

**FIRST NATION**  
**PROPERTY TAXATION BY-LAW, 20\_\_**  
**BRITISH COLUMBIA**  
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WHEREAS:

A. Pursuant to paragraph 83(1)(a) of the *Indian Act*, the council of a first nation may make by-laws for the purpose of taxation for local purposes of land, or interests in land, in the reserve, including rights to occupy, possess or use land in the reserve; and

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

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

**PART I  
CITATION**

**Citation**

1. This By-law may be cited as the \_\_\_\_\_ *First Nation Property Taxation By-law*, 20\_\_.

**PART II  
DEFINITIONS AND REFERENCES**

**Definitions and References**

2.(1) In this By-law:

“assessed value” has the meaning given to that term in the Assessment By-law;

“Assessment By-law” means the \_\_\_\_\_ *First Nation Property Assessment By-law*, 20\_\_;

“Assessment Review Board” means the assessment review board established under the Assessment By-law;

“assessment roll” has the meaning given to that term in the Assessment By-law;

“assessor” means a person appointed to that position under the Assessment By-law;

“Certificate of Cancellation of Interest in Land” means a certificate containing the information set out in Schedule XI;

“Certificate of Forfeiture” means a certificate containing the information set out in Schedule XIII;

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

“debtor” means a person liable for unpaid taxes imposed under this By-law;

“expenditure by-law” means a by-law under subsection 23(3);

“First Nation” means the \_\_\_\_\_ First Nation, being a band as defined in the *Indian Act*;

“First Nation Corporation” means a corporation in which at least a majority of the shares are held in trust for the benefit of the First Nation or all of the members of the First Nation;

“holder” means a person in possession of an interest in land or a person who, for the time being,

(a) is entitled through a lease, licence or other legal means to possess or occupy the interest in land;

(b) is in actual occupation of the interest in land;

(c) has any right, title, estate or interest in the interest in land; or

(d) is a trustee of the interest in land;

“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;

- “interest in land” or “property” means land or improvements, or both, in the reserve and, without limitation, includes any interest in land or improvements, any occupation, possession or use of land or improvements, and any right to occupy, possess or use land or improvements;
- “locatee” means a person who is in lawful possession of land in the reserve under subsections 20(1) and 20(2) of the *Indian Act*;
- “manufactured home” has the meaning given to that term in the Assessment By-Law;
- “Notice of Cancellation of Interest in Land” means a notice containing the information set out in Schedule X;
- “Notice of Discontinuance of Services” means a notice containing the information set out in Schedule XIV;
- “Notice of Forfeiture” means a notice containing the information set out in Schedule XII;
- “Notice of Sale of a Right to Assignment of Taxable Property” means a notice containing the information set out in Schedule IX;
- “Notice of Sale of Seized Personal Property” means a notice containing the information set out in Schedule VII;
- “Notice of Seizure and Assignment of Taxable Property” means a notice containing the information set out in Schedule VIII;
- “Notice of Seizure and Sale of Personal Property” means a notice containing the information set out in Schedule VI;
- “person” includes a partnership, syndicate, association and corporation, and the personal or other legal representatives of a person;
- “property class” has the meaning given to that term in the Assessment By-law;
- “Province” means the province of British Columbia;
- “registry” means any land registry in which interests in land are registered;
- “Request for Information by Tax Administrator” means a notice containing the information set out in Schedule I;
- “reserve” means any land set apart for the use and benefit of the First Nation within the meaning of the *Indian Act*;
- “resolution” means a motion passed and approved by a majority of Council present at a duly convened meeting;
- “tax administrator” means a person appointed by Council under subsection 3(1) to administer this By-law;
- “Tax Arrears Certificate” means a certificate containing the information set out in Schedule IV;
- “Tax Certificate” means a certificate containing the information set out in Schedule III;
- “Tax Notice” means a notice containing the information set out in Schedule II;
- “tax roll” means a list prepared pursuant to this By-law of persons liable to pay tax on taxable property;
- “taxable property” means an interest in land that is subject to taxation under this By-law;
- “taxation year” means the calendar year to which an assessment roll applies for the purposes of taxation;
- “taxes” include all taxes imposed, levied, assessed or assessable under this By-law, and all penalties, interest and costs added to taxes under this By-law; and
- “taxpayer” means a person liable for taxes in respect of taxable property.

(2) In this Law, references to a Part (e.g. Part I), section (e.g. section 4), subsection (e.g. subsection 5(1)) paragraph (e.g. paragraph 6(3)(a) or Schedule (e.g. Schedule I) is a reference to the specified Part, section, subsection, paragraph or Schedule of this By-law, except where otherwise stated.

### **PART III ADMINISTRATION**

#### **Tax Administrator**

3.(1) Council must, by resolution, appoint a tax administrator to administer this By-law on the terms and conditions set out in the resolution.

(2) The tax administrator must fulfill the responsibilities given to the tax administrator under this By-law and the Assessment By-law.

(3) The tax administrator's responsibilities include the collection of taxes and the enforcement of payment under this By-law.

