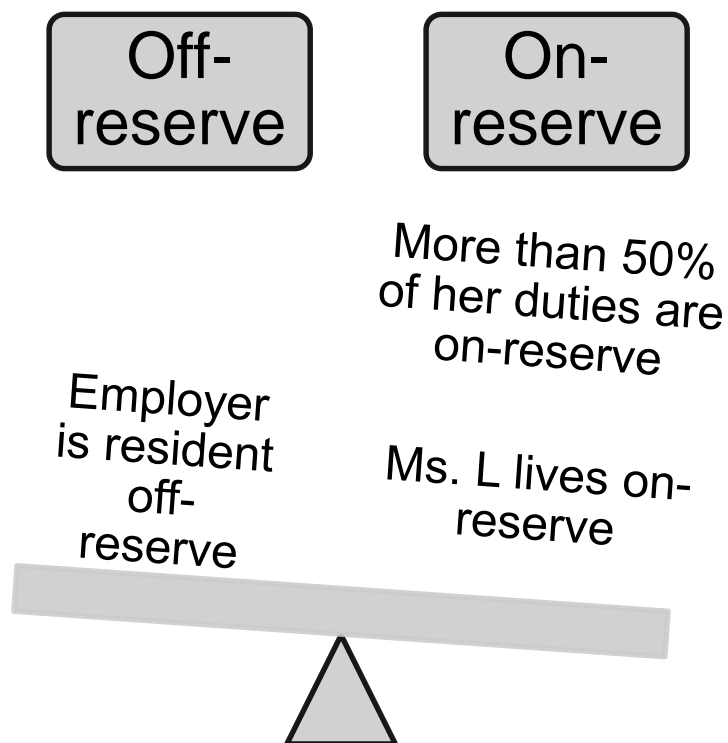
- Example 4

Ms. L lives on a reserve and works as a policewoman for an off-reserve employer. She performs more than one-half of her duties on reserve, and she has an additional connecting factor in that she lives on the reserve.

