

## **ANNOTATED SAMPLE FIRST NATION PROPERTY ASSESSMENT LAW (BRITISH COLUMBIA)**

The *First Nations Fiscal Management Act* (“FMA”) provides a framework for First Nation real property taxation on reserve. First Nation fiscal powers are set out in Part 1 of the FMA and include, under section 5, the authority to make laws respecting taxation for local purposes of reserve lands and interests in reserve lands.

A First Nation wishing to implement property taxation will require two core laws, the assessment law and taxation law. These two laws work together to establish the property taxation framework. The assessment law creates the framework for conducting assessments of interests in land on reserve, including the duties of the assessor, the applicable assessment rules and practices, and the establishment and conduct of the Assessment Review Board.

Laws enacted under the FMA must comply with the legislative framework, which includes all requirements in the FMA, any regulations made under paragraph 36(1)(d) of the FMA and any standards established by the First Nations Tax Commission (“Commission”) under section 35 of the FMA. Canada has made the *First Nations Assessment Appeal Regulations* (“Assessment Appeal Regulations”) and the *First Nations Assessment Inspection Regulations* (“Assessment Inspection Regulations”). The Commission has established *Standards for First Nation Property Assessment Laws, 2019* (“Assessment Law Standards”) that provide further requirements for the form and content of assessment laws. The Commission has also established the *Standards for the Timing of First Nation Annual Tax Rates and Expenditure Laws, 2017* (“Timing Standards”).

The Commission prepares sample laws for use and adaptation by First Nations. The sample First Nation Property Assessment Law (“sample law”) complies with the legislative framework and provides a comprehensive assessment law that reflects assessment practices on reserve lands and incorporates components of the British Columbia provincial assessment scheme where appropriate. It provides a best practices sample for use and adaptation by First Nations in drafting their own FMA assessment laws.

This annotation of the sample law provides explanatory and additional information on key aspects of the sample law, and is intended to assist First Nations in creating their own property taxation laws. This annotated law is not intended to provide legal advice or legal interpretation, and should not be relied upon as such.

**\_\_\_\_\_ FIRST NATION  
PROPERTY ASSESSMENT LAW, 20\_\_**

(BRITISH COLUMBIA)

TABLE OF CONTENTS

PART I	Citation .....
PART II	Definitions and References .....
PART III	Administration .....
PART IV	Assessed Value .....
PART V	Requests for Information and Inspections.....
PART VI	Assessment Roll and Assessment Notice .....
PART VII	Errors and Omissions in Assessment Roll .....
PART VIII	Reconsideration of Assessment .....
PART IX	Assessment Review Board .....
PART X	Appeal to Assessment Review Board ....
PART XI	General Provisions .....

SCHEDULES

I	Property Classes
II	Request for Information by Assessor
III	Declaration of Purpose for the Use of Assessment Information
IV	Assessment Notice
V	Request for Reconsideration of Assessment
VI	Notice of Appeal to Assessment Review Board
VII	Notice of Withdrawal
VIII	Notice of Hearing
IX	Order to Attend Hearing/Produce Documents
X	Certification of Assessment Roll by Assessor

**EXPLANATORY NOTES & COMMENTS**

The title of the law should include the name of the First Nation, and the year the First Nation will enact the law.

This indicates that the sample law has been created for First Nations located in British Columbia. This wording should be deleted in the First Nation's law.

When the drafting is complete, ensure that all of the Part numbers and headings correspond to the actual Part numbers and the headings used in the law.

When the drafting is complete, ensure that the Schedule numbers and names correspond to the numbers and names used in the law.

WHEREAS:

A. Pursuant to section 5 of the *First Nations Fiscal Management Act*, the council of a first nation may make laws respecting taxation for local purposes of reserve lands and interests in reserve lands;

B. The Council of the \_\_\_\_\_ First Nation deems it to be in the best interests of the First Nation to make a law for such purposes; and

C. The Council of the \_\_\_\_\_ First Nation has given notice of this law and has considered any representations received by the Council, in accordance with the requirements of the *First Nations Fiscal Management Act*;

NOW THEREFORE the Council of the \_\_\_\_\_ First Nation duly enacts as follows:

These recitals are recommended in order to show the authority for the law and the fulfillment of notice requirements. Additional recitals can also be included as the First Nation determines appropriate.

The enactment clause is required in order to show Council's intention to enact the law.

**PART I  
CITATION**

**Citation**

1. This Law may be cited as the \_\_\_\_\_ *First Nation Property Assessment Law, 20\_\_*.

The citation includes the First Nation's name and the year the law is made by the First Nation. Proper citation of the law should be used when referencing it in documents, forms or other laws.

**PART II  
DEFINITIONS AND REFERENCES**

**Definitions and References**

2.(1) In this Law:

“Act” means the *First Nations Fiscal Management Act*, S.C. 2005, c. 9, and the regulations enacted under that Act;

“assessable property” means an interest in reserve lands that is liable to assessment under this Law;

The definitions used are the same as set out in the FMA, the *Indian Act*, the FMA Regulations and the First Nation's Taxation Law. Where terms are not defined in those enactments, additional definitions are included to assist in the interpretation of the law. All definitions in this law should be consistent in the First Nation's Taxation Law. When drafting is complete, any definitions that are not used in the law should be deleted.

“assessed value” means the market value of land or improvements, or both, comprising of an interest in reserve lands as if the land or improvements were held in fee simple off the reserve, as determined under this Law;

This definition ensures that the assessor can assess each interest on reserve at its market value as if held in fee simple off reserve.

“assessment” means a valuation and classification of an interest in reserve lands;

“Assessment Notice” means a notice containing the information set out in Schedule IV;

Assessment Notices must contain the information set out in Schedule IV, but are not required to be in the exact form set out in that Schedule. [Assessment Law Standards](#) subsection 7.2.

“Assessment Review Board” means a board established by Council in accordance with Part IX;

“assessment roll” means a roll prepared pursuant to this Law, and includes a supplementary assessment roll, a revised assessment roll [and an assessment roll referenced in subsection 9(3)];

“assessor” means a person appointed by Council under subsection 3(1);

“chair” means the chair of the Assessment Review Board;

“complainant” means a person who commences an appeal of an assessment under this Law;

“Council” has the meaning given to that term in the Act;

This term is defined in the FMA and it therefore cannot be changed in this law.

“First Nation” means the \_\_\_\_\_ First Nation, being a band named in the schedule to the Act;

“holder” , in relation to an interest in reserve lands, means a person

This definition is used in the Assessment Law and in Commission Standards and sample laws, and therefore should remain consistent in this law.

- (a) in possession of the interest,
- (b) entitled through a lease, licence or other legal means to the interest,
- (c) in actual occupation of the interest,
- (d) who is a trustee of the interest;

“improvement” means any building, fixture, structure or similar thing constructed, placed or affixed on, in or to land, or water over land, or on, in or to another improvement and includes a manufactured home;

This definition is used in the Taxation Law and in sample laws, and therefore should remain consistent in this law.

“interest”, in relation to reserve lands, means any estate, right or interest of any nature in or to the lands, including any right to occupy, possess or use the lands, but does not include title to the lands that is held by Her Majesty;

This term is defined in the FMA and it therefore cannot be changed in this law.

“land” includes

- (a) land covered by water,
- (b) quarries, and
- (c) sand and gravel,

but does not include coal or other minerals;

“manufactured home” means a structure, whether or not ordinarily equipped with wheels, that is designed, constructed or manufactured to

This definition is used in provincial assessment legislation and therefore should remain consistent in this law.

- (a) be moved from one place to another by being towed or carried, and
- (b) provide
  - (i) a dwelling house or premises,
  - (ii) a business office or premises,
  - (iii) accommodation for any other purpose,
  - (iv) shelter for machinery or other equipment, or
  - (v) storage, workshop, repair, construction or manufacturing facilities;

“Notice of Appeal” means a notice containing the information set out in Schedule VI;

The Notice of Appeal must include the name and address of the complainant and any representative of the complainant, a description of the assessable property, and the grounds for the appeal. [Assessment Appeal Regulations](#) subsection 7(2).