(4) The tax administrator may, with the consent of [insert title], assign the performance of any duties of the tax administrator to any officer, employee, contractor or agent of the First Nation.

### **PART IV LIABILITY FOR TAXATION**

#### **Application of By-law**

4. This By-law applies to all interests in land.

#### **Tax Liability**

5.(1) Except as provided in Part V, all interests in land are subject to taxation under this By-law.

(2) Taxes levied under this By-law are a debt owed to the First Nation, recoverable by the First Nation in any manner provided for in this By-law or in a court of competent jurisdiction.

(3) Where an interest in land is not subject to taxation, the liability for taxation of any other interest in the same property is not affected.

(4) Taxes are due and payable under this By-law notwithstanding any proceeding initiated or remedy sought by a taxpayer respecting his or her liability to taxation under this By-law.

(5) Any person who shares the same interest in taxable property is jointly and severally liable to the First Nation for all taxes imposed on that taxable property under this By-law during the taxation year and for all unpaid taxes imposed in a previous taxation year, including, for clarity, interest, penalties and costs as provided in this By-law.

#### **Tax Refunds**

6.(1) Where a person is taxed in excess of the proper amount, the tax administrator must refund to that person any excess taxes paid by that person.

(2) Where a person is entitled to a refund of taxes, Council may direct the tax administrator to refund the amount in whole or in part by applying it as a credit on account of taxes or other unpaid amounts that are due or accruing due to the First Nation in respect of taxable property held by that person.

(3) Where a person is entitled to be refunded an amount of taxes paid under this By-law, the tax administrator must pay the person interest as follows:

(a) interest accrues from the date that the taxes were originally paid to the First Nation;

(b) the interest rate during each successive three (3) month period beginning on January 1, April 1,

July 1, October 1 in every year, is two percent (2%) below the prime lending rate of the principal banker to the First Nation on the 15th day of the month immediately preceding that three (3) month period;

(c) interest will not be compounded; and

(d) interest stops running on the day payment of the money owed is delivered or mailed to the person to whom it is owed, or is actually paid.

## **PART V EXEMPTIONS FROM TAXATION**

### **Exemptions**

**[Note to First Nation: The First Nation should determine what, if any, exemptions it wishes to provide in its by-law. The following are examples of exemptions a first nation may wish to consider in its by-law.]**

**7.(1) The following interests in land are exempt from taxation under this By-law to the extent indicated:**

**(a) subject to subsection (2), any interest in land held or occupied by a member of the First Nation;**

**(b) subject to subsection (2), any interest in land held or occupied by the First Nation or a First Nation Corporation;**

**(c) a building used for public school purposes or for a purposes ancillary to the operation of a public school, and the land on which the building stands;**

**(d) a building used or occupied by a religious body and used for public worship, religious education or as a church hall, and the land on which the building stands;**

**(e) a building used solely as a hospital, not operated for profit, and the land on which the building stands;**

**(f) a building used as a university, technical institute or public college, not operated for profit, and the land on which the building stands;**

**(g) an institutional building used to provide housing accommodation for the elderly or persons suffering from physical or mental disability, not operated for profit, and the land on which the building stands; and**

**(h) that land of a cemetery actually used for burial purposes.**

**(2) The exemptions in paragraphs (1)(a) and (b) do not apply to interests in land that are held by a member of the First Nation, the First Nation, or a First Nation Corporation, as the case may be, where the interest in land is actually occupied by someone other than a member of the First Nation, the First Nation, or a First Nation Corporation.]**

**(3) [Note to First Nation: This wording may be included if exemptions are included that apply to buildings. An exemption from taxation applies only to that portions of a building occupied or used for the purpose for which the exemption is granted, and a proportionate part of the land on which the building stands.]**

**PART VI  
GRANTS AND ABATEMENT**

**[Note to First Nation: The First Nation should consider what, if any, grants or other forms of tax abatement it wishes to provide in its by-law. This could include a grant for residential taxpayers who are over sixty-five (65) years of age, or have physical or mental disability or financial need. The qualifying requirements for abatements and grants must be set out in this by-law, with the amounts to be determined each year in an expenditure by-law. The following are examples of possible grants.]**

**Grants for Surrounding Land**

**8. Where a building is exempted from taxation under this Law, Council may provide to the holder a grant equivalent to the taxes payable on that area of land surrounding the building determined by Council to be reasonably necessary in connection with it.**

**Annual Grants**

**9.(1) Council may provide for a grant to a holder:**

**(a) where the holder is a charitable, philanthropic or other not-for-profit corporation, and Council considers that the property is used for a purpose that is directly related to the purposes of the corporation;**

**(b) where the holder would be entitled to a grant under the provisions of the *Home Owner Grant Act (BC)* if the holder's property was subject to taxation by a local government; and**

**(c) [set out qualifying criteria for other grant programs].**

**(2) Grants provided under subsection (1)**

**(a) may be given only to a holder of property that is taxable in the current taxation year;**

**(b) must be in an amount equal to or less than the taxes payable on the property in the current taxation year, less any other grants, abatements and offsets; and**