Therefore, she is exempt on the whole of the employment income

## b) Employment

- Example 4



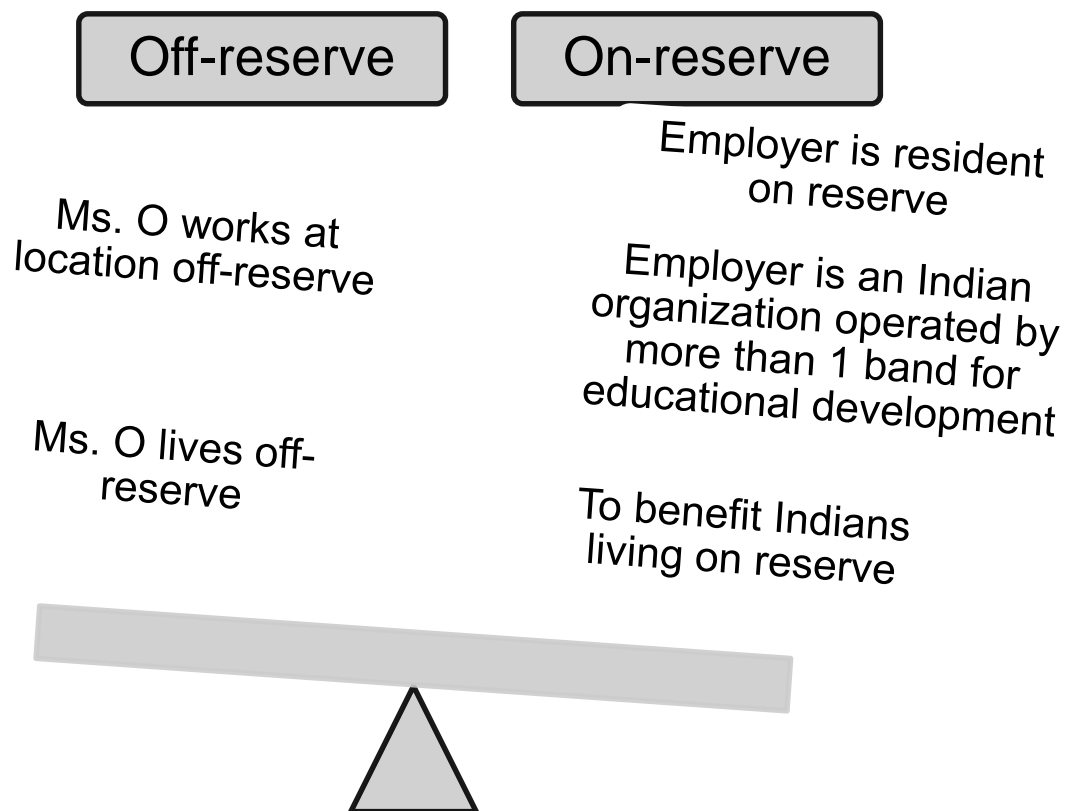
## b) Employment

- Example 5

Ms. O is a librarian working for a technical training institute operated by five Indian bands for Indians who live on reserve. The administrative office of the institute is on a reserve. Ms. O lives off reserve and works at an off-reserve location central to several reserves.

## b) Employment

- Example 5



## b) Employment

-	2) Source Deductions
-	-

## b) Employment

### Canada Pension Plan (CPP)

If you are an employer paying non-taxable salaries or wages to an Indian, CPP contributions do NOT have to be deducted.



Conditions have been established to enable the employee to participate in CPP

- The employer must complete and file the application form CPT124
- All tax-exempt Indians of the specific employer have to be included
- Application CPT124 is not reversible.

## b) Employment

- Employment Insurance (EI)
  - EI premiums must be deducted from the non-taxable salary or wages paid.
  - EI benefits will usually be exempt from income tax when they are received as a result of employment income that was exempt.

## b) Employment

-	-
3) Benefits	-



## b) Employment

- Remember to add benefits to T4's such as
  - - vehicles and cell phones etc

## b) Employment

-	-
-	4) Tax Filings

## b) Employment

Importance  
of filing  
your  
personal  
income tax  
return  
every year

---

Canada Child Benefit

- \$6,400 per year for each eligible child under 6
- \$5,400 per year for each eligible child 6 to 17

---

GST Credit

- \$276 basic credit / year
- \$145 per child / year

---

Guaranteed Income Supplement

---

## **c) Community Organizations**

- Structures
- GST and PST
- Municipal Status
- Qualified Donee Status

## c) Community Organizations

- Structure - Non-Profit Organization
  - The community may set up a NPO, be mindful that the NPO:
    - May have its own business number
    - May need to file an annual information return

## c) Community Organizations

- Exemptions to Indians or Indian Bands are offered through the Indian Act (section 87)
- The Indian Act overrides other legislations (e.g. Excise Tax Act, Provincial Sales Tax Act, Motor Fuel Tax Act, etc)

## c) Community Organizations

- To support an exemption:
  - Provide letter from the band to state the purchase is for band management activities
  - Make sure delivery address is on reserve

## c) Community Organizations

- Ideally, purchases made on reserve would have no tax on it (GST, PST, motor fuel tax, tobacco tax, federal excise tax, ect)



## c) Community Organizations

- The reality is that not all purchases are made on reserve, and even on reserve purchases sometimes have tax on it

## c) Community Organizations

Examples of when tax is sometimes paid:

- Urgent purchase of home repair parts at Home Depot located off reserve (5% GST and 5% SK PST)
- Hotel, airfare, conference room rentals, meals purchased off reserve

## c) Community Organizations

Examples of when tax is sometimes paid:

- Hydro, cell phone bills, building security services, accounting/legal fees

## c) Community Organizations

- For GST purposes, an Indian band is generally treated as a non-profit organization
- As an NPO, there are a few rebates that a band is entitled to

## c) Community Organizations

1. The Public Service Body (PSB) rebate
  - If government funding exceeds 40%, the band is eligible for the 50% PSB rebate
  - If determined to be a municipality, the band receives 100% PSB rebate

## c) Community Organizations

### 2. The travel rebate

- 100% rebate (Code 8 on the GST189 form)
- Hotel, taxi, airfare, conference room rentals, meals and entertainment

## c) Community Organizations

### 3. The tax paid in error rebate

- 100% rebate (Code 1A on the GST189 form)
- Purchase delivered on reserve such as legal and accounting services, utilities, phone, cell phone, internet, security of buildings on reserve

## c) Community Organizations

How do you get the 100% GST rebate for an entity determined to be a municipality?