“Notice of Hearing” means a notice containing the information set out in Schedule VIII;

“Notice of Withdrawal” means a notice containing the information set out in Schedule VII;

“Order to Attend Hearing/Produce Documents” means an order containing the information set out in Schedule IX;

“party”, in respect of an appeal of an assessment under this Law, means the parties to an assessment appeal under section 31;

“person” includes a partnership, syndicate, association, corporation and the personal or other legal representatives of a person;

“property class” means the categories of interests in reserve lands established in subsection 5(10) for the purposes of assessment and taxation;

The law uses the property classes established in the Province, where applicable.

“Province” means the province of British Columbia;

“reserve” means a reserve of the First Nation within the meaning of the *Indian Act*;

Laws made under the FMA can apply only on the reserve lands of a First Nation, as that term is defined in the [Indian Act](#).

“resolution” means a motion passed and approved by a majority of Council present at a duly convened meeting;

“revised assessment roll” means an assessment roll amended in accordance with section 11 of this Law;

“secretary” means the secretary of the Assessment Review Board appointed under section 24;

“supplementary assessment roll” means an assessment roll under section 18;

“tax administrator” means the person appointed by Council to that position under the Taxation Law;

“Taxation Law” means the \_\_\_\_\_ *First Nation Property Taxation Law, 20\_\_*;

“taxation year” means the calendar year to which an assessment roll applies for the purposes of taxation; and

“taxes” includes

(a) all taxes imposed, levied, assessed or assessable under the Taxation Law, and all penalties, interest and costs added to taxes under the Taxation Law, and

(b) for the purposes of collection and enforcement, all taxes imposed, levied, assessed or assessable under any other local revenue law of the First Nation, and all penalties, interest and costs added to taxes under such a law.

(2) For greater certainty, an interest, in relation to reserve lands, includes improvements.

(3) In this Law, references to a Part (e.g. Part I), section (e.g. section 1), subsection (e.g. subsection 2(1)), paragraph (e.g. paragraph 5(3)(a)) or Schedule (e.g. Schedule I) is a reference to the specified Part, section, subsection, paragraph or Schedule of this Law, except where otherwise stated.

### **PART III ADMINISTRATION**

#### **Assessor**

3.(1) Council must appoint one or more assessors to undertake assessments of assessable property in accordance with this Law and such other duties as set out in this Law or as directed by Council.

The law must require Council to appoint an assessor to undertake assessments of assessable property and other specified duties. [Assessment Law Standards](#) paragraph 1(a).

(2) An assessor appointed by Council must be qualified to conduct assessments of real property in the Province.

The assessor must be qualified to assess real property for taxation purposes in the Province. [Assessment Law Standards](#) paragraph 1(b).

#### **Application of Law**

4. This Law applies to all interests in reserve lands.

The law applies to all interests in reserve lands.

### **PART IV ASSESSED VALUE**

#### **Assessment and Valuation**

5.(1) The assessor must assess all interests in reserve lands that are subject to taxation under the Taxation Law and all interests in land for which payments-in-lieu may be accepted by Council.

The assessor is required to assess all interests subject to taxation, and all properties for which payments in lieu are made. The law could also require the assessment of non-taxable interests.

(2) For the purpose of determining the assessed value of an interest in reserve lands for an assessment roll, the valuation date is July 1 of the year before the taxation year for which the assessment applies.

The law must set the same valuation date for assessment purposes that is set in the Province. [Assessment Law Standards](#) subsection 2.1.

(3) The assessed value of an interest in reserve lands for an assessment roll is to be determined as if on the valuation date

(a) the interest was in the physical condition that it is in on October 31 following the valuation date; and

(b) the permitted use of the interest was the same as on October 31 following the valuation date.

(4) Paragraph (3)(a) does not apply to an interest in reserve lands referred to in paragraphs 17(3)(b) and (d) and the assessed value of an interest referred to in that section for an assessment roll must be determined as if on the valuation date the interest was in the physical condition that it is in on December 31 following the valuation date.

(5) Except where otherwise provided, the assessor must assess interests in reserve lands at their market value as if held in fee simple off the reserve.

This provision ensures that the assessor can assess each interest on reserve at its market value as if held in fee simple off reserve.

(6) The assessor must determine the assessed value of an interest in reserve lands and must enter the assessed value of the interest in the assessment roll.

(7) In determining assessed value, the assessor may, except where this Law has a different requirement, give consideration to the following:

These considerations reflect the practices off reserve in the Province.

- (a) present use;
- (b) location;
- (c) original cost;
- (d) replacement cost;
- (e) revenue or rental value;
- (f) selling price of the interest in reserve lands and comparable interests;
- (g) economic and functional obsolescence; and
- (h) any other circumstances affecting the value of the interest.

(8) Without limiting the application of subsections (5) and (6), an interest in reserve lands used for an industrial or commercial undertaking, a business or a public utility enterprise must be valued as the property of a going concern.

(9) Where a lease or other instrument granting an interest in reserve lands places a restriction on the use of the interest, other than a right of termination or a restriction on the duration of the interest, the assessor must consider the restriction.

(10) Council hereby establishes those property classes established by the Province for provincial property assessment purposes that are set out in Schedule I, for the purposes of assessment under this Law and imposing taxes under the Taxation Law.

The law must establish property classes for assessment and taxation purposes that are the same as those property classes established in the Province, except that classes 3 and 7 are not required. This is because those classes relate to properties subject to provincial regulations that do not apply on reserve lands. [Assessment Law Standards](#) section 3.

(11) The assessor must

(a) assess interests in reserve lands according to the property classes established under subsection (10); and

The law must use the same classification rules as are applied in the Province. Schedule I sets out the property classes applicable in British Columbia. [Assessment Law Standards](#) subsection 3.1.

(b) use the provincial classification rules for each property class.

(12) Where an interest in reserve lands falls into two (2) or more property classes, the assessor must determine the share of the assessed value of the interest attributable to each class and assess the interest according to the proportion each share constitutes of the total assessed value.

Where an interest includes two or more uses, the assessor must create a split classification.

(13) Where two (2) or more persons are holders of an interest in reserve lands, the assessor may choose to assess the interest in the name of any of those persons or in the names of two (2) or more of those persons jointly.

(14) If a building or other improvement extends over more than one (1) interest in reserve lands, those interests, if contiguous, may be treated by the assessor as one interest and assessed accordingly.

(15) Where an improvement extends over, under or through land and is owned, occupied, maintained, operated or used by a person other than the holder of the interest in reserve lands, that improvement may be separately assessed to the person owning, occupying, maintaining, operating or using it, even though some other person holds an interest in the reserve lands.

Improvements held by a person that does not hold the land may be assessed separately from the assessment of the land.

(16) Except as otherwise provided in this Law, for the purposes of assessing interests in reserve lands the assessor must use

The law must require the use of the valuation methods, rates, rules and formulae established under provincial assessment legislation, and the provincial assessment practices, except where otherwise provided in the law. [Assessment Law Standards](#) subsection 4.1.

(a) the valuation methods, rates, rules and formulas established under provincial assessment legislation existing at the time of assessment; and

(b) the assessment rules and practices used by assessors in the Province for conducting assessments off the reserve.

### **Exemption from Assessment**

6. Notwithstanding any other provision in this Law, improvements designed, constructed or installed to provide emergency protection for persons or domestic animals in the event of a disaster or emergency within the meaning of the *Emergency Program Act* (BC) are exempt from assessment under this Law.

This section creates an exemption from assessment for improvements designated for emergency purposes. The same exemption is given under the British Columbia [Assessment Act](#) off reserve.