**(c) must be used only for the purposes of paying the taxes owing on the property in the current taxation year.**

**(3) A grant under paragraph 1(b) must be in an amount that is not more than the amount to which a person would be entitled under the *Home Owner Grant Act (BC)* if the holder's property was subject to taxation by a local government.**

**(4) Council will in each taxation year determine all grants that will be given under this Part and will authorize those grants in an expenditure by-law.**

**PART VII  
LEVY OF TAX**

**Tax Levy**

**10.(1) On or before May 28 in each taxation year, Council must adopt a by-law pursuant to section 83 of the *Indian Act* setting the rate of tax to be applied to each property class.**

**(2) A by-law setting the rate of tax may establish different tax rates for each property class.**

**(3) Taxes must be levied by applying the rate of tax against each one thousand dollars (\$1,000) of assessed value of the interest in land.**

**(4) Taxes levied under this By-law are deemed to be imposed on January 1 of the taxation year in which the levy is first made.**

(5) Notwithstanding subsection (3), Council may establish, in its annual by-law setting the rate of tax, a minimum tax payable in respect of a taxable interest in land.

(6) A minimum tax established under the authority of subsection (5) may be established in respect of one or more property classes.

### **Tax Payments**

11.(1) Taxes are due and payable on July 2 of the taxation year in which they are levied.

(2) Taxes must be paid at the office of the First Nation during normal business hours, by cheque, money order or cash.

(3) Payment of taxes made by cheque or money order must be made payable to the \_\_\_\_\_ First Nation.

### **Tax Roll**

12.(1) On or before \_\_\_\_\_ in each taxation year, the tax administrator must create a tax roll for that taxation year.

(2) The tax roll must be in paper or electronic form and must contain the following information:

- (a) a description of the property as it appears on the assessment roll;
- (b) the name and address of the holder entered on the assessment roll with respect to the property;
- (c) the name and address of every person entered on the assessment roll with respect to the property;
- (d) the assessed value by classification of the land and the improvements as it appears in the assessment roll, exclusive of exemptions, if any;
- (e) the amount of taxes levied on the property in the current taxation year under this By-law; and
- (f) the amount of any unpaid taxes from previous taxation years.

(3) The tax administrator may use the certified assessment roll as the tax roll by adding the following information to the assessment roll:

- (a) the amount of taxes levied on the property in the current taxation year under this By-law; and
- (b) the amount of any unpaid taxes from previous taxation years.

### **Annual Tax Notices**

13.(1) On or before \_\_\_\_\_ in each taxation year, the tax administrator must mail a Tax Notice to

- (a) each holder of taxable property under this By-law, and
- (b) each person whose name appears on the tax roll in respect of the property,

to the address of the person as shown on the tax roll.

(2) The tax administrator must enter on the tax roll the date of mailing a Tax Notice.

(3) The mailing of the Tax Notice by the tax administrator constitutes a statement of and demand for payment of the taxes.

(4) If a number of properties are assessed in the name of the same holder, any number of those properties may be included in one Tax Notice.

(5) Where the holder of a charge on taxable property gives notice to the assessor of the charge under the Assessment By-law and the assessor enters the holder's name on the assessment roll, the tax administrator must mail a copy of all tax notices issued in respect of the property to the holder of the charge during the duration of the charge.

(6) Where applicable, a Tax Notice must state that taxes are payable in conjunction with periodic lease payments under section 17.

#### **Amendments to Tax Roll and Tax Notices**

14.(1) Where the assessment roll has been revised in accordance with the Assessment By-law, or where a supplementary assessment roll is issued in accordance with the Assessment By-law, the tax administrator must amend the tax roll or create a supplementary tax roll, as necessary, and mail an amended Tax Notice to every person affected by the amendment.

(2) The duties imposed on the tax administrator with respect to the tax roll and the provisions of this By-law relating to tax rolls, so far as they are applicable, apply to supplementary tax rolls.

(3) Where an amended Tax Notice indicates a reduction in the amount of taxes owing, the tax administrator must forthwith refund any excess taxes that have been paid, in accordance with section 6.

(4) Where an amended Tax Notice indicates an increase in the amount of taxes owing, the taxes are due and payable on the date of mailing of the amended Tax Notice; however, the taxpayer must be given thirty (30) days to pay those taxes and a penalty and interest must not be added in that period.

#### **Subdivision**

15.(1) If a property is subdivided, by lease or other legal instrument, before June 1 in the taxation year, the tax administrator may

(a) apportion the taxes payable in that year among the properties created by the subdivision in same proportions as taxes would have been payable in respect of the properties had the subdivision occurred on or before the assessment roll was certified under the Assessment Law; and

(b) on making an apportionment under paragraph (a), record the apportionment on the tax roll in the manner that the tax administrator considers necessary.

(2) Taxes apportioned to a property under subsection (1) are the taxes payable in respect of the property in the year for which they are apportioned.

(3) The assessor must provide the tax administrator with the assessed values necessary to calculate the proportions of taxes referred to in subsection (1).