- Provide municipal services (water, sewage, garbage collection, animal by-laws, noise by-laws, road grading, etc)



## c) Community Organizations

- Apply to the Canada Revenue Agency Rulings department
- Request to be determined to be a municipality for GST purposes only
- Timeframe: approximately 1 year

## c) Community Organizations

Advantage of municipal determination:

- 100% GST rebate for all the years going forward
- Plus, 100% rebate going back 4 years

## c) Community Organizations

Example:

- Annual GST rebate at 50%: \$10,000

## c) Community Organizations

Once municipal determination is received:

- Annual GST rebate at 100%: \$20,000
- Plus the remaining unclaimed \$10,000 for the past 4 years: \$40,000
- Total of \$60,000 in the first year

## c) Community Organizations

### Municipal determination

- Pro: Cash injection
- Con: None
- Status quo: recording GST on purchases, filing rebates

## c) Community Organizations

### Qualified Donee Status

- A federal government program under the charities directorate
- A written application to make to request for this status for bands that already provide provincial and municipal government services

## c) Community Organizations

### Qualified Donee Status

- Timeframe: approximately 8-10 months

## c) Community Organizations

Once qualified donee status is received:

- The band can issue donation receipts for income tax purposes, which entices donations and sponsors



## c) Community Organizations

Once qualified donee status is received:

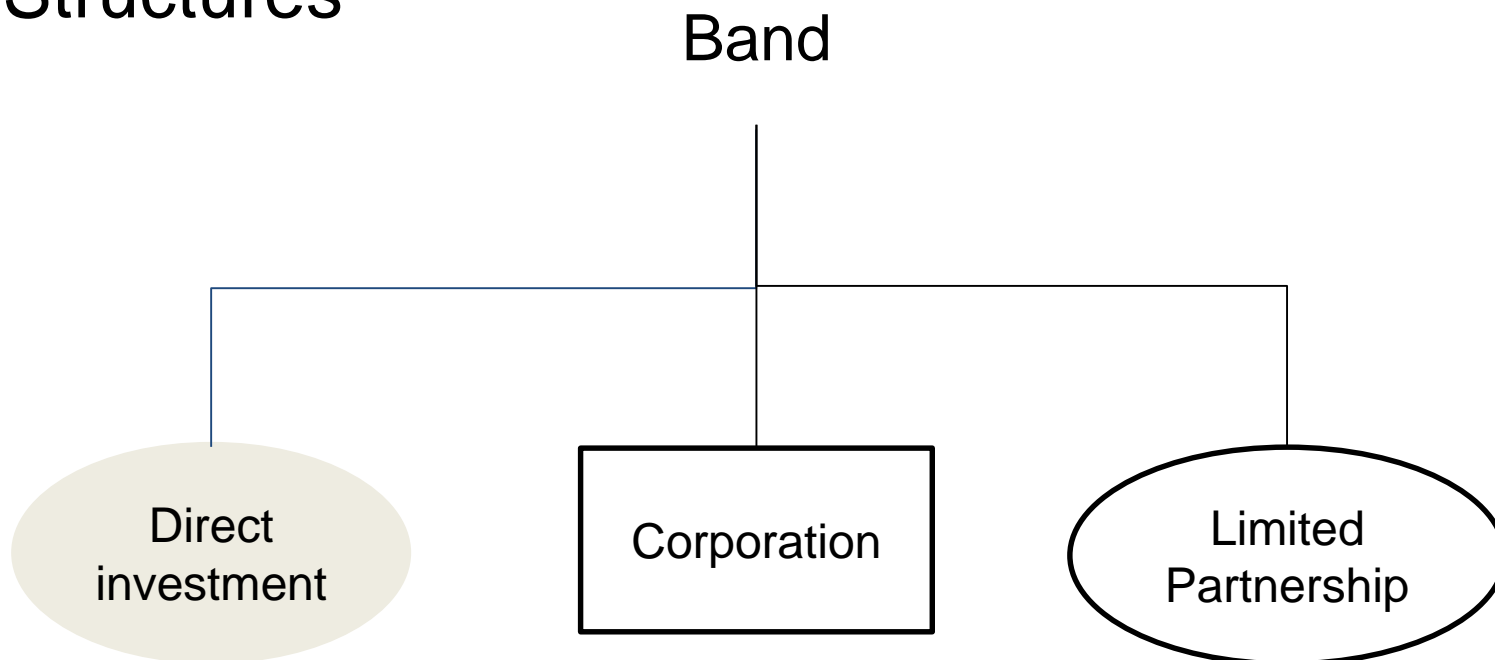
- Opens the gate for funding from other registered charities