## **PART V REQUESTS FOR INFORMATION AND INSPECTIONS**

### **Requests for Information**

7.(1) The assessor may deliver a Request for Information containing the information set out in Schedule II, to a holder or a person who has disposed of assessable property, and that person must provide to the assessor, within fourteen (14) days from the date of delivery or a longer period as specified in the notice, information for any purpose related to the administration of this Law.

The assessor is given the authority to request information respecting a property for any purpose related to the administration of this law.

(2) The assessor may in all cases assess the assessable property based on the information available to him or her and is not bound by the information provided under subsection (1).

### **Inspections**

8.(1) The assessor may, for any purposes related to assessment, enter into or on and inspect land and improvements.

(2) The assessor may enter onto any interest in reserve lands and may examine any property

(a) to determine an assessment of land and improvements, in respect of which the assessor thinks a person may be liable to assessment; or

(b) to confirm an assessment.

All inspections undertaken for assessment purposes must be conducted either in accordance with the procedures set out in the Assessment Inspection Regulations, or in accordance with procedures set out in provincial law. The First Nation should set out the procedures it will use in this Part of the law. The sample law sets out the provincial procedures. [Assessment Inspection Regulations](#) section 2.

(3) The assessor must be given access to, and may examine and take copies of and extracts from, the books, accounts, vouchers, documents and appraisals of the person referred to in paragraph (2)(a) who must, on request, furnish every facility and assistance required for the entry and examination.

## PART VI

### ASSESSMENT ROLL AND ASSESSMENT NOTICE

#### Assessment Roll

9.(1) On or before December 31 of each year **[OR January 31 of each taxation year (if not using BC Assessment)]**, the assessor must complete a new assessment roll containing a list of every interest in reserve lands that is liable to assessment under this Law.

(2) The assessment roll must be in paper or electronic form and must contain the following information in respect of each interest in reserve lands:

- (a) the name and last known address of the holder of the interest;
- (b) a short description of the interest;
- (c) the classification of the interest;
- (d) the assessed value by classification of the interest;
- (e) the total assessed value of the interest;
- (f) the net assessed value of the interest subject to taxation under the Taxation Law; and
- (g) any other information the assessor considers necessary or desirable.

**[Note to First Nation: Include this language only if this law is repealing and replacing an existing property assessment law.**

**(3) For greater certainty, an assessment roll prepared under the enactment repealed by section 56 is and continues to be an assessment roll under this Law and must be used until such time as the next assessment roll is prepared and certified in accordance with this Law.]**

The law must require the completion of an annual assessment roll. [Assessment Law Standards](#) subsection 5.1.

This information must be included on the assessment roll. [Assessment Law Standards](#) subsection 5.3.

For First Nations whose laws are replacing transitioned section 83 assessment by-laws, subsection 9(3) should be included to clarify that an assessment roll made under the previous law is valid.

### **Certification by Assessor**

**10.** On completion of an assessment roll and on or before December 31 in that year [OR January 31 in the taxation year], the assessor must

(a) certify in writing in substantially the form set out in Schedule X that the assessment roll was completed in accordance with the requirements of this Law; and

(b) deliver a copy of the certified assessment roll to Council.

The assessor must complete the assessment roll, certify that the roll was completed in accordance with the requirements in the law, and deliver the roll to Council. [Assessment Law Standards](#) subsection 5.3 and 5.4.

The date for fulfilling these requirements is December 31, unless the First Nation uses an assessor other than BC Assessment Authority, in which case it can be January 31.

### **Assessor to Prepare and Certify Revised Assessment Roll**

**11.(1)** No later than March 31 after the certification of the assessment roll under section 10, the assessor must

(a) modify the assessment roll to reflect all reconsideration decisions, corrections of errors and omissions, and decisions received by the assessor from the Assessment Review Board;

(b) date and initial amendments made to the assessment roll under this section; and

(c) prepare a revised assessment roll.

(2) On completion of the revised assessment roll, the assessor must

(a) certify in writing in substantially the form set out in Schedule X that the revised assessment roll was completed in accordance with the requirements of this Law; and

(b) deliver a copy of the certified revised assessment roll to Council and to the chair.

(3) On certification under this section, the revised assessment roll becomes the assessment roll for the taxation year and it is deemed to be effective as of the date the assessment roll was certified under section 10.

Between January 1 and March 31, the assessor can modify the roll to reflect reconsideration decisions, make corrections and reflect Assessment Review Board decisions.

The assessor prepares and certifies a revised assessment roll, and delivers it to Council and to the chair of the Assessment Review Board.

The revised assessment roll replaces the assessment roll previously certified and delivered to Council.

## Validity of Assessment Roll

**12.** An assessment roll is effective on certification and unless amended in accordance with this Law, by a decision of the Assessment Review Board or by an order of a court of competent jurisdiction, is

(a) valid and binding on all parties concerned, despite any

(i) omission, defect or error committed in, or with respect to, the assessment roll,

(ii) defect, error or misstatement in any notice required, or

(iii) omission to mail any notice required; and

(b) for all purposes, the assessment roll of the First Nation until the next certified assessment roll or certified revised assessment roll.

This provision provides for the validity of the assessment roll, despite any errors, omissions or defects.

The assessment roll remains the First Nation's assessment roll until replaced by the next year's certified assessment roll.

## Inspection and Use of Assessment Roll

**13.(1)** On receipt by Council, the assessment roll is open to inspection in the First Nation office by any person during regular business hours.

**[Note to First Nation: If the First Nation allows the assessment roll to be accessed online, consider including an additional provision that provides for that access, such as:**

**In addition to inspection under subsection 13(1), Council may allow the assessment roll to be inspected electronically through an online service, provided that the information available online does not include any names or other identifying information about a holder or other person.]**

(2) A person must not, directly or indirectly, use the assessment roll or information contained in the assessment roll to

(a) obtain names, addresses or telephone numbers for solicitation purposes, whether the solicitations are made by telephone, mail or any other means; or

(b) harass an individual.

The law must provide for the assessment roll to be available for inspection by any person. [Assessment Law Standards](#) paragraph 5.4(c).

Some assessment service providers offer electronic access to assessment roll information. Including this provision enables First Nations to offer similar services to their taxpayers.

The law must include a prohibition on using information in an assessment roll for solicitation purposes. [Assessment Law Standards](#) paragraph 5.4(d).

(3) The tax administrator may require a person who wishes to inspect the assessment roll to complete a declaration in substantially the form set out in Schedule III

(a) specifying the purpose for which the information is to be used; and

(b) certifying that the information contained in the assessment roll will not be used in a manner prohibited under this section.

### **Protection of Privacy in Assessment Roll**

**14.(1)** On application by a holder, the assessor may omit or obscure the holder's name, address or other information about the holder that would ordinarily be included in an assessment roll if, in the assessor's opinion, the inclusion of the name, address or other information could reasonably be expected to threaten the safety or mental or physical health of the holder or a member of the holder's household.

(2) Where the assessor omits or obscures information under subsection (1), such information must be obscured from all assessment rolls that are available for public inspection under subsection 13(1) or are otherwise accessible to the public.

### **Chargeholders**

**15.(1)** Any person holding a charge on assessable property may, at any time, give notice, with full particulars of the nature, extent and duration of the charge, to the assessor and request that his or her name be added to the assessment roll in respect of that assessable property, for the duration of the charge.

(2) On receipt of a notice and request under this section, the assessor must enter the person's name and address on the assessment roll and provide copies of all assessment notices issued in respect of the assessable property.

The law must include a procedure where holders can apply to have their personal information omitted or obscured from any assessment roll available for public inspection. [Assessment Law Standards](#) paragraph 5.4(e).

This section allows chargeholders to have their names added to the assessment roll in respect of an assessable property.

Once the chargeholder has been added to the roll, they will receive copies of all assessment notices sent in respect of the property.

## Assessment Notice

16.(1) The assessor must, on or before December 31 of each year [OR January 31 of each taxation year], mail an Assessment Notice to every person named in the assessment roll in respect of each assessable property, at the person's address on the assessment roll.