#### **Requests for Information**

16.(1) The tax administrator may deliver a Request for Information to a holder or a person who has disposed of property, and that person must provide to the tax administrator, within fourteen (14) days or a longer period as specified in the notice, information for any purpose related to the administration of this By-law.

(2) The tax administrator is not bound by the information provided under subsection (1).

### **PART VIII**

#### **PERIODIC PAYMENTS**

##### **Taxes as a Percentage of Rental Payment**

17.(1) Council, with the consent of the locatee where applicable, may by resolution declare that taxes respecting an interest in land that is leased be expressed as a percentage of the rent payment and collected with it in accordance with the terms of a lease agreement or the terms of an agreement with the landlord.

(2) Where the First Nation has entered an agreement with the Crown or with any person entitled to receive rents for the collection of tax under this Part, the receipt by the Crown or such person of payment on account of tax will be a discharge of the liability for tax to the extent of the payment.



(3) Where taxes are due and payable in conjunction with payment of rent under this Part, the proportionate payment is due and payable on the date that the rent is due and payable.

**PART IX  
PAYMENT RECEIPTS AND TAX CERTIFICATES**

**Receipts for Payments**

18. On receipt of a payment of taxes, the tax administrator must issue a receipt to the taxpayer and must enter the receipt number on the tax roll opposite the interest in land for which the taxes are paid.

**Tax Certificate**

19.(1) On receipt of a written request and payment of the fee set out in subsection (2), the tax administrator must issue a Tax Certificate showing whether taxes have been paid in respect of an interest in land, and if not, the amount of taxes outstanding.

(2) The fee for a Tax Certificate is \_\_\_ dollars (\$\_\_\_) for each tax roll folio searched.

**PART X  
PENALTIES AND INTEREST**

**Penalty**

20. If all or part of the taxes remain unpaid after July 2 of the year in which they are levied, a penalty of \_\_\_ percent (\_\_\_ %) of the portion that remains unpaid will be added to the amount of the unpaid taxes and the amount so added is, for all purposes, deemed to be part of the taxes. [**Note to First Nation: maximum penalty is ten percent (10%)**]

**Interest**

21. If all or any portion of taxes remains unpaid after July 2 of the year levied, the unpaid portion accrues interest at \_\_\_ percent (\_\_\_ %) per year. [**Note to First Nation: maximum interest is fifteen percent (15%) per year**]

**Application of Payments**

22. Payments for taxes must be credited by the tax administrator first, to taxes, including interest, from previous taxation years, second, to a penalty added in the current taxation year, and third, to unpaid taxes for the current taxation year.

**PART XI  
REVENUES AND EXPENDITURES**

**Revenues and Expenditures**

23.(1) All revenues raised under this By-law must be placed into a separate account, separate from other moneys of the First Nation.

(2) Revenues raised include:

- (a) taxes, including, for clarity, interest, penalties and costs as set out in this By-law; and
- (b) payments-in-lieu of taxes.

(3) An expenditure of revenue raised under this By-law must be made under authority of an expenditure by-law of the First Nation.

**Reserve Funds**

24.(1) Reserve funds established by Council must

- (a) be established in an expenditure by-law; and
- (b) comply with this section.

(2) Except as provided in this section, money in a reserve fund must be deposited in a separate account and the money and interest earned on it must be used only for the purpose for which the reserve fund was established.

(3) For capital purpose reserve funds, Council may,

- (a) under an expenditure by-law, transfer moneys in a reserve fund to another reserve fund or account only where all projects for which the reserve fund was established have been completed; and
- (b) by resolution, borrow money from a reserve fund where not immediately required, on condition that the First Nation repay the amount borrowed plus interest on that amount at a rate that is at or above the prime lending rate set from time to time by the principal banker to the First Nation, no later than the time when the money is needed for the purposes of that reserve fund.

(4) For non-capital purpose reserve funds, transfers or borrowing of reserve funds must be authorized by Council in an expenditure by-law.

(5) Council must authorize all payments into a reserve fund and all expenditures from a reserve fund in an expenditure by-law.

(6) Where moneys in a reserve fund are not immediately required, the tax administrator must invest those moneys in one or more of the following:

- (a) securities of Canada or of a province;
- (b) securities guaranteed for principal and interest by Canada or by a province;
- (c) securities of a municipal finance authority or the First Nations Finance Authority;
- (d) investments guaranteed by a bank, trust company or credit union; or
- (e) deposits in a bank or trust company in Canada or non-equity or membership shares in a credit union.

## **PART XII**

### **COLLECTION AND ENFORCEMENT**

#### **Recovery of Unpaid Taxes**

25.(1) The liability referred to in subsection 5(2) is a debt recoverable by the First Nation in a court of competent jurisdiction and may be recovered by any other method authorized in this By-law and, unless otherwise provided, the use of one method does not prevent seeking recovery by one or more other methods.

(2) A copy of the Tax Notice that refers to the taxes payable by a person, certified as a true copy by the tax administrator, is evidence of that person's debt for the taxes.

