



Pacific Business & Law Institute

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# FIRST NATION TAXATION

Co-Chaired by

**Maxime Faille**  
Gowling WLG

**Jaimie Lickers**  
Gowling WLG

January 28<sup>th</sup> & 29<sup>th</sup>, 2020 • UBC Robson Square • Vancouver, BC

*Live Webinar also available!*



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## CO-CHAIRS



**Maxime Faille**, Partner, Gowling WLG, Vancouver, BC. Named Benchmark Canada's Aboriginal Law Litigator of the Year for 2016, Max Faille served until recently as national leader of the Indigenous Law Group at Gowling WLG, which was honoured by *Best Lawyers in Canada* as "Aboriginal Law Firm of the Year" for 2018-2019. Max's clients consist of Indigenous governments, businesses and entrepreneurs across Canada, as well as private sector interests and other governments seeking to work with Indigenous communities. In addition to legal representation in the courts and in negotiations, Max regularly provides advice on matters of Aboriginal and treaty rights, First Nation taxation, self-government, Aboriginal consultation and accommodation, impact and benefit agreements, and Indigenous economic development.



**Jaimie Lickers**, Partner and National Leader of the Indigenous Law Group, Gowling WLG, Hamilton, ON. Ms. Lickers is a member of the advocacy department and her practice is focused on the areas of Indigenous, environmental and construction law. In 2018, Ms. Lickers was appointed as the national leader of Gowling WLG's Indigenous Law Group. Ms. Lickers has experience with First Nations on a variety of matters, including taxation, trusts, self-government, regulatory matters and consultation issues. Ms. Lickers has appeared before the Supreme Court of Canada, the Ontario Superior Court of Justice, the Tax Court of Canada, the Federal Court of Canada, the Federal Court of Appeal and the Ontario Court of Appeal. She regularly presents at conferences on topics related to First Nations taxation, First Nations trusts, Indigenous litigation, and consultation and accommodation.

## FACULTY



**Grand Chief Abram Benedict**, Mohawk Council of Akwesasne, Akwesasne. Abram Benedict is currently the Grand Chief for the Mohawk Council of Akwesasne. In the position of Grand Chief, Abram leads a dynamic Council of 12 members that govern the Mohawk Community of Akwesasne. The Mohawk Council of Akwesasne is an advanced First Nation community that delivers a wide variety of services to its members. Akwesasne is uniquely located on the international boundaries of Canada the United States and the provincial boundaries of Ontario and Quebec. Before joining the Mohawk Council of Akwesasne in 2006, Abram managed the workforce for Four Directions Petroleum, a First Nation company that exported fuel from Canada into sovereign tribal nations within the United States. Abram Benedict is a lifetime resident of Akwesasne and is a father to his eighteen-year-old daughter, Havana. Abram studied business administration at Algonquin College, serves as a Governor for St. Lawrence College and is a current member of the Chairperson's Indigenous Circle of the Parole Board of Canada.



**Ernest Jack**, Surveyor of Taxes, Westbank First Nation, Kelowna, BC. Ernest Jack is the Surveyor of Taxes for Westbank First Nation as well as an elected member of council for the Penticon Indian Band. He is the president of the First Nation Tax Administrators Association, an organization committed to advancing the professional management of First Nations property tax systems.



**Marie L. Potvin**, Barrister & Solicitor, Kamloops, BC. Marie has been practising for over 20 years with a focus on local government, Indigenous and environmental law. For the past 14 years, Marie has worked closely with the First Nations Tax Commission to support First Nation tax jurisdiction through policy and law development. She has provided advice on the development of federal legislative amendments and regulatory reform, and has worked with numerous First Nations to implement taxation regimes on their lands. Marie is an online faculty member at Thompson Rivers University and an instructor with the Tulo Centre of Indigenous Economics.