(2) Where requested by the recipient, an Assessment Notice may be e-mailed to a person named on the assessment roll, and the Assessment Notice is deemed to have been delivered on the date that the e-mail is sent by the assessor.

(3) A person whose name appears in the assessment roll must give written notice to the assessor of any change of address.

(4) Any number of interests in reserve lands assessed in the name of the same holder may be included in one Assessment Notice.

(5) If several interests in reserve lands are assessed in the name of the same holder at the same value, the Assessment Notice may clearly identify the interest assessed, without giving the full description of each interest as it appears in the assessment roll.

(6) Subject to subsection 13(2) and subsection (7), the assessor must provide, to any person who requests it and pays to the assessor the fee of six dollars (\$6), the information contained in the current Assessment Notice sent by the assessor.

(7) Where information has been omitted or obscured under subsection 14(1), the assessor must omit that information from a notice provided under subsection (6).

The law must provide for assessment notices to be delivered to all persons named on the assessment roll in respect of an assessable property. [Assessment Law Standards](#) subsection 7.1.

The law may include a provision for assessment notices to be e-mailed.

## PART VII

### ERRORS AND OMISSIONS IN ASSESSMENT ROLL

#### Amendments by Assessor

17.(1) Before March 16 in each year after the certification of an assessment roll under section 10, the assessor must notify and recommend correction to the Assessment Review Board of all errors or omissions in the assessment roll, except those errors or omissions corrected under subsection (2) or section 19.

(2) Before March 16 in each year after the certification of an assessment roll under section 10, the assessor may amend an individual entry in the assessment roll to correct an error or omission, with the consent of the

- (a) holder of the interest in reserve lands; and
- (b) the complainant, if the complainant is not the holder.

(3) Without limiting subsection (1), the assessor must give notice to the Assessment Review Board and recommend correction of the assessment roll in any of the following circumstances:

- (a) because of a change in a holder that occurs before January 1 in a taxation year that is not reflected in the certified assessment roll and that results in
  - (i) land or improvements, or both, that were not previously subject to taxation becoming subject to taxation, or
  - (ii) land or improvements, or both, that were previously subject to taxation ceasing to be subject to taxation;
- (b) after October 31 and before the following January 1, a manufactured home is moved to a new location or destroyed;

The law must include procedures for the correction by the assessor of errors and omissions in the assessment roll. [Assessment Law Standards](#) section 6. The procedures in this Part follow the procedures set out in the British Columbia [Assessment Act](#).

The assessor must notify and recommend correction to the Assessment Review Board of all errors and omissions in the assessment roll that aren't corrected under subsection (2) or section 19.

The assessor can correct errors and omissions in an individual assessment with the consent of the holder or a complainant.

The assessor must recommend correction of an assessment to the Assessment Review Board in the circumstances set out in this subsection.

(c) after October 31 and before the following January 1, a manufactured home is placed on land that has been assessed or the manufactured home is purchased by the holder of land that has been assessed; and

(d) improvements, other than a manufactured home, that

(i) are substantially damaged or destroyed after October 31 and before the following January 1, and

(ii) cannot reasonably be repaired or replaced before the following January 1.

(4) Except as provided in section 18, or pursuant to an order of a court of competent jurisdiction, the assessor must not make any amendments to the assessment roll after March 31 of the current taxation year.

(5) Where the assessment roll is amended under subsection (1), the assessor must mail an amended Assessment Notice to every person named in the assessment roll in respect of the interest in reserve lands affected.

The assessor cannot make changes to the assessment roll after March 31 except under section 18.

Where the assessment roll is amended, the assessor must send an amended Assessment Notice to all persons named on the assessment roll in respect of the interest affected.

### **Supplementary Assessment Roll**

**18.(1)** If, after the certification of the revised assessment roll or where there is no revised assessment roll, after March 31, the assessor finds that any interest in reserve lands

(a) was liable to assessment for the current taxation year, but has not been assessed on the current assessment roll, or

(b) has been assessed for less than the amount for which it was liable to assessment,

the assessor must assess the interest on a supplementary assessment roll, or further supplementary assessment roll, in the same manner that it should have been assessed on the current assessment roll, provided that a supplementary assessment roll under this section must not be prepared after December 31 of the taxation year in which the assessment roll certified under section 10 applies.

A supplementary assessment roll is a stand-alone roll that is used to change an assessment after the certified revised assessment roll is completed. Supplementary assessments can only be done in the circumstances set out in this section.

(2) If, after the certification of the revised assessment roll or where there is no revised assessment roll, after March 31, the assessor finds that an interest in reserve lands

(a) was liable to assessment for a previous taxation year, but has not been assessed on the assessment roll for that taxation year, or

(b) has been assessed in a previous taxation year for less than the amount for which it was liable to assessment,

the assessor must assess the interest on a supplementary assessment roll, or further supplementary assessment roll, in the same manner that it should have been assessed, but only if the failure to assess the interest, or the assessment for less than it was liable to be assessed, is attributable to

(c) a holder's failure to disclose,

(d) a holder's concealment of particulars relating to assessable property,

(e) a person's failure to respond to a request for information under subsection 7(1), or

(f) a person's making of an incorrect response to a request for information under subsection 7(1),

as required under this Law.

(3) In addition to supplementary assessments under subsections (1) and (2), the assessor may, at any time before December 31 of the taxation year in which the assessment roll certified under section 10 applies, correct errors and omissions in the assessment roll by means of entries in a supplementary assessment roll.

(4) The duties imposed on the assessor with respect to the assessment roll and the provisions of this Law relating to assessment rolls, so far as they are applicable, apply to supplementary assessment rolls.

(5) Where the assessor receives a decision of the Assessment Review Board after March 31 in a taxation year, the assessor must create a supplementary assessment roll reflecting the decision of the Assessment Review Board and this section applies.

The law must include procedures for updating the assessment roll to reflect decisions of the Assessment Review Board. [Assessment Law Standards](#) subsection 10.5.

(6) Nothing in this section authorizes the assessor to prepare a supplementary assessment roll that would be contrary to an amendment ordered or directed by the Assessment Review Board or by a court of competent jurisdiction.

(7) A supplementary assessment roll that implements an amendment ordered or directed by the Assessment Review Board or by a court of competent jurisdiction may not be appealed to the Assessment Review Board.

(8) The assessor must, as soon as practicable, after issuing a supplementary assessment roll

(a) deliver a certified copy of the supplementary assessment roll to the Council;

(b) where the supplementary assessment roll reflects a decision of the Assessment Review Board, deliver a certified copy of the supplementary assessment roll to the chair; and

(c) mail an amended Assessment Notice to every person named on the assessment roll in respect of the interest in reserve lands affected.

(9) Where a supplementary assessment roll is issued under this Law, the supplementary assessment roll is deemed to be effective as of the date the assessment roll was certified under section 10 in respect of the assessable property affected.

The assessor must certify a supplementary assessment roll and deliver it to the Council, and to the chair where it reflects a decision of the Assessment Review Board.

Where a supplementary assessment roll is created, the assessor must send amended Assessment Notices.

## **PART VIII**

### **RECONSIDERATION OF ASSESSMENT**

#### **Reconsideration by Assessor**

19.(1) A person named on the assessment roll in respect of an assessable property may request that the assessor reconsider the assessment of that assessable property.

(2) A request for reconsideration may be made on one or more of the grounds on which an assessment appeal may be made under this Law.

(3) A request for reconsideration of an assessment must

The law must include a reconsideration procedure under which a person named on the assessment roll may request that the assessor reconsider the assessment of that property. [Assessment Appeal Regulations](#) section 3 and [Assessment Law Standards](#) section 8.

(a) be delivered to the assessor within twenty-one (21) days after the day that the Assessment Notice is mailed or e-mailed to the person named on the assessment roll in respect of an assessable property;

The law must give the requester at least twenty-one days from the delivery of the assessment notice to make a request.

