

ANNOTATED SAMPLE FIRST NATION PROPERTY ASSESSMENT LAW (MANITOBA)

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* (“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* (“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 Manitoba 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__

(MANITOBA)

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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 Manitoba. 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

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.

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;

“assessed value” means the value of land or improvements, or both, comprising an interest in reserve lands that is determined in accordance with this Law but does not include a portioned value based on a percentage of value under subsection 7(5);

The assessed value is the value of the interest in reserve lands before the percentage of value is applied.

“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 and includes a supplementary assessment notice;

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 an assessment roll prepared under subsection 10(1), and includes an assessment roll amended in accordance with this Law [and an assessment roll referenced in subsection 10(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, or
- (d) who is a trustee of the interest;

“improvement” means any building, fixture or structure that is erected or placed in, on, over or under the land, whether or not the building, fixture or structure is affixed to the land and is capable of being transferred without special mention by a transfer of the land, and includes

- (a) a part of a building, fixture or structure,
- (b) plant, machinery, equipment and containers that are used in the retail marketing of oil and oil products,
- (c) pipeline,
- (d) railway roadway and railway track,
- (e) mobile homes, and
- (f) gas distribution systems, spurs and railway sidings, and oil, natural gas or salt production equipment;

“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;

“mobile home” means a portable dwelling unit that

- (a) is capable of being transported on its own chassis and running gear by towing or other means,
- (b) is placed on the chassis or body of a motor vehicle,

and is designated to be used as living quarters or accommodation for travel, recreation or vacation purposes, but does not include a mobile home that is registered as a trailer under *The Drivers and Vehicle Act* (Manitoba);

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

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

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

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

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

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

“Order to Attend/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 32;

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

“portioned value” means, in respect of assessable property within a property class, a portion of the assessed value of the assessable property calculated on the basis of a percentage of the assessed value established in subsection 7(5);

The use of the portioned value and the percentage of value are used in the provincial system and therefore should remain consistent in this law.

“property class” means those categories of interests in reserve lands established in subsection 7(1) for the purposes of assessment and taxation;

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

“Province” means the province of Manitoba;

“reference date” means, for a general assessment under section 5, the date prescribed as the reference date by regulation under *The Municipal Assessment Act* (Manitoba);

The reference date is currently set at April 1 in each general assessment year. The reference date for 2017 is April 1, 2016, and for 2018 and 2019 it will be April 1, 2018. [Assessment Law Standards](#) subsection 2.1.

“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;

“secretary” means the secretary of the Assessment Review Board appointed under section 26;

“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;

“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; and

“value” means, in respect of assessable property, the amount that the assessable property might reasonably be expected to realize if held in fee simple off the reserve and sold on the open market on the applicable reference date by a willing seller to a willing buyer.

(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 6(4)(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.

This definition ensures that the assessor can determine the value of each interest in land on reserve as if held in fee simple off reserve.

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.

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

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).

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 ASSESSMENTS

General Assessments

5.(1) A general assessment must in [2018] **[Note to First Nation: General assessments are made every two years.]** and thereafter in each year that is prescribed by regulation under *The Municipal Assessment Act* (Manitoba).

The law adopts the general assessment dates set by the Province. General assessments are currently conducted every two years.

[Note to First Nation: The following alternate wording may be used if a general assessment already exists under a previous assessment law, and the assessment roll is continued from the previous law using s. 10(3)

“5.(1) A general assessment must be made in each year that is prescribed by regulation under *The Municipal Assessment Act* (Manitoba).”]

(2) Subject to amendments made under this Law, a general assessment applies to the year in which it is made and to each subsequent year until the year of the next general assessment.

Each general assessment applies until the next general assessment, subject to amendments made in accordance with the law.

Assessment and Valuation

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

The assessor is required to assess all interests in reserve lands that are subject to taxation, and all interests for which payments in lieu are made. The law could also require the assessment of additional interests.

(2) Except where otherwise provided in this Law, the assessor must assess each interest in reserve lands at value.

Subsection 6(2) to (10) set out the basic rules for property assessment, including specific rules easements and rights of way, railway, and pipelines. These rules reflect provincial assessment practices. [Assessment Law Standards](#) subsection 4.1

(3) 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.

[Note to First Nation: Consider the inclusion of these provisions and discuss with the assessor. Linear rights are often assessed as separate interests on reserve lands.]

(4) For purposes of assessments that are affected by easements or rights-of-way, the assessor must

(a) increase the assessed value of land that enjoys the benefit of an easement or right-of-way by an amount that represents the increase in value of the land, if any, resulting from enjoyment of the benefit of the easement or right-of way; and

(b) decrease the assessed value of land upon which the easement or right-of-way is situated by an amount that represents the loss in value of the land, if any, resulting from the presence of the easement or right-of-way on the land.