**Randy Price**, Commissioner, First Nations Tax Commission, Kamloops, BC. Mr. Randy Price is a Certified Public Accountant, CA, a Commissioner of the First Nations Tax Commission for the past 12 years and a member of the Audit Committee. He is a respected natural gas pipeline industry tax professional from British Columbia with 42 years experience in taxation. He was Vice President, Financial Services at Westcoast Energy Inc. and Duke Energy Corporation from 1977 to 2003, responsible for income and property taxation, insurance and internal audit. He has consulted on First Nations issues through RCP & Associates and PriceWaterhouseCoopers for the past 16 years and has experience with First Nation property tax issues as they relate to the interests of non-Aboriginal commercial taxpayers on reserves.



**Max Reed**, Cross-Border Tax Lawyer, SKL Tax, Vancouver, BC. Max solves tax problems that span both sides of the Canada-US border. Max is the co-author (with Dick Pound of Stikeman Elliot) of *A Tax Guide for American Citizens in Canada*, as well as over 20 technical and plain language articles on a wide range of cross-border tax topics. Recognized for his expertise, Max is often invited to speak at conferences and seminars for tax professionals and the general public. He was invited to testify before the Canadian House of Commons Finance Committee on the impact of US tax law on Canadians.



**District Chief Edward Roundpoint**, Mohawk Council of Akwesasne, Akwesasne. District Chief Edward Roundpoint is a Kawehno:ke District Chief of the Mohawk Council of Akwesasne.



**Jan Sampson**, FCPA, FCA, Executive Vice President, Member and Student Experience, CPABC, Vancouver, BC. Jan Sampson is the executive vice-president, Member and Student Experience for CPABC. She and her team are responsible for providing educational support for members through an extensive professional development program, providing networking and learning opportunities through chapters, forums, articles, providing one-on-one member advisory services support, and an extensive array of member benefits. Her team also supports students and advises on the experience requirements for the CPA professional education program (CPA PEP) and is responsible for recruitment into the CPA PEP and the Advanced Certificate in Accounting and Finance (ACAF) program and communications.



**Michael Welters**, Partner, Aldridge + Rosling, Vancouver BC. Michael advises on taxes and inter-governmental fiscal relations. Michael specializes in providing tax advice to the tax-exempt sector, including modern treaty nations, bands, municipalities, health authorities, school districts, charities and non-profit organizations. He provides those clients with advice on: obtaining or maintaining their income tax exempt status and structuring new activities; complying with and mitigating their commodity tax obligations (e.g., PST, GST, property transfer tax); and the application of, or exemption from, annual property taxes. Michael teaches Aboriginal tax as an adjunct professor at the UBC Faculty of Law.

## FIRST NATION TAXATION

Unique tax issues affect First Nations, and understanding them is key to advising clients, fostering economic development and increasing First Nation government revenue streams. This course will help you understand the legal and legislative changes that impact First Nation taxation issues. You will also learn how to use the competitive advantage of First Nation tax to foster economic development. An effective tax regime can result in a greater ability to provide incentives to on-reserve businesses and to expand community services. This course will provide opportunities to learn and discuss these issues with leading experts, and attendees will come away with new tools to navigate the maze of applicable tax provisions and rules.

### KEY ISSUES TO BE ADDRESSED:

- Recent updates on case law and legislation pertaining to First Nation tax issues
- The application of sales tax to First Nations
- Corporate structuring of First Nations business and economic development corporations
- The taxation of First Nations trusts
- Tax matters pertaining to self-governing and treaty Nations
- Cross-border tax issues
- The Mohawk Council of Akwesasne's Tobacco Agreement with Ontario
- First Nation Property Tax
- An update on CPABC's Indigenous initiatives

### WHO SHOULD ATTEND?

- Aboriginal leaders, administrators, advisors and councillors
- Lawyers and accountants advising First Nation governments
- Lawyers and accountants advising businesses working with Aboriginal partners
- Business developers and prospectors
- Resource industry executives and Aboriginal liaisons
- Consultants in the Aboriginal or natural resource sector
- Federal, provincial and municipal officials



**Mindy Wight**, CPA, CA, National Leader, Indigenous Tax Services, MNP LLP, Prince George, BC. Mindy is a Partner and Tax Specialist with MNP and serves as National Leader, Indigenous Tax Services. Based in Prince George, BC and serving First Nation clients and communities across Canada, Mindy specializes in helping First Nation members and organizations to utilize and maintain their income tax exemptions when organizing their corporate structures. Her clients include proprietorships, corporations, trusts and partnerships owned by First Nation members and communities. Mindy is a member of the Squamish Nation in North Vancouver, BC. With more than a decade of experience, Mindy assists her clients with purchases and sales of businesses, reorganizing companies, and minimizing taxes.