(3) Where the tax administrator has reasonable grounds to believe that a debtor intends to remove his or her personal property from the reserve, or intends to dismantle or remove his or her improvements on the reserve, or take any other actions that may prevent or impede the collection of unpaid taxes owing under this By-law, the tax administrator may apply to a court of competent jurisdiction for a remedy, notwithstanding that the time for payment of taxes has not yet expired.

#### **Tax Arrears Certificate**

26.(1) Before commencing enforcement proceedings under Parts XIII, XIV, XV, XVI and XVII, the tax administrator must

- (a) obtain authorization from Council by resolution; and
- (b) issue a Tax Arrears Certificate and deliver it to every person named on the tax roll in respect of that property.

(2) A Tax Arrears Certificate must not be issued for at least six (6) months after the day on which the taxes became due.

### **Creation of Lien**

**27.**(1) Unpaid taxes are a lien on the interest in land to which they pertain that attaches to the interest in land and binds subsequent holders of the interest in land.

(2) The tax administrator must maintain a list of all liens created under this By-law.

(3) A lien listed under subsection (2) has priority over any unregistered or registered claim, privilege, lien or security interest in respect of the interest in land.

(4) The tax administrator may apply to a court of competent jurisdiction to protect or enforce a lien under subsection (1) where the tax administrator determines such action is necessary or advisable.

(5) On receiving payment in full of the taxes owing in respect of which a lien was created, the tax administrator must register a discharge of the lien without delay.

(6) Discharge of a lien by the tax administrator is evidence of payment of the taxes with respect to the interest in land.

(7) A lien is not lost or impaired by reason of any technical error or omission in its creation or recording in the list of liens.

### **Delivery of Documents in Enforcement Proceedings**

**28.**(1) This section applies to this Part and Parts XIII, XIV, XV, XVI and XVII.

(2) Delivery of a document may be made personally or by sending it by registered mail.

(3) Personal delivery of a document is made

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

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

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

(4) A document is considered to have been delivered

(a) if delivered personally, on the day that personal delivery is made; and

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

(5) Copies of notices must be delivered

(a) where the notice is in respect of taxable property, to all persons named on the tax roll in respect of that taxable property; and

(b) where the notice is in respect of personal property, to all holders of security interests in the personal property registered under the laws of the Province.

**PART XIII**  
**SEIZURE AND SALE OF PERSONAL PROPERTY**

**Seizure and Sale of Personal Property**

29.(1) If taxes remain unpaid more than thirty (30) days after a Tax Arrears Certificate is issued, the tax administrator may recover the amount of unpaid taxes, with costs, by seizure and sale of personal property of the debtor that is located on the reserve.

(2) As a limitation on subsection (1), personal property of a debtor that would be exempt from seizure under a writ of execution issued by a superior court in the Province is exempt from seizure under this By-law.

(3) The costs payable by the debtor under subsection (1) are set out in Schedule V.

**Notice of Seizure and Sale**

30.(1) Before proceeding under subsection 29(1), the tax administrator must deliver a Notice of Seizure and Sale to the debtor.

(2) If the taxes remain unpaid more than seven (7) days after delivery of a Notice of Seizure and Sale, the tax administrator may request a sheriff, bailiff or by-law enforcement officer to seize any personal property that is located on the reserve and described in the Notice of Seizure and Sale, except for property exempt from seizure under subsection 29(2).

(3) The person who seizes personal property must deliver to the debtor a receipt for the personal property seized.

**Notice of Sale of Seized Personal Property**

31.(1) The tax administrator must publish a Notice of Sale of Seized Personal Property in two (2) consecutive issues of the local newspaper with the largest circulation.

(2) The first publication of the Notice of Sale of Seized Personal Property must not occur until at least sixty (60) days after the personal property was seized.

**Conduct of Sale**

32.(1) A sale of personal property must be conducted by public auction.

(2) Subject to subsection (4), at any time after the second publication of the Notice of Sale of Seized Personal Property, the seized property may be sold by auction.

(3) The tax administrator must conduct the public auction at the time and place set out in the Notice of Sale of Seized Personal Property, unless it is necessary to adjourn the public auction, in which case a further notice must be published in the manner set out in subsection 31(1).

(4) If at any time before the seized property is sold a challenge to the seizure is made to a court of competent jurisdiction, the sale must be postponed until after the court rules on the challenge.

**Registered Security Interests**

33. The application of this Part to the seizure and sale of personal property subject to a registered security interest is subject to any laws of the Province regarding the seizure and sale of such property.

**Proceeds of Sale**

34.(1) The proceeds from the sale of seized personal property must be paid to any holders of registered security interests in the property and to the First Nation in order of their priority under the laws applicable in the Province, and any remaining proceeds must be paid to the debtor.

(2) If claim to the surplus is made by another person and such claim is contested, or if the tax

administrator is uncertain who is entitled to such surplus, the tax administrator must retain such money until the rights of the parties have been determined.

## **PART XIV**

### **SEIZURE AND ASSIGNMENT OF TAXABLE PROPERTY**

#### **Seizure and Assignment of Taxable Property**

**35.(1)** If taxes remain unpaid for more than nine (9) months after a Tax Arrears Certificate is issued, the tax administrator may levy the amount of unpaid taxes by way of the seizure and assignment of the taxable property.