## d) Businesses

- Structures
- GST, PST, and other commodity taxes
- Self employment
- Filing deadlines

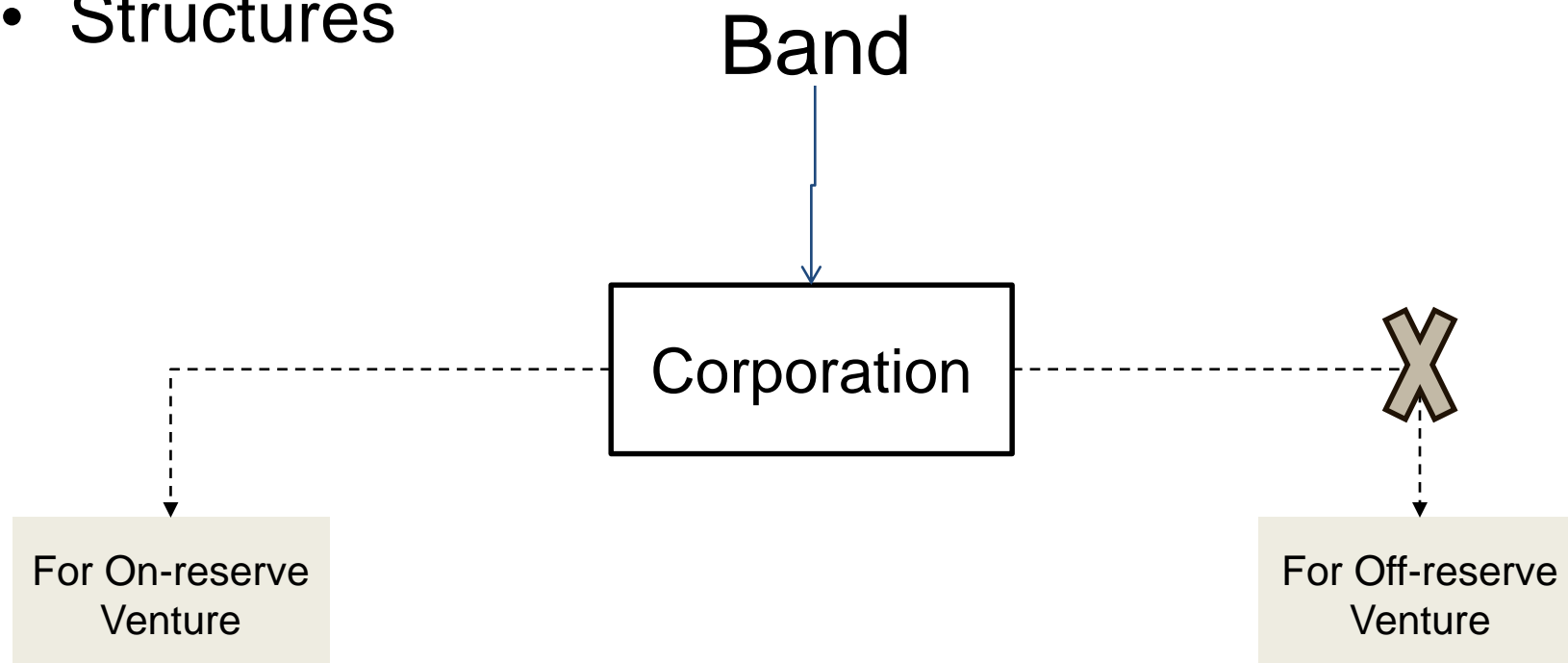
## d) Businesses

- Structures



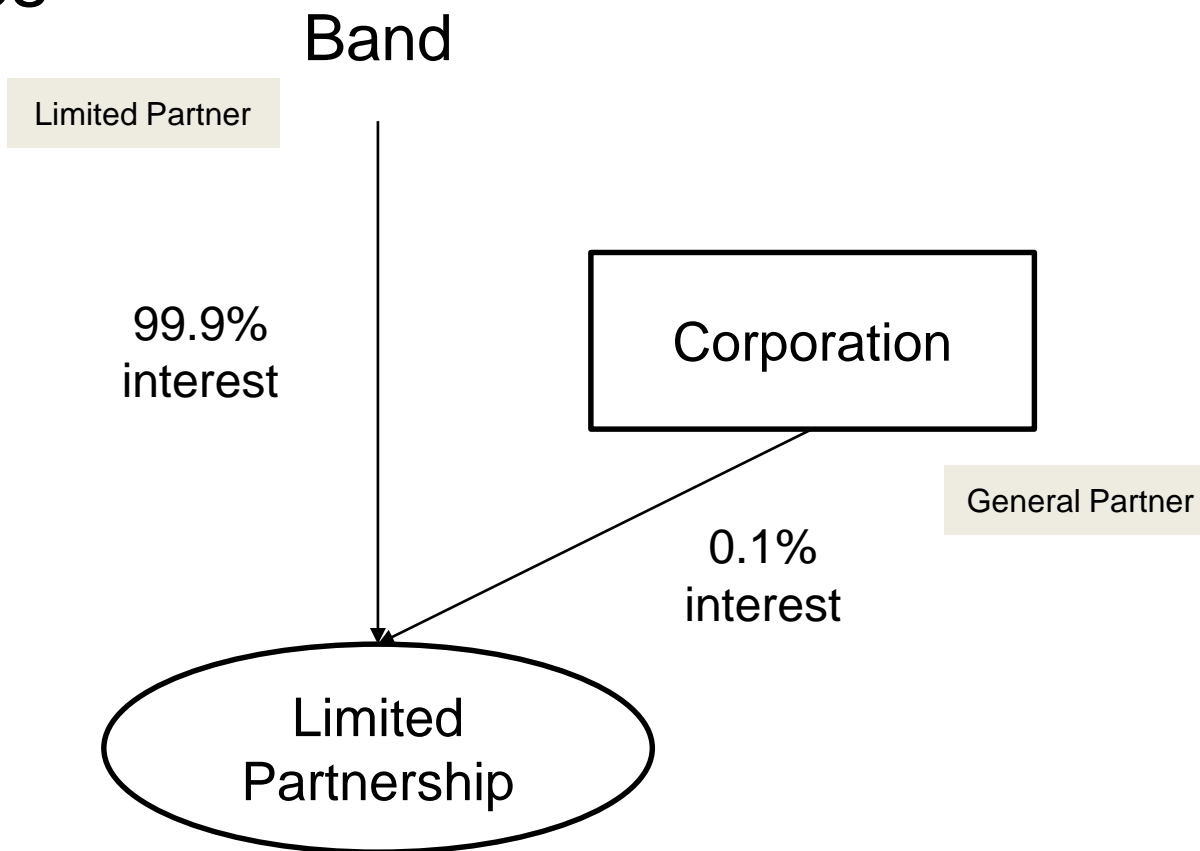
## d) Businesses

- Structures



# d) Businesses

- Structures



## d) Businesses

GST, PST, and other commodity taxes

- The general rules of taxes would apply to businesses
- No special exemptions available to businesses, whether it is off reserve or not