**Curtis Ziola**, CPA, CA, Senior Manager and Tax Specialist, MNP LLP, Saskatoon, SK. Curtis works with owner-managers of businesses along with a focus on First Nation members and organizations for tax planning and succession planning to assist in minimizing taxes and maximizing profits. Curtis has knowledge and experience in the area of Indigenous Tax Services and works closely with his clients to develop a keen understanding of their operations and unique financial situations. He proactively identifies potential issues and delivers practical, innovative solutions allowing his clients to make informed decisions based on their strategic goals. Curtis takes pride in helping his clients plan for the future.

# FIRST NATION TAXATION

## DAY ONE – JANUARY 28<sup>TH</sup>, 2020

- 9:00 Welcome and Introduction by PBLI**
- 9:05 Chairs' Welcome and Introduction to Day One**  
Maxime Faille & Jaimie Lickers, Gowling WLG
- 9:10 First Nation Income Tax Immunity and Exemption: An Overview and Update**  
Maxime Faille, Gowling WLG
- Section 87 of the *Indian Act* and its interpretation
  - Section 149 of the *Income Tax Act*: First Nations as governments
  - Tax treatment of First Nation social agency employees
  - Case law update
  - Recent CRA approaches
- 10:00 Questions and Discussion**
- 10:10 Refreshment Adjournment**
- 10:25 First Nations and Sales Tax**  
Michael Welters, Aldridge + Rosling
- Application of s. 87 to GST, PST and HST by CRA and the provinces
  - GST and professional services
  - Managing provincial sales taxes and limited partnerships, joint ventures
- 11:15 Questions and Discussion**
- 11:25 Corporate and Commercial Structuring Part I: Private First Nation Businesses**  
Mindy Wight & Curtis Ziola, MNP LLP
- Incorporation vs. sole proprietorship: Pros and cons
    - Taxation considerations
    - Liability considerations
    - Governance, management and control
- 12:05 Questions and Discussion**
- 12:15 Networking Lunch**
- 1:15 Corporate and Commercial Structuring Part II: First Nation Economic Development Entities**  
Mindy Wight & Curtis Ziola, MNP LLP
- Corporate governance models: Political control vs. arm's-length
  - Joint ventures, limited partnerships and limited liability partnerships
- 1:55 Questions and Discussion**
- 2:05 Taxation of Trusts**  
Jaimie Lickers, Gowling WLG
- No First Nation-specific tax exemptions for trusts
  - Trusts subject to income and sales tax
  - Structuring consideration for minimization of tax
- 2:55 Questions and Discussion**
- 3:05 Refreshment Adjournment**

- 3:20 Modern Treaty Nations, Self-Governing Nations and Taxation**  
Ernest Jack, Westbank First Nation
- Transitioning into treaty/self-government
  - Tax matters under different self-governing agreements
  - Tax treatment of self-governing Nations
  - Self-governing Nations as taxing entities
- 4:10 Questions and Discussion**
- 4:20 US Cross-Border Tax Issues Affecting First Nations**  
Max Reed, SKL Tax
- US withholding taxes and Indigenous governments
  - Taxation of royalties and treaty payments to US resident members
- 4:50 Questions and Discussion**
- 5:00 Chairs' Closing Remarks – Program Concludes for Day One**