(5) Where a strip of land, that is not part of land that is being assessed, is reserved as a private roadway for the benefit of land that is being assessed, the assessor must, subject to subsection (6), add the value of the strip of land to the assessed value of the land that is being assessed.

(6) Where a strip of land under subsection (5) is reserved for the benefit of two or more parcels of land, the assessor must, for purposes of an assessment under subsection (5), apportion the value of the strip of land to the parcels of land in proportion to the benefit enjoyed by each parcel.

(7) In assessing a railway roadway, pipeline or gas distribution system, the assessor must determine the value by applying the assessment rates prescribed by regulation under *The Municipal Assessment Act* (Manitoba).

(8) The assessor must assess pipeline in the name of the owner or operator of the pipeline, and gas distribution systems in the name of the owner of the system.

(9) An assessment is presumed to be properly made and the assessed value to be fixed at a fair and just amount where the assessed value bears a fair and just relation to the assessed values of other assessable property.

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

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

This provision set out specific rules for property assessment of railway roadway, pipeline and gas distribution systems. The interests are assessed using regulated rates.

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.

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

Property Classes and Portioned Values

7.(1) Council hereby establishes the property classes established by the Province for provincial property assessment purposes, for the purposes of assessment under this Law and imposing taxes under the Taxation Law.

(2) The property classes established under subsection (1) are set out in Schedule I to this Law, and the assessor must use the corresponding provincial classification rules for each property class.

(3) The assessor must assess each interest in reserve lands according to the property classes established under this Law.

(4) Where an interest in reserve lands being assessed falls within two (2) or more property classes, the assessor must allocate the assessed value of the interest to the property classes in portions that, in each case, reflect the part of the assessed value attributable to the portion of the interest falling within the class.

(5) The assessor must determine the portioned value of each interest in reserve lands using the percentages of assessed value prescribed by regulation under *The Municipal Assessment Act* (Manitoba) for each property class.

The law must establish property classes for assessment and taxation purposes that are the same as those property classes established in the Province. [Assessment Law Standards](#) section 3.

Schedule I sets out the property classes applicable in Manitoba.

Where an interest in reserve lands includes two or more property classes, the assessor must create a split classification.

This assessor must determine the portioned value of each interest in reserve lands using the same approach that is used provincially.

PART V REQUESTS FOR INFORMATION AND INSPECTIONS

Requests for Information

8.(1) The assessor may deliver a Request for Information containing the information set out in Schedule II, requesting that a person who holds assessable property, or a person who has disposed of assessable property, provide to the assessor information or documentation that relates or might relate to, or that affects or might affect, the value of the interest in reserve lands being assessed or that is or might be relevant to assessment of the interest which, without limiting the generality of the foregoing, may include information for each year since the previous

The assessor is given the authority to request information respecting an assessable property for purposes relevant to the assessment.

general assessment respecting

- (a) any sale of the interest;
- (b) the cost of any construction on the interest; and
- (c) any income or expense related to the use or operation of the interest.

(2) Where a person receives a written request from the assessor under subsection (1), the person must, within twenty-one (21) days of receiving the request, provide information or documentation to the extent that information or documentation to which the request relates is in the possession or control of the person and must provide, in the form of a signed statement, a declaration of the person affirming that the information or documentation provided by the person is complete, true and accurate.

(3) 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 and documentation provided under this section.

Inspections

9. The assessor may
- (a) inspect or re-inspect any interest in reserve lands for the purposes of an assessment;
 - (b) inspect personal property for the purposes of an assessment; and
 - (c) enter and inspect land and improvements for the purposes of 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.

PART VI

ASSESSMENT ROLL AND ASSESSMENT NOTICE

Assessment Roll

10.(1) On or before December 31 of each year, the assessor must prepare 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:

The law must require the completion of an annual assessment roll by December 31. [Assessment Law Standards](#) subsection 5.1.

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

- (a) the name and last known address of the holder of the interest;
- (b) a description of the interest;
- (c) the classification of the interest in land;
- (d) the assessed value by classification of the interest;
- (e) the total assessed value of the interest;
- (f) if applicable, that the interest is in whole or in part exempt from taxation under the Taxation Law;
- (g) the portioned value of the interest; and
- (h) 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.]

Certification by Assessor

11. On completion of an assessment roll and on or before December 31 in that 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.