(b) be made in writing and include the information set out in Schedule V; and

(c) include any reasons in support of the request.

(4) The assessor must, no later than twenty-one (21) days after the end of the twenty-one (21) day period referenced in paragraph (3)(a), consider the request for reconsideration and advise the person who requested the reconsideration that advise the person who requested the reconsideration that

The assessor must complete the reconsideration within twenty-one days after the end of the period given to make a request for reconsideration. The law can provide for a longer timeframe; however, the entire process must be completed before the appeal deadline.

(a) the assessor confirms the assessment; or

If the assessor does not agree that the assessable property should have been assessed differently, the assessor must advise the requester that the assessor confirms the assessment.

(b) the assessor has determined that the assessable property should have been assessed differently, and that the assessor offers to modify the assessment.

If the assessor agrees that the assessable property should have been assessed differently, the assessor offers to modify the assessment.

(5) Where the person who requested the reconsideration agrees with the modification proposed by the assessor, the assessor must

If the requester agrees with the proposed modification, the assessor amends the assessment roll and gives notice of the amendment.

(a) amend the assessment roll as necessary to reflect the modified assessment;

(b) give notice of the amended assessment to the tax administrator and to all other persons who received the Assessment Notice in respect of the assessable property; and

(c) where a Notice of Appeal has been delivered in respect of the assessable property, advise the Assessment Review Board of the modification.

(6) Where the person who requested the reconsideration accepts an offer to modify an assessment, that person must not appeal the modified assessment and must withdraw any Notice of Appeal filed in respect of the assessable property.

The requester must withdraw any appeal filed in respect of the assessment. If the assessment is amended, the assessor must send amended assessment notices to all persons who received the original assessment notice for the property.

## PART IX ASSESSMENT REVIEW BOARD

### Council to Establish Assessment Review Board

**20.(1)** Council must, by resolution, establish an Assessment Review Board to

(a) consider and determine all recommendations from the assessor under subsection 17(1); and

(b) hear and determine assessment appeals under this Law.

(2) The Assessment Review Board must consist of not less than three (3) members, including at least one (1) member who is a practising or non-practising member in good standing, of the law society of the Province and at least one (1) member who has experience in assessment appeals in the Province.

**[Note to First Nation: The First Nation can choose to require the appointment of a member who is also a member of the First Nation, with the following wording:**

**(3) The Assessment Review Board must consist of at least one (1) member who is a member of the First Nation but not a member of Council.]**

(4) Each member of the Assessment Review Board must hold office for a period of three (3) years unless the member resigns or is removed from office in accordance with this Law.

(5) If a member of the Assessment Review Board is absent, disqualified, unable or unwilling to act, Council may appoint another person, who would otherwise be qualified for appointment as a member, to replace the member until the member returns to duty or the member's term expires, whichever comes first.

This Part incorporates the procedures set out in the Assessment Appeal Regulations and follows the British Columbia [Assessment Act](#) model where the Regulations are silent. The law must include an appeal procedure in respect of assessments. The law must incorporate either the appeal procedures set out in the Assessment Appeal Regulations, or assessment appeal procedures that are the same as those set out in the Province. [FMA](#) subsection 5(4) and [Assessment Appeal Regulations](#) section 2.

Council must establish an Assessment Review Board. [FMA](#) subsection 5(4).

The Assessment Review Board must have at least three members, at least one of whom is a member of the provincial law society, and one who has experience in assessment appeals. [Assessment Appeal Regulations](#) section 5

If the law does not include this wording, Council still has the ability to appoint First Nation members to the Assessment Review Board.

The law must fix the term of office for Assessment Review Board members. The term must be at least two years. [FMA](#) subsection 5(4) and [Assessment Law Standards](#) paragraph 10.1(b).

## Remuneration and Reimbursement

**[Note to First Nation: The Law must set out the remuneration that will be paid to members of the Assessment Review Board. The Law can either fix the rates of remuneration directly, or can incorporate rates paid by the Province to similar administrative tribunal members. These rates are set by the provincial Treasury Board and change periodically. The First Nation should choose one of the following options and delete the other option. Please note that the sample wording below provides for three levels of remuneration. The chair is paid the highest rate, members who are lawyers or have assessment experience are paid a middle rate, and members without those qualifications are paid a lower rate. First Nations can choose to implement these three levels, or can choose to have two levels of remuneration, one for the chair and one for other members.]**

**21.(1)** The First Nation must remunerate

(a) the chair (or acting chair) for his or her services at a rate of \_\_\_\_\_ dollars (\$\_\_\_\_\_) per hour [or day],

(b) a member (or replacement member appointed to act), other than the chair, who meets the criteria set out in subsection 20(2), at a rate of \_\_\_\_\_ dollars (\$\_\_\_\_\_) per hour [or day], and

(c) a member (or a replacement member appointed to act), other than those referenced in paragraphs (a) and (b), for his or her services at a rate \_\_\_\_\_ of \_\_\_\_\_ dollars (\$\_\_\_\_\_) per hour [or day],

for time spent on activities of the Assessment Review Board required under this Law or expressly authorized by Council.

**OR**

**21.(1)** The First Nation must remunerate

The law must set out the remuneration that will be paid, either by setting a fixed rate or by incorporating Provincial rates. [FMA](#) subsection 5(4). If the law sets fixed rates, the First Nation must amend the law if it wishes to make changes to the rates.

(a) the chair (or acting chair) at the maximum rate established from time to time by the Province for a part-time chair of a provincial administrative tribunal categorized as Group 3,

(b) a member (or replacement member appointed to act), other than the chair, who meets the criteria set out in subsection 20(2), at the maximum rate established from time to time by the Province for a part-time vice-chair of a provincial administrative tribunal categorized as Group 3, and

(c) any member (or replacement member appointed to act), other than those referenced in paragraphs (a) and (b), at the maximum rate established from time to time by the Province for a part-time member of a provincial administrative tribunal categorized as Group 3,

for time spent on activities of the Assessment Review Board required under this Law or expressly authorized by Council..

(2) The First Nation must reimburse a member, including a replacement member, of the Assessment Review Board for reasonable travel and out of pocket expenses necessarily incurred in carrying out his or her duties.

### **Conflicts of Interest**

**22.(1)** A person must not serve as a member of the Assessment Review Board if the person

(a) has a personal or financial interest in the assessable property that is the subject of an appeal;

(b) is the Chief of the First Nation or a member of Council;

(c) is an employee of the First Nation; or

(d) has financial dealings with the First Nation, which might reasonably give rise to a conflict of interest or impair that person's ability to deal fairly and impartially with an appeal, as required under the terms of this Law.

If the First Nation incorporates provincial rates, the First Nation must pay any increases in those rates. The First Nation will not need to amend its law to keep pace with the rates paid provincially.

The law must include a conflict of interest provision in accordance with the Regulations. [Assessment Appeal Regulations](#) subsection 5(3).

(2) For the purposes of paragraph (1)(a), membership in the First Nation does not in itself constitute a personal or financial interest in assessable property.

### **Appointment of Chair**

**23.(1)** Council must, by resolution, appoint one of the members of the Assessment Review Board as chair.

(2) The chair must

(a) supervise and direct the work of the Assessment Review Board;

(b) undertake administrative duties as necessary to oversee and implement the work of the Assessment Review Board;

(c) determine procedures to be followed at hearings consistent with this Law;

(d) administer an oath or solemn affirmation to a person or witness before his or her evidence is taken; and

(e) preside at hearings of the Assessment Review Board.

(3) If the chair is absent or incapacitated, Council must designate a member of the Assessment Review Board as the acting chair for the period that the chair is absent or incapacitated.