(2) Before proceeding under subsection (1), the tax administrator must

(a) deliver a Notice of Seizure and Assignment of Taxable Property to the debtor;

(b) deliver a copy of the Notice of Seizure and Assignment of Taxable Property to any locatee with an interest in the taxable property;

(c) deliver a copy of the Notice of Seizure and Assignment of Taxable Property to any holder of a charge registered in the registry against the taxable property that may be extinguished under paragraph 41(4)(b); and

(d) deliver to the Minister of Indian Affairs and Northern Development a copy of the Notice of Seizure and Assignment of Taxable Property, and a request for consent from the Minister to the seizure and assignment of taxable property, if required.

(3) Not less than six (6) months after a Notice of Seizure and Assignment of Taxable Property is delivered to the debtor, the tax administrator may, with the consent of the Minister of Indian Affairs and Northern Development if required, sell the right to an assignment of the taxable property by public tender or auction.

(4) Council must, by resolution, prescribe the method of public tender or auction, including the conditions that are attached to the acceptance of an offer.

#### **Upset Price**

**36.(1)** The tax administrator must set an upset price for the sale of the right to an assignment of the taxable property that is not less than the total amount of the taxes payable on the taxable property, calculated to the end of the redemption period set out in subsection 40(1), plus five percent (5%) of that total.

(2) The upset price is the lowest price for which the taxable property may be sold.

#### **Notice of Sale of a Right to Assignment of Taxable Property**

**37.(1)** A Notice of Sale of a Right to Assignment of Taxable Property must be

(a) published in the local newspaper with the largest circulation at least once in each of the four (4) weeks preceding the date of the public tender or auction; and

(b) posted in a prominent place on the reserve not less than ten (10) days before the date of the public tender or auction.

(2) The tax administrator must conduct a public auction or tender at the time and place set out in the Notice of Sale of a Right to Assignment of Taxable Property, unless it is necessary to adjourn the public tender or auction, in which case a further notice must be published in the manner set out in subsection (1).

(3) If no bid is equal to or greater than the upset price, the First Nation is deemed to have purchased the right to an assignment of the taxable property for the amount of the upset price.

### **Notice to the Minister**

**38.** The tax administrator must, without delay, notify the Minister of Indian Affairs and Northern Development in writing of the sale of a right to an assignment of taxable property made under this By-law.

### **Subsisting Rights**

**39.(1)** When taxable property is sold by public tender or auction, all rights in it held by the holder of the taxable property or a holder of a charge immediately cease to exist, except as follows:

- (a) the taxable property is subject to redemption as provided in subsection 40(1);
- (b) the right to possession of the taxable property is not affected during the time allowed for redemption, subject, however, to
  - (i) impeachment for waste, and
  - (ii) the right of the highest bidder to enter on the taxable property to maintain it in a proper condition and to prevent waste;
- (c) an easement, restrictive covenant, building scheme or right of way registered against the interest in land subsists; and
- (d) during the period allowed for redemption, an action may be brought in a court of competent jurisdiction to have the sale of the right to an assignment of the taxable property set aside and declared invalid.

### **Redemption Period**

**40.(1)** At any time within three (3) months after the holding of a public tender or auction in respect of taxable property, the debtor may redeem the taxable property by paying to the First Nation the amount of the upset price plus three percent (3%).

- (2) On redemption of the taxable property under subsection (1),
  - (a) if the right to an assignment was sold to a bidder, the First Nation must, without delay, repay to that bidder the amount of the bid; and
  - (b) the tax administrator must notify the Minister of Indian Affairs and Northern Development in writing of the redemption.
- (3) No assignment of taxable property must be made until the end of the redemption period provided for in subsection (1).

### **Assignment of Taxable Property**

**41.(1)** Subject to a redemption under subsection 40(1), at the end of the redemption period, the First Nation must assign the taxable property to the highest bidder in the public tender or auction, or to itself as the deemed purchaser in accordance with subsection 37(3).

(2) Taxable property must not be assigned to any person or entity who would not have been entitled under the *Indian Act* or the *First Nations Land Management Act*, as the case may be, to obtain the interest or right constituting the taxable property.

(3) The tax administrator must register an assignment of any taxable property assigned in accordance with this By-law in every registry in which the taxable property is registered at the time of the assignment.

- (4) An assignment under subsection (1) operates
  - (a) as a transfer of the taxable property to the bidder from the debtor, without an attestation or proof of execution; and

(b) to extinguish all the right, title and interest of every previous holder of the taxable property, or those claiming under a previous holder, and all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type, and whether or not registered, subsisting at the time the assignment is deemed final under subsection (1), except an easement, restrictive covenant, building scheme or right of way registered against the interest in land.

(5) Upon an assignment under subsection (1), any remaining debt of the debtor with respect to the taxable property is extinguished.