Amendments to Assessment Roll

12.(1) Where the assessor amends the assessment roll under section 19, or amends the assessment roll to reflect reconsideration decisions or implement decisions of the Assessment Review Board, the assessor must

- (a) date and initial amendments made to the assessment roll; and

For First Nations whose laws are replacing transitioned section 83 assessment by-laws, subsection 10(3) should be included to clarify that an assessment roll made under the previous law is valid.

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. The date for fulfilling these requirements is set out in subsection 10(1) of this law. [Assessment Law Standards](#) subsection 5.3 and 5.4.

This section sets out the process for the assessor to amend the certified assessment roll and report changes to the Council where changes are made in accordance with this law.

(b) report the change or correction to Council.

(2) Where the assessment roll is amended under this Law, the amendments are an integral part of the assessment roll and are deemed to be effective as of the date the assessment roll was certified under section 11.

(3) The assessor must not amend the assessment roll contrary to a decision of the Assessment Review Board or a court of competent jurisdiction.

Validity of Assessment Roll

13. 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.

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

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

(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).

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

15.(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.

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).

(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 14(1) or are otherwise accessible to the public.

Chargeholders

16.(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.

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

(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.

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

17.(1) The assessor must, on or before _____ in each 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.

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.

(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 delivered on the date that the e-mail is sent by the assessor.

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

(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 interest in reserve lands assessed in the name of the same holder may be included in one Assessment Notice.

PART VII AMENDMENT AND CORRECTION OF ASSESSMENT ROLL

Amending the Next Annual Assessment Roll

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 for the correction of errors and omissions generally follow the procedures set out in [The Municipal Assessment Act](#) (Manitoba).

18.(1) Where, in a year for which a general assessment is not required,

The assessor must amend the assessment roll in the circumstances set out in this section in any year that is not a general assessment year.

(a) assessable property is not entered in an assessment roll,

(b) the assessed value of the interest reserve lands is not the same as the assessed value entered in the assessment roll by reason of

(i) an error or omission in an assessment roll entry,

(ii) destruction of or damage to the interest,

(iii) altered or new improvements to the interest,

(iv) a change in the physical characteristics of the interest or in the physical characteristics of an interest that is in close proximity to the interest,

(v) a change in the zoning or permitted uses applicable to the interest in land,

(vi) subdivision of the land that forms all or a part of the interest,

(vii) in the case of assessable property that is residential property containing not more than four (4) dwelling units, any significant factor that affects such assessable property and that is external to the assessable property,

(viii) the closure of the whole of a building or structure in which a commercial operation was carried on, where

(A) the commercial operation was, before the closure, the only commercial operation on the interest,

(B) at least one (1) year has passed since the closure, and

(C) the only use made of the building or structure since the closure is the storage of personal property or fixtures that were used in the commercial operation, or

(ix) a change that causes a building or structure on the interest to no longer conform to the requirements of subparagraph (viii), or

(c) there is

(i) a change in the classification of the interest in reserve lands under this Law, or

(ii) a change in the eligibility of the interest for, or in the amount of, an exemption under the Taxation Law,

the assessor must amend the assessment on the assessment roll that is being prepared by the assessor under subsection 11(1).

(2) In redoing an assessment for purposes of amending an assessment roll under subsection (1), the assessor must apply the same conditions and requirements, including the same reference date, as applied when the assessment was first done, except that the subsequent change of conditions or circumstances under paragraph (1)(b) or (1)(c) that is the reason for amendment of the assessment roll applies in redoing the assessment as if the change in the conditions or circumstances had applied to the subject interest in reserve lands when the assessment was first done.

(3) A person named on the assessment roll in respect of an interest in reserve lands who is of the opinion that any of the circumstances referred to in subsection (1) exist with respect to an interest, may notify the assessor of those circumstances and the assessor must amend the assessment as the assessor determines appropriate.

(4) An amendment under subsection (1) applies in the years that follow the year in which the amendment is made until the year in which the next general assessment under this Law is done.

Amendments made under this section apply in subsequent years until the next general assessment.

Corrections to Current Assessment Roll and Supplementary Assessments

19.(1) The assessor may at any time, for the purpose of correcting an error or omission, amend the latest assessment roll.

This section sets out the circumstances where the assessor may amend the current roll in order to correct an error or omission.

(2) Where the assessor learns of a change in the holder of assessable property, the assessor must immediately amend the current assessment roll to reflect that change.

Where there is a change in the holder of assessable property, the assessor is required to immediately amend the roll.

(3) After amendment of an assessment roll under this section, the assessor must mail an amended Assessment Notice to every person named on the assessment roll in respect of the interest in reserve lands affected.