### **Appointment of Secretary**

**24.(1)** Council must, by resolution, appoint a secretary of the Assessment Review Board.

(2) The secretary of the Assessment Review Board must

(a) have the custody and care of all records, documents, orders and decisions made by or pertaining to the Assessment Review Board; and

(b) fulfill such other duties as directed by the chair and the Assessment Review Board.

The law must provide for the appointment of a chair of the Assessment Review Board. [Assessment Appeal Regulations](#) subsection 5(1).

The law must set out the chair's powers, duties and functions. At minimum, the chair would typically be responsible for chairing appeal proceedings, administering oaths and directing the work of the Assessment Review Board. [Assessment Law Standards](#) paragraph 10.1(a).

This section provides for Council to appoint a secretary to the Assessment Review Board. Providing for the appointment of a secretary is optional; however, if there is no secretary the First Nation may wish to assign these responsibilities to someone else, such as the chair or a staff person.

### Removal of Member

**25.** Council may terminate the appointment of a member of the Assessment Review Board for cause, including where a member

- (a) is convicted of an offence under the *Criminal Code*;
- (b) fails to attend three (3) consecutive hearings of the Assessment Review Board; or
- (c) fails to perform any of his or her duties under this Law in good faith and in accordance with the terms of this Law.

The law must set out when and how members may be removed from office. [Assessment Law Standards](#) paragraph 10.1(c).

### Duty of Member

**26.** In performing their duties under this Law, the members of the Assessment Review Board must act faithfully, honestly and impartially and to the best of their skill and ability, and must not disclose to any person information obtained by them as a member, except in the proper performance of their duties.

This section requires Assessment Review Board members to act faithfully, honestly and impartially in performing their duties.

## PART X

### APPEAL TO ASSESSMENT REVIEW BOARD

#### Appeals and Assessor Recommendations

**27.** The Assessment Review Board must

- (a) consider and determine assessor recommendations made under subsection 17(1) for changes to the assessment roll; and
- (b) hear and determine appeals made under this Part.

This Part sets out the procedures and requirements for appeals to the Assessment Review Board. The Assessment Appeal Regulations set out detailed procedures that are incorporated in this sample law. [Assessment Appeal Regulations](#).

#### Notice of Appeal

**28.(1)** Any person, including without limitation the First Nation and the assessor, may appeal an assessment or a reconsideration of an assessment of assessable property to the Assessment Review Board by delivering

- (a) a completed Notice of Appeal,

An appeal is commenced by submitting a Notice of Appeal to the assessor.

- (b) a copy of the Assessment Notice, and
- (c) an administration fee of thirty dollars (\$30),

to the assessor within forty-five (45) days after the date on which the Assessment Notice was mailed or e-mailed to the persons named on the assessment roll in respect of the assessable property.

(2) An appeal is commenced by delivery of a completed Notice of Appeal, a copy of the Assessment Notice, and the required administration fee to the assessor at the address set out in the Assessment Notice.

(3) The grounds for an appeal may be in respect of one or more of the following:

- (a) the assessed value of the assessable property;
- (b) the assessment classification of the assessable property;
- (c) the applicability of an exemption to the assessable property;
- (d) any alleged error or omission in an assessment or Assessment Notice; and
- (e) the liability of the holder to taxation under the Taxation Law.

(4) Where an appeal is commenced with respect to a supplementary assessment, the appeal must be confined to the supplementary assessment.

(5) The assessor must, as soon as possible after a Notice of Appeal is received,

- (a) deliver a copy of the Notice of Appeal to the chair and to the First Nation; and
- (b) deliver the administration fee collected under paragraph (1)(c) to the First Nation.

If a fee is charged to initiate an appeal it must not exceed thirty dollars (\$30). [Assessment Law Standards](#) subsection 9.2.

The law must provide a period of not less than forty-five days after the date the assessment notice is mailed to the person named on the assessment roll. [Assessment Appeal Regulations](#) section 6.

The law must allow an appeal on at least the grounds set out in paragraphs 28(3)(a) to (d). Paragraph (e) is optional. [Assessment Law Standards](#) subsection 9.1.

## Agents and Solicitors

**29.** Where a complainant is represented in an appeal through a solicitor or agent, all notices and correspondence required to be given to the complainant are properly given if delivered to the solicitor or agent at the address set out in the Notice of Appeal.

## Scheduling of Hearing

**30.(1)** On delivery of a Notice of Appeal to the assessor, or on receipt of a recommendation from the assessor under subsection 17(1), the chair must, in consultation with the assessor, schedule a hearing of the appeal or the assessor recommendation.

(2) The chair must, at least ten (10) days before the hearing, deliver a Notice of Hearing, setting out the date, time and place of the hearing, to the parties and to each person named on the assessment roll in respect of the assessable property.

(3) Notwithstanding subsection (2), the chair is not required to deliver a Notice of Hearing to a holder of an interest in reserve lands affected by an assessor recommendation under subsection 17(1) where the recommendation

(a) results in a decrease in the assessed value of the interest;

(b) does not change the classification of the interest; and

(c) does not result in the removal of an exemption.

## Parties

**31.** The parties in a hearing, except as provided in subsection 30(3), are

(a) the complainant;

(b) the holder of the assessable property, if not the complainant;

(c) the assessor; and

(d) any person who the Assessment Review Board determines may be affected by the appeal or assessor recommendation, upon request by that person.

The chair sets a hearing date, in consultation with the assessor, and delivers a written notice of the date, time and place of the hearing at least ten days before the hearing date. [Assessment Appeal Regulations](#) subsection 8(1).

This section sets out the circumstances where the Assessment Review Board is not required to give notice to the holder in respect of an assessor recommendation.

The parties are entitled to notices and to be heard and represented at a hearing. At a minimum, the complainant, the assessor and the holder of the property are parties to an appeal. [Assessment Law Standards](#) subsection 10.4.

### **Delivery of Documentation**

**32.** The chair must, without delay, deliver a copy of any document submitted by a party in relation to an appeal to all other parties.

(2) The chair may, in respect of an appeal,

(a) require the assessor to provide any relevant document or record obtained or created in respect of an assessment that is in the custody or control of the assessor, subject to privilege;

(b) require a party to provide relevant documents and records in advance of a hearing.

The assessor is required to deliver all documents submitted by a party to all other parties to the appeal. [Assessment Appeal Regulations](#) section 11.

### **Timing for Hearing**

**33.** Subject to section 46, the Assessment Review Board must commence a hearing within forty-five (45) days after delivery of the Notice of Appeal to the assessor or receipt of an assessor recommendation under subsection 17(1), unless all parties consent to a delay.

The Assessment Review Board must commence a hearing within forty-five days of a notice of appeal, except where all parties consent to a later date or where there is a court proceeding that relates to the appeal. [Assessment Appeal Regulations](#) subsection 8(2).

### **Daily Schedule**

**34.(1)** The chair must

(a) create a daily schedule for the hearings of the Assessment Review Board; and

(b) post the daily schedule at the place where the Assessment Review Board is to meet.

(2) The Assessment Review Board must proceed to deal with appeals and assessor recommendations in accordance with the daily schedule, unless the Assessment Review Board considers a change in the schedule necessary and desirable in the circumstances.

### **Conduct of Hearing**

**35.(1)** The Assessment Review Board must give all parties a reasonable opportunity to be heard at a hearing.

(2) A party may be represented by counsel or an agent and may make submissions as to facts, law and jurisdiction.

The law must establish the practices and procedures for the conduct of the Assessment Review Board. The procedures set out in this section reflect best practices. [Assessment Law Standards](#) subsection 10.2.

(3) The Assessment Review Board may conduct a hearing whether the complainant is present or not, provided the complainant was given notice of the hearing in accordance with this Law.

(4) The burden of proof in an appeal is on the person bringing the appeal.

(5) In an oral hearing, a party may call and examine witnesses, present evidence and submissions and conduct cross-examination of witnesses as reasonably required by the Assessment Review Board for a full and fair disclosure of all matters relevant to the issues in the appeal.