#### **Proceeds of Sale**

42.(1) At the end of the redemption period, the proceeds from the sale of a right to an assignment of taxable property must be paid

(a) first, to the First Nation, and

(b) second, to any other holders of registered interests in the property in order of their priority at law,

and any remaining proceeds must be paid to the debtor.

(2) If claim to the surplus is made by another person and such claim is contested, or if the tax administrator is uncertain who is entitled to such surplus, the tax administrator must retain such money until the rights of the parties have been determined.

#### **Resale by the First Nation**

43.(1) If the right to assignment of the taxable property is purchased by the First Nation under subsection 37(3), the tax administrator may, during the redemption period, sell the assignment of the taxable property to any person for not less than the upset price and the purchaser is thereafter considered the bidder under this Part.

(2) A sale under subsection (1) does not affect the period for or the right of redemption by the debtor as provided in this By-law.

### **PART XV**

#### **CANCELLATION OF INTEREST IN LAND**

##### **Authorization**

44. Where taxes remain unpaid more than thirty (30) days after a Tax Arrears Certificate is issued, the tax administrator may, in accordance with this Part, cancel the interest in land held by the debtor in respect of which the taxes are due.

##### **Notice of Cancellation of Interest in Land**

45. Before proceeding under section 44, the tax administrator must deliver a Notice of Cancellation of Interest in Land to the debtor, and deliver a copy of the Notice to any locatee with an interest in the taxable property and to any holder of a charge registered in the registry against the taxable property that may be extinguished under paragraph 46(2)(c).

##### **Cancellation of Interest**

46.(1) If the debtor does not pay all taxes owing, including interest, penalties and costs, within six (6) months after the Notice of Cancellation of Interest in Land is delivered to the debtor, the tax administrator must

(a) obtain the consent of the Minister of Indian Affairs and Northern Development to the cancellation, if required;

(b) register a Certificate of Cancellation of Interest in Land in the registry in which the taxable

property is registered at the time the Certificate is issued; and

(c) deliver the Certificate of Cancellation of Interest in Land to the debtor, and deliver a copy of the Certificate to any locatee with an interest in the taxable property and to any holder of a charge registered in the registry against the taxable property that may be extinguished under paragraph (2)(c).

(2) Once the tax administrator has fulfilled the requirements under subsection (1), and without further notice,

(a) the interest in land held by the debtor is cancelled;

(b) the right, title and interest of every previous holder of the taxable property, or those claiming under a previous holder, is extinguished; and

(c) all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type, and whether or not registered, are extinguished, except an easement, restrictive covenant, building scheme or right of way registered against the interest in land.

(3) On cancellation under subsection (2), any remaining debt of the debtor with respect to the taxable property is cancelled.

(4) The costs payable by the debtor under subsection (1) are set out in Schedule V.

## **PART XVI FORFEITURE**

### **Authorization**

47. Where taxes remain unpaid for more than twenty-four (24) months after a Tax Arrears Certificate is issued, the tax administrator may, in accordance with this Part, levy the amount of unpaid taxes by way of the forfeiture of the interest in land in respect of which taxes are due.

### **Notice of Forfeiture**

48. Before proceeding under section 47, the tax administrator must deliver a Notice of Forfeiture to the debtor, and deliver a copy of the Notice to any locatee with an interest in the taxable property and to any holder of a charge registered in the registry against the taxable property that may be extinguished under paragraph 49(3)(b).

### **Forfeiture**

49.(1) If the debtor does not pay all taxes owing, including interest, penalties and costs, on or before the later of December 1 of the year in which the Notice of Forfeiture is delivered, and forty (40) days after the Notice is delivered, the tax administrator must

(a) obtain the consent of the Minister of Indian Affairs and Northern Development to the forfeiture, if required;

(b) register a Certificate of Forfeiture in the registry in which the taxable property is registered at the time the Certificate is issued; and

(c) deliver the Certificate of Forfeiture to the debtor, and deliver a copy of the Certificate to any locatee with an interest in the taxable property and to any holder of a charge registered in the registry against the taxable property that may be extinguished under paragraph (3)(b).

(2) Once the tax administrator has fulfilled the requirements under subsection (1), the interest in land is absolutely forfeited to, and vested in, the First Nation.

(3) A forfeiture and vesting under subsection (2) operates



(a) as a transfer of the taxable property to the First Nation from the debtor, without an attestation or proof of execution; and

(b) to extinguish all the right, title and interest of the debtor, every previous holder of the taxable property, or those claiming under a previous holder, and all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type, and whether or not registered, subsisting at the time of forfeiture under subsection (2), except an easement, restrictive covenant, building scheme or right of way registered against the interest in land.

(4) If any taxes remain unpaid on the deadline referenced in subsection (1), the payment of those taxes does not prevent forfeiture unless the payment

(a) includes all taxes then due and payable, including interest, penalties and costs; and

(b) is made before forfeiture occurs under subsection (2).

(5) The costs payable by the debtor under subsection (1) are set out in Schedule V.

### **Payment and Extinguishment of Debt**

**50.** Upon forfeiture under subsection 49(2), any remaining debt of the debtor with respect to the taxable property is extinguished.

