SPECIAL CHIEFS ASSEMBLY
DECEMBER 6, 7 & 8, 2011, OTTAWA, ON

Resolution no.59/2011

TITLE:	Protection of the tax exemption rights of First Nations
SUBJECT:	Taxation
MOVED BY:	Grand Chief Konrad Sioui, Huron-Wendat Nation, QC
SECONDED BY:	Chief Claude Jeannotte, Micmacs of Gesgapegiag, QC
DECISION:	Carried by Consensus

WHEREAS:

A. Article 3 and 5 of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) recognizes the rights of Indigenous Peoples to self-determination and freely ensuring their economic development while fully participating in the economic life of the state and preserving their economic systems and institutions.

B. First Nations' ancestral rights as well as those stemming from treaties must be respected in every way.

C. The Supreme Court of Canada, in the *Estate of Rolland Bastien* and *Alexandre Dubé* judgements, handed down on July 22, 2011, established a method and way of enabling the tax authorities to determine if income from property, particularly interest income, was exempt from taxation by virtue of article 87 of the Indian Act.

D. At the same time, the Supreme Court of Canada rejected the ordinary market criterion that was being applied up until that point by the lower courts – a criterion that cancelled out tax exemption on these types of income when a financial institution generates its income, in whole or in part, on the ordinary market.

E. These decisions will foster economic development, autonomy, and self-determination among First Nations by enabling their members to be present in the entire Canadian and international economic sphere.

F. The Government of Canada and the provincial governments have yet to indicate the position that they will be adopting in line with the judgements that were made in the context of the *Estate of Rolland Bastien* and

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Alexandre Dubé causing tax payers who stand to benefit from these types of conclusions to remain unsure of what to do.

G. Many First Nation citizens have had their income from property unfairly and illegally taxed by the governments and there is a pressing need to clarify the situation.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Declare that any restrictive interpretation of the tax exemption rights or any refusal on behalf of the Government of Canada and the provincial governments to implement and recognize, as soon as possible, the rights of the First Nations members to tax exemption on income from property is unfair and illegal, violates their ancestral and treaty-protected rights and has a deterrent and perverse effect on the economic development of the First Nations.
2. Mandate the National Chief to advocate that the Government of Canada and the provincial governments take action in line with the rulings recently made by the Supreme Court of Canada within the context of the *Estate of Rolland Bastien* and *Alexandre Dubé* and quickly adopt interpretation rules respecting the rights of First Nation citizens to tax exemption on their income from property, self-determination, autonomy, and economic development that is harmonious and respectful of the human-being.
3. Direct the AFN to develop a national strategy and act as a watchdog to ensure that this tax exemption is better supervised and protected. This includes resorting to the courts, so that First Nation citizens whose rights to tax exemption have not been respected, obtain, in a collective and individual manner, fair and equitable reparations.

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