

Aboriginal Tax Exemption by Bernd Christmas

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Aboriginal Peoples in Canada pay taxes. There appears to be a perception that we are all free from the long arms of the Canada Revenue Agency. For some Indigenous Peoples living on sanctioned and recognized reservations, an exemption from paying income tax applies. Now before anyone jumps on this, let's take a serious look at this. There are individuals, not-for-profit corporations, charities and corporations in Canada that do not pay tax on income/revenue earned. We have all heard this and therefore can't say that Aboriginal Peoples are getting treated differently than other people living in Canada.

The income tax exemption stems from s.87 of the Indian Act of Canada. The Indian Act of Canada is recognized as federal jurisdiction within the Constitution Acts of Canada 1867 and 1982. Two other source of exemption from taxation are existing aboriginal rights which have been recognized and affirmed under s.35 of the Constitution Act of Canada, 1982 and treaties.

Aboriginal right to taxation exemption flows from the recognition by courts and governments that Aboriginal Nations have the right to self government and have recognized that these Indigenous governments have customary law. Therefore, self government and the ability to invoke customary law naturally allow an Aboriginal government to be exempt from a "foreign" government from taxing an Aboriginal government. Sounds complicated but requires a deeper analysis which this form of media doesn't permit.

There also exist Aboriginal treaties that were signed between the ancestors of modern Aboriginal governments and what is now Canada's government. These treaties explicitly state that Indians are exempt from paying taxes. We cannot on a whim say that those documents were signed a hundred or five hundred years ago. These are sacred agreements signed in good faith between nations at a time when both needed each other.

Now the more difficult matter to address, is the fact that statistics indicate that unemployment rates for Aboriginal groups continue to be twice the unemployment rate for all Canadians. Aboriginal Peoples living in a family setting are three times as likely to have incomes below the poverty level of Canadians and an Aboriginal person on average earns \$20,940 while the average Canadian earns \$35,872. Furthermore, 80 percent of Aboriginal Peoples earn incomes below \$30,000.

So, why do non-aboriginal peoples in Canada get so upset over the exemption from paying tax? Both morally and legally we have the right, as hollow as it may be.