## d) Businesses

### GST:

- Applicable on sales of goods and services at 5%
- Exemptions apply to financial services, medical services, etc.
- Zero-rating provisions (GST at 0%) apply to basic groceries, certain medical supplies

## d) Businesses

### GST:

- As a business, GST needs to be collected on taxable sales
- Input tax credit (ITC) entitlement to entities in commercial activities



## d) Businesses

### GST:

- For example: Revenue of \$1,000 of a piece of equipment, collect \$50 of GST to remit
- Cost of equipment \$800, paid \$40 of GST, entitled to claim \$40 of ITCs
- Net remittance:  $\$50 - 40 = \$10$

## d) Businesses

### PST:

- Applicable on sales of goods and taxable services at 5%
- Exemptions apply to food items, medical supplies, goods for resale, etc.
- No input credit mechanism to recover tax paid

## d) Businesses

### PST:

- As a business, PST needs to be collected on taxable sales
- PST paid on input becomes a part of the cost of doing business in the province

## d) Businesses

### PST:

- For example: Revenue of \$1,000 of a piece of equipment, collect \$50 of PST to remit
- Net remittance: \$50 of PST collected

## d) Businesses

### PST:

- Self-assessment of PST on equipment or vehicles brought into the province
- Moving assets from one corporation to another in a related group may trigger PST

## d) Businesses

Provincial fuel tax, federal excise tax on fuel, tobacco tax are all embedded in the price of the purchases.

## d) Businesses

- Self Employment - individual
  - Need to determine if situated on reserve to be tax-exempt.
    - Look at location of revenue generating activities,
    - Location of customers
    - Residence of the business
    - Mind and management for decisions
    - Location of books and records
  - Keep a log book for activities on & off reserve
    - Tax-exempt income may be prorated on personal tax return

## d) Businesses

- Filing Deadlines

### Corporations

- Taxes are due in most cases 2-3 months after the end of the fiscal year-end
- The tax return is due 6 months after the end of the fiscal year-end

### Limited Partnerships

- The 5013 information return is normally:

The earlier of:

- a) March 31<sup>st</sup> after the calendar year end in which the fiscal period of the partnership ended, and
- b) The day that is 5 months after the end of the partnerships fiscal period.



## d) Businesses

- Filing Deadlines

### GST

- Annual returns: 3 months after YE
- Monthly or quarterly returns: 1 month after period end

### PST

- 20th day after the period end

## e) Other

- First Nations GST (FNGST)

## e) Other

Other ways of raising revenue:

- First Nations GST (FNGST)
  - A band can enter into agreement with federal government to implement FNGST
  - Same rules as GST, applicable on any purchases on reserve

## e) Other

- First Nations GST (FNGST)
  - No separate reporting required
  - Each period, CRA calculates the Nation's share of the revenue with complex formula and sends the share to the Nation

## e) Other

- First Nations GST (FNGST)
  - Makes sense to implement for bands nearer urban centres where more GST revenue is generated
  - Calculation is based on population of the Nation over age of 15, estimated consumption and geographic location

## e) Other

- First Nations Tax (FNT)
  - Levy tax on alcohol, tobacco, and fuel
  - Any tax collected is transferred to the Nation dollar-for-dollar
  - Federal government no longer allows bands to sign up for FNT
  - Only 8 Nations in BC still has FNT

## e) Other

- Other provincial level taxes
  - Example: property tax
  - Band must negotiate with the province to levy these taxes to displace the current provincial tax
  - Tax law/by-law must be created, and reviewed by FNTC and AANDC

**Thank You**

**Please call  
if you have any  
questions:**

**Angela Chang  
604.685.8408**

**Curtis Ziola  
306.665.6766**