(6) The Assessment Review Board may reasonably limit further examination or cross-examination of a witness if it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the appeal.

(7) The Assessment Review Board may question any witness who gives oral evidence at a hearing.

(8) The Assessment Review Board may receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.

(9) The Assessment Review Board may conduct its proceedings by any combination of written, electronic and oral hearings.

(10) An oral hearing must be open to the public unless the Assessment Review Board, on application by a party, determines that the hearing should be held *in camera*.

### **Maintaining Order at Hearings**

**36.(1)** The Assessment Review Board may, at an oral hearing, make orders or give directions that it considers necessary to maintain order at the hearing.

(2) Without limiting subsection (1), the Assessment Review Board may, by order, impose restrictions on a person's continued participation in or attendance at a hearing and may exclude a person from further participation in or attendance at a hearing until the Assessment Review Board orders otherwise.

These provisions give the Assessment Review Board the power to make orders during the hearing to ensure that the hearing can proceed in an orderly manner.

## Summary Dismissal

**37.(1)** At any time after a Notice of Appeal is received by the Assessment Review Board, the Assessment Review Board may dismiss all or part of the appeal where it determines that any of the following apply:

- (a) the appeal is not within the jurisdiction of the Assessment Review Board;
- (b) the appeal was not filed within the applicable time limit; or
- (c) the complainant failed to diligently pursue the appeal or failed to comply with an order of the Assessment Review Board.

(2) Before dismissing all or part of an appeal under subsection (1), the Assessment Review Board must give the complainant an opportunity to make submissions to the Assessment Review Board.

(3) The Assessment Review Board must give written reasons for any dismissal made under subsection (1) to all parties.

## Quorum

**38.(1)** A majority of the members of the Assessment Review Board constitutes a quorum, provided that there must not be less than three (3) members present at any time.

(2) Where a quorum of the members of an Assessment Review Board is not present at the time at which a hearing is to be held, the hearing must be adjourned to the next day that is not a holiday, and so on from day to day until there is a quorum.

## Decisions

**39.** A decision of the majority of the members is a decision of the Assessment Review Board and, in the case of a tie, the decision of the chair governs.

This section provides for the summary dismissal of an appeal in specified situations. These provisions are not required; however, it may be helpful for the Assessment Review Board to have the ability to dismiss an appeal in certain situations.

The law must indicate the quorum required for the Assessment Review Board to conduct a hearing. Where the Assessment Review Board has only three members, all three members must be present for the hearing.

## **Combining Hearings**

**40.** The Assessment Review Board may conduct a single hearing of two (2) or more appeals or assessor recommendations related to the same assessment if the matters in each hearing are addressing the same assessable property or substantially the same issues.

The Assessment Review Board has the power to combine hearings in certain circumstances. [Assessment Appeal Regulations](#) section 10.

## **Power to Determine Procedures**

**41.(1)** Subject to this Law, the Assessment Review Board has the power to control its own processes and may make rules respecting practice and procedure to facilitate the just and timely resolution of the matters before it.

This section gives the Assessment Review Board the power to determine its own procedures that will apply during a hearing, subject to the provisions set out in the law. [Assessment Law Standards](#) paragraph 10.3(b).

(2) Without limiting subsection (1), the Assessment Review Board may make rules respecting the holding of pre-hearing conferences and requiring the parties to attend a pre-hearing conference.

## **Orders to Attend or Produce Documents**

**42.(1)** At any time before or during a hearing, but before its decision, the Assessment Review Board may make an order requiring a person to

The Assessment Review Board may compel the delivery of documents and the attendance of witnesses.

- (a) attend a hearing to give evidence, or
- (b) produce a document or other thing in the person's possession or control as specified by the Assessment Review Board,

by issuing an Order to Attend Hearing/Produce Documents and serving it on the person at least two (2) days before the person's attendance or the requested document is required at the hearing, as the case may be.

(2) Where an order is made under paragraph (1)(a), the Assessment Review Board must pay to the person a twenty dollar (\$20) witness fee plus reasonable travel expenses to attend and give evidence before the Assessment Review Board.

(3) A party may request that the Assessment Review Board make an order under subsection (1) to a person specified by the party.

(4) Where a party makes a request under subsection (3),

(a) the chair must sign and issue an Order to Attend Hearing/Produce Documents and the party must serve it on the witness at least two (2) days before the person's attendance or the requested document is required at the hearing, as the case may be; and

(b) a party requesting the attendance of a witness must pay a twenty dollar (\$20) witness fee plus reasonable travel expenses to the witness to attend and give evidence before the Assessment Review Board.

(5) The Assessment Review Board may apply to the Supreme Court of British Columbia for an order directing a person to comply with an order under this section.

### **Adjournments**

**43.** The Assessment Review Board may

(a) hear all appeals or assessor recommendations on the same day or may adjourn from time to time until all matters have been heard and determined; and

(b) at any time during a hearing, adjourn the hearing.

### **Costs**

**44.** The Assessment Review Board may make orders requiring a party

(a) to pay all or part of the costs of another party in respect of the appeal,

(b) to pay all or part of the costs of the Assessment Review Board in respect of the appeal,

where the Assessment Review Board considers the conduct of a party has been improper, vexatious, frivolous or abusive.

The Assessment Review Board may order costs against a party to an appeal where the party's conduct has been improper, vexatious, frivolous or abusive.

### **Reference on Question of Law**

**[Note to First Nation: This section can provide that a reference can go to either the Supreme Court of British Columbia or to the Federal Court of Canada, or it could specify only one of these courts if the First Nation has a preference.]**

**45.(1)** At any stage of a proceeding before it, the Assessment Review Board, on its own initiative or at the request of one or more of the parties, may refer a question of law in the proceeding to the Supreme Court of British Columbia or to the Federal Court of Canada in the form of a stated case.

(2) The stated case must be in writing and filed with the court registry and must include a statement of the facts and all evidence material to the stated case.

(3) The Assessment Review Board must

(a) suspend the proceeding as it relates to the stated case and reserve its decision until the opinion of the court has been given; and

(b) decide the appeal in accordance with the court's opinion.

### **Matters before the Courts**

**46.** If a proceeding with respect to liability to pay taxes in respect of assessable property that is the subject of an appeal is brought before a court of competent jurisdiction

(a) before the hearing is to commence, the hearing must be deferred until the matter is decided by the court;

(b) during the hearing, the hearing must be adjourned until the matter is decided by the court; or

(c) after the hearing has concluded but before a decision on the appeal is given, the decision must be deferred until the matter is decided by the court.

### **Withdrawal of Appeal**

**47.(1)** A complainant may withdraw an appeal under this Part by

(a) delivering a Notice of Withdrawal to the assessor if a Notice of Hearing has not been delivered in respect of the appeal; or

(b) delivering a Notice of Withdrawal to the Assessment Review Board if a Notice of Hearing has been delivered in respect of the appeal.

This section provides for the Assessment Review Board to refer a question of law to either the Supreme Court of British Columbia or to the Federal Court of Canada. As noted, the First Nation could decide to specify one or the other, and may wish to consider specifying the Supreme Court of British Columbia as it may be more accessible for the ARB.

This section requires an Assessment Review Board hearing to be deferred where a proceeding respecting the liability to taxation in respect of assessable property is before a court of competent jurisdiction. [Assessment Appeal Regulations](#) section 9.

These provisions enable a Notice of Withdrawal to be delivered to the assessor if a Notice of Hearing has not been delivered. These provisions can be modified if the First Nation wants to have Notices of Withdrawal delivered to the Assessment Review Board in all circumstances.

(2) Upon receipt of a Notice of Withdrawal

(a) under paragraph (1)(a), the assessor must advise the chair and the First Nation that the appeal is withdrawn and will not proceed; and

(b) under paragraph (1)(b), the Assessment Review Board must dismiss the appeal and notify the parties that the appeal has been dismissed.