Where the assessment roll is amended, the assessor must mail an amended Assessment Notice.

(4) The assessor must create a supplementary assessment in respect of an interest in reserve lands if, after the assessment roll has been certified under section 11, the assessor determines that

This provision requires the assessor to create a supplementary assessment in the circumstances set out in this subsection.

- (a) the interest is liable to taxation but was not assessed;
- (b) the interest is liable to taxation due to change in ownership or use;
- (c) the assessment of an improvement requires an increase because of a change in the physical condition of the improvement;
- (d) a change has been made in the classification of the interest due to a change in the provincial classification rules; or
- (e) the land has been improved or subdivided.

(5) The assessor must, as soon as practicable after creating a supplementary assessment under subsection (4), mail a supplementary Assessment Notice to the tax administrator and to every person named on the assessment roll in respect of the interest in reserve lands affected.

Where a supplementary assessment is created, the assessor must send a supplementary assessment notice.

(6) A supplementary assessment of an interest in reserve lands is effective

(a) beginning on the date

(i) the interest is liable to taxation under paragraph (4)(a),

(ii) the change to the interest occurred under paragraph (4)(b), (c) or (d), or

(iii) the land was improved or subdivided under paragraph (4)(e),

provided that the effective date cannot be earlier than January 1 of the year preceding the year in which the assessor creates the supplementary assessment; and

(b) ending December 31 of the year in which the assessor creates the supplementary assessment.

Supplementary assessments are valid only until December 31 of the year in which the assessor creates them.

(7) Where the assessor creates a supplementary assessment under this section, the assessor must amend the assessment on the assessment roll that is being prepared by the assessor under subsection 10(1).

PART VIII

RECONSIDERATION OF ASSESSMENT

Reconsideration by Assessor

20.(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

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

21.(1) Council must, by resolution, establish an Assessment Review Board to 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 member 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.

Remuneration and Reimbursement

[Note to First Nation: 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

This Part incorporates the procedures set out in the Assessment Appeal Regulations. 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). [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).

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.]

22.(1) The First Nation must remunerate

(a) the chair (or acting chair) 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 21(2), at a rate of _____ dollars (\$_____) per hour [or day], and

(c) a member (or replacement member appointed to act), other than those referenced in paragraphs (a) and (b), 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.

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

Conflicts of Interest

23.(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 that 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.

The law must set out the remuneration that will be paid to members of the Assessment Review Board. [FMA](#) subsection 5(4).

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

24.(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

25.(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

26. 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

27. 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

28. The Assessment Review Board must 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

29.(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,
- (b) a copy of the Assessment Notice, and
- (c) an administration fee of thirty dollars (\$30),

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

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.

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.

(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:

The law must allow an appeal on at least the grounds set out in paragraphs 29(3)(a) to (d). Paragraph (e) is optional. [Assessment Law Standards](#) subsection 9.1.

(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 an assessment amended under section 19, or a supplementary assessment created under section 19, the appeal must be confined to the amendment or the supplementary assessment, as the case may be.

(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.

(6) No appeal may be brought respecting an assessment amended to reflect a decision of the Assessment Review Board or a court of competent jurisdiction.

Agents and Solicitors

30. 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

31.(1) On delivery of a Notice of Appeal to the assessor, the chair must, in consultation with the assessor, schedule a hearing of the appeal.

(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.

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).

Parties

32. The parties in a hearing 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, upon request by that person.

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

33.(1) 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 chair 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

34. 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, 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

35.(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 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

36.(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.

(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.

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.

(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

37.(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.

Summary Dismissal

38.(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.

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.

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.

Quorum

39.(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.

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.

Decisions

40. 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.

Combining Hearings

41. The Assessment Review Board may conduct a single hearing of two (2) or more appeals 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

42.(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.

(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.

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).

Orders to Attend or Produce Documents

43.(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

- (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,

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

by issuing an Order to Attend/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/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 Court of Queen's Bench of Manitoba for an order directing a person to comply with an order under this section.

Adjournments

44. The Assessment Review Board may

(a) hear all appeals 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

45. 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,

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.

(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.

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

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.

(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 delivering a Notice of Withdrawal to the Assessment Review Board.

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.

(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.

(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 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 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.

(4) The assessor must make any amendments to the assessment roll that are necessary to reflect a decision of the Assessment Review Board and must mail an amended Assessment Notice to every person named in the assessment roll in respect of the interest in reserve lands affected.

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 all 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 Court of Queen's Bench of Manitoba 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 Court of Queen's Bench of Manitoba. 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; or
- (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 the 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.

(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.]

Force and Effect

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

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

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

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 Manitoba.

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.