## DAY TWO – JANUARY 29<sup>TH</sup>, 2020

- 9:00 Chairs' Welcome and Introduction to Day Two: Exercise of Taxation Powers by First Nations**  
Maxime Faille & Jaimie Lickers, Gowling WLG
- 9:05 Case Study: Mohawk Council of Akwesasne's Tobacco Agreement with Ontario**  
Grand Chief Abram Benedict & District Chief Edward Roundpoint, Mohawk Council of Akwesasne
- Regulation and revenue-sharing agreements
  - How the agreement has been implemented
- 9:55 Questions and Discussion**
- 10:05 Refreshment Adjournment**
- 10:20 First Nation Property Taxation**  
Marie L. Potvin & Randy Price, First Nations Tax Commission
- First Nations jurisdiction
  - The *First Nations Fiscal Management Act* framework
  - Developing a property taxation system
- 11:10 Questions and Discussion**
- 11:20 CPABC's Journey Developing an Indigenous Strategy**  
Jan Sampson, CPABC
- Our hypotheses - Are Indigenous peoples under-represented in the CPA profession? Is the CPA profession important to nation building efforts?
  - Our goals - Long term and intermediate
  - Our challenges - How attractive is finance and accounting to Indigenous peoples in BC?
- 12:10 Questions and Discussion**
- 12:20 Chairs' Closing Remarks**

# INFORMATION

## Four Ways to Register:

1. Telephone us: 604-730-2500 or toll free 877-730-2555
2. Fax us: 604-730-5085 or toll free 866-730-5085
3. Mail your registration form with payment
4. Register at [www.pbli.com/1558](http://www.pbli.com/1558)

**Registration:** The registration fee is \$1,045.00 plus GST of \$52.25 totalling **\$1,097.25** covering your attendance at the program, materials, a light breakfast, a networking lunch and refreshments throughout the day. In-person attendees have the option to receive their materials electronically in advance of the program, or in a hard copy binder on the day of the program. If an in-person attendee requests both hard copy and electronic materials, an additional \$50 charge will apply with applicable taxes. Webinar attendees will always receive their materials electronically.

**Early Bird Discount:** Register by December 30<sup>th</sup>, 2019 and receive a \$150 discount on the registration fee (\$895.00 plus GST).

**Group Discount:** Register four persons from the same organization at the same time and you are entitled to a complimentary fifth registration. Early Bird and Group Discount cannot be combined.

**Payment:** You may pay by VISA, MasterCard or cheque. Cheques should be made payable to the Pacific Business & Law Institute. Registration fees must be paid prior to the program.

**When and Where:** Check-in begins at 8:30 a.m. The program starts at **9:00 a.m.** UBC Robson Square is located at the basement level of **800 Robson Street** in Vancouver, BC. Please visit <http://www.robsonsquare.ubc.ca/find-us/> for directions.

**Materials:** The faculty will prepare papers and/or other materials explaining many of the points raised during this program. Please contact us at [registrations@pbli.com](mailto:registrations@pbli.com) if you are unable to attend the program and wish to purchase a set of materials.

**Your Privacy:** We will keep all information that you provide to us in strict confidence, other than to prepare a delegate list containing your name, title, firm and city for our faculty and the program delegates. We do not share our mailing lists with any non-affiliated organization.

**Cancellations:** Full refunds will be given for cancellations (less a \$60.00 administration fee) if notice is received in writing five full business days prior to the program (**January 21<sup>st</sup>, 2020**). After that time we are unable to refund registration fees. Substitutions will be permitted. We reserve the right to cancel, change or revise the date, faculty, content, availability of webinar or venue for this event.

**Course Accreditation:** Attendance at this course can be listed for up to **9.5 hours** of continuing professional development with the Law Society of BC.

## Registration Form

**Pacific Business & Law Institute**  
Unit 2 - 2246 Spruce Street  
Vancouver, BC Canada V6H 2P3  
Telephone: 604-730-2500; Fax: 604-730-5085  
E-mail: [registrations@pbli.com](mailto:registrations@pbli.com)

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- In person [HARDCOPY ONLY]
- In person [PDF ONLY]
- In person [HARDCOPY & PDF (+\$52.50)]
- Live webinar [PDF]

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### Please indicate your areas of interest for future notifications (select all that apply):

Aboriginal Law  Aboriginal Treaty  Tax  Other \_\_\_\_\_

### How did you hear about this program?

Brochure  Email  Colleague  PBLI Website  Other \_\_\_\_\_

Register today at [www.pbli.com/1558](http://www.pbli.com/1558)

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