(3) For greater certainty, if a Notice of Hearing has been issued but not delivered, paragraph (1)(b) applies.

### Delivery of Decisions

**48.(1)** The Assessment Review Board must, at the earliest opportunity after the day on which a hearing is completed, deliver a written decision on the appeal or assessor recommendation to all parties.

**[Note to First Nation: The following alternate wording may be used where the First Nation wishes to impose a time limit on the Assessment Review Board to deliver its written decision. Such a period must not be less than 90 days after the day the hearing is completed.]**

**(1) The Assessment Review Board must, not more than ninety (90) days after the day on which a hearing is completed, deliver a written decision on the appeal or assessor recommendation to all parties.]**

(2) Any person may obtain a copy of a decision of the Assessment Review Board from the tax administrator on request and payment of a fee of \_\_\_\_ dollars (\$\_\_\_\_).

(3) The tax administrator may obscure or omit personal information (other than name and address) and financial business information from decisions provided under subsection (2), provided that assessment and property tax information must not be obscured or omitted.

### Delivery of Documents under this Part

**49.(1)** Delivery of a document under this Part may be made personally or by sending it by registered mail, fax or e-mail.

(2) Personal delivery of a document is made

The Assessment Review Board is required to deliver a written decision to the parties. [Assessment Appeal Regulations](#) section 12.

The First Nation has the option of imposing a time limit of not less than ninety days on the Assessment Review Board for delivering a decision. Optional wording is provided where the First Nation wishes to impose a time limit. [Assessment Appeal Regulations](#) subsection 12(2).

The fee set to obtain a copy of a decision should be a reasonable administrative fee.

Documents in respect of Assessment Review Board matters must be delivered in accordance with this section. [Assessment Appeal Regulations](#) section 13.

(a) in the case of an individual, by leaving the document with the individual or with a person at least eighteen (18) years of age residing at the individual's place of residence;

(b) in the case of a first nation, by leaving the document with the person apparently in charge, at the time of delivery, of the first nation's administrative office, or with the first nation's legal counsel; and

(c) in the case of a corporation, by leaving the document with the person apparently in charge, at the time of delivery, of the corporation's head office or a branch office, or with an officer or director of the corporation, or with the corporation's legal counsel.

(3) Subject to subsection (4), a document is considered delivered if

(a) delivered personally, at the time that personal delivery is made;

(b) sent by registered mail, on the fifth day after it is mailed;

(c) sent by fax, at the time indicated on the confirmation of transmission; or

(d) sent by e-mail, at the time indicated in the electronic confirmation that the e-mail has been opened.

(4) A document delivered on a non-business day or after 17:00 local time on a business day is considered delivered at 09:00 on the next business day.

## **Appeals**

**50.(1)** An appeal lies to the Supreme Court of British Columbia from a decision of the Assessment Review Board on a question of law.

(2) An appeal under subsection (1) must be made within thirty (30) days after the day on which the decision is delivered under subsection 48(1).

There is a right of appeal from a decision of the Assessment Review Board to the Supreme Court of British Columbia. The law can impose a time limit of not less than thirty days for an appeal to be made.

## PART XI GENERAL PROVISIONS

### Disclosure of Information

**51.(1)** The tax administrator, the assessor, a member of the Assessment Review Board, the secretary or any other person who has custody or control of information or records obtained or created under this Law must not disclose the information or records except

- (a) in the course of administering this Law or performing functions under it;
- (b) in proceedings before the Assessment Review Board, a court of law or pursuant to a court order;
- (c) in accordance with subsection (2).

(2) The assessor may disclose to the agent of a holder confidential information relating to the interest in reserve lands if the disclosure has been authorized in writing by the holder.

(3) An agent must not use information disclosed under subsection (2) except for the purposes authorized by the holder in writing referred to in that subsection.

### Disclosure for Research Purposes

**52.** Notwithstanding section 51,

- (a) the tax administrator may disclose information and records to a third party for research purposes, including statistical research, provided the information and records do not contain information in an individually identifiable form or business information in an identifiable form; and
- (b) Council may disclose information and records to a third party for research purposes, including statistical research, in an identifiable form, where
  - (i) the research cannot reasonably be accomplished unless the information is provided in an identifiable form, and

This section sets out the circumstances under which information or records obtained or created under the law can be disclosed. [Assessment Law Standards](#) section 11.

This section enables the tax administrator to disclose information for research and statistical purposes provided the information is not in an identifiable form. [Assessment Law Standards](#) section 11.

Council may disclose this information in an identifiable form provided Council takes steps to protect the confidentiality of the information.

- (ii) the third party has signed an agreement with Council to comply with Council's requirements respecting the use, confidentiality and security of the information.

### **Validity**

**53.** Nothing under this Law must be rendered void or invalid, nor must the liability of any person to pay taxes or amounts levied under the Taxation Law be affected by

- (a) an error or omission in a valuation or a valuation based solely on information in the hands of an assessor or the tax administrator;
- (b) an error or omission in an assessment roll, Assessment Notice, or any notice given under this Law; or
- (c) a failure of the First Nation, tax administrator or the assessor to do something within the required time.

This section supports the validity of the law where errors or omissions are made. Although it may be helpful to include this type of provision, First Nations should strive for compliance with the law and not rely on this section to ensure the validity of its actions.

### **Notices**

**54.(1)** Where in this Law a notice is required to be given by mail or where the method of giving the notice is not otherwise specified, it must be given

- (a) by mail to the recipient's ordinary mailing address or the address for the recipient shown on the assessment roll;
- (b) where the recipient's address is unknown, by posting a copy of the notice in a conspicuous place on the recipient's property; or
- (c) by personal delivery or courier to the recipient or to the recipient's ordinary mailing address or the address for the recipient shown on the assessment roll.

This section sets out notice provisions that apply under the law unless otherwise specified.

(2) Except where otherwise provided in this Law, a notice

- (a) given by mail is deemed received on the fifth day after it is posted;
- (b) posted on property is deemed received on the second day after it is posted; and

(c) given by personal delivery is deemed received upon delivery.

### Interpretation

55.(1) The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

These general rules apply to the interpretation of the law. The federal [Interpretation Act](#) also applies when interpreting the law.

(2) Where a provision in this Law is expressed in the present tense, the provision applies to the circumstances as they arise.

(3) Words in this Law that are in the singular include the plural, and words in the plural include the singular.

(4) This Law must be construed as being remedial and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

(5) Reference in this Law to an enactment is a reference to the enactment as it exists from time to time and includes any regulations made under the enactment.

(6) Headings form no part of the enactment and must be construed as being inserted for convenience of reference only.

**[Note to First Nation: Include this repeal provision only if this law is repealing and replacing an existing property assessment law.]**

### Repeal

**56 The \_\_\_\_\_ *First Nation Property Assessment By-law, 20\_\_* as amended, is hereby repealed in its entirety.]**

If the First Nation does not have an existing assessment law or by-law then this section is not required.

### Force and Effect

57. This Law comes into force and effect on the day after it is approved by the First Nations Tax Commission.

The law comes into force on the day after the Commission approval. The First Nation can specify a later date for the law to come into force by modifying this language.

THIS LAW IS HEREBY DULY ENACTED by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, in the Province of British Columbia.

These enactment provisions must be filled in and completed at the time the law is enacted by the Council.

A quorum of Council consists of \_\_\_\_\_  
(\_\_\_\_) members of Council.

\_\_\_\_\_  
[Name]  
Chief [please spell out name]

\_\_\_\_\_  
[Name]  
Councillor [please spell out name]

### **SCHEDULES:**

The sample law contains ten schedules. Each Schedule should be completed as much as possible, including by filling in the name of the First Nation and the references to the First Nation's law where indicated.

If a change is made to the substance of the law, any related schedules should be carefully reviewed and changes made to those schedules as necessary to ensure consistency. Conversely, if a substantive change is made to a schedule, the law should be reviewed and changes made as necessary to ensure consistency.