## **PART XVII**

### **DISCONTINUANCE OF SERVICES**

#### **Discontinuance of Services**

**51.(1)** Subject to this section, the First Nation may discontinue any service it provides to the taxable property of a debtor if

(a) revenues from this By-law or any property taxation by-law enacted by the First Nation are used to provide that service to taxpayers; and

(b) taxes remain unpaid by a debtor more than thirty (30) days after a Tax Arrears Certificate was delivered to the debtor.

(2) At least thirty (30) days before discontinuing any service, the tax administrator must deliver to the debtor and to any locatee with an interest in the taxable property a Notice of Discontinuance of Services.

(3) The First Nation must not discontinue

(a) fire protection or police services to the taxable property of a debtor;

(b) water or garbage collection services to taxable property that is a residential dwelling; or

(c) electrical or natural gas services to taxable property that is a residential dwelling during the period from November 1 in any year to March 31 in the following year.

## **PART XVIII**

### **SERVICE AND LOCAL IMPROVEMENT TAXES**

#### **Service and Local Improvement Taxes**

**52.** Council may, by by-law pursuant to section 83 of the *Indian Act*, impose service and local improvement taxes to all or any part of the reserve notwithstanding any exemptions under Part V.

**PART XIX**  
**GENERAL PROVISIONS**

**Disclosure of Information**

**53.**(1) The tax administrator or any other person who has custody or control of information or records obtained or created under this By-law must not disclose the information or records except

- (a) in the course of administering this By-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 tax administrator or the assessor may disclose to the agent of a holder confidential information relating to the property 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**

**54.** Notwithstanding section 53, Council may disclose information and records to a third party for research purposes, including statistical research, provided

- (a) the information and records do not contain information in an individually identifiable form or business information in an identifiable form; or
- (b) where the research cannot reasonably be accomplished unless the information is provided in an identifiable form, 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**

**55.** Nothing under this By-law must be rendered void or invalid, nor must the liability of any person to pay tax or any other amount under this By-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 a tax roll, or any notice given under this By-law; or
- (c) a failure of the First Nation, tax administrator or the assessor to do something within the required time.

**Limitation on Proceedings**

**56.**(1) No person may commence an action or proceeding for the return of money paid to the First Nation, whether under protest or otherwise, on account of a demand, whether valid or invalid, for taxes or any other amount paid under this By-law after the expiration of six (6) months from the date the cause of action first arose.

(2) If a person fails to start an action or proceeding within the time limit described in subsection (1), then money paid to the First Nation must be deemed to have been voluntarily paid.

**Notices**

**57.**(1) Where in this By-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 tax 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 tax roll.
- (2) Except as otherwise provided in this By-law,
- (a) a notice given by mail is deemed received on the fifth day after it is mailed;
  - (b) a notice posted on property is deemed received on the second day after it is posted; and
  - (c) a notice given by personal delivery is deemed received upon delivery.

**Interpretation**

58.(1) The provisions of this By-law are severable, and where any provision of this By-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 By-law and the decision that it is invalid must not affect the validity of the remaining portions of this By-law.

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

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

(4) This By-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 By-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.

**Force and Effect**

59. This By-law comes into force and effect on approval by the Minister of Indian Affairs and Northern Development.

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

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

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

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

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

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

**SCHEDULE I**

**REQUEST FOR INFORMATION BY TAX ADMINISTRATOR  
FOR THE \_\_\_\_\_ FIRST NATION**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_

DATE OF REQUEST: \_\_\_\_\_

PURSUANT to section \_\_\_\_ of the \_\_\_\_\_ *First Nation Property Taxation By-law*, 20\_\_\_\_, I request that you provide to me, in writing, no later than \_\_\_\_\_ **[Note: must be a date that is at least fourteen (14) days from the date of request]**, the following information relating to the above-noted interest in land:

- (1)
- (2)
- (3)

\_\_\_\_\_  
Tax Administrator for the \_\_\_\_\_ First Nation

Dated: \_\_\_\_\_, 20\_\_\_\_

**SCHEDULE II**

**TAX NOTICE**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

RE: \_\_\_\_\_

(description of interest in land)

PURSUANT to the provisions of the \_\_\_\_\_ *First Nation Property Taxation By-law, 20\_\_*, taxes in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) are hereby levied with respect to the above-noted interest in land.

All taxes are due and payable on or before \_\_\_\_\_ **[Note to First Nation: if taxes are paid in conjunction with lease payments, insert the following instead: "Pursuant to section 17 of the \_\_\_\_\_ *First Nation Property Taxation By-law No. \_\_*, taxes are due and payable in conjunction with periodic lease payments on or before \_\_\_\_\_."**] Payments for unpaid taxes, penalties and interest are past due and must be paid immediately.

Payments must be made at the offices of the \_\_\_\_\_ First Nation, located at [address] during normal business hours. Payment must be by cheque, money order or cash.

Taxes that are not paid by \_\_\_\_\_ shall incur penalties and interest in accordance with the \_\_\_\_\_ *First Nation Property Taxation By-law 20\_\_*.

The name(s) and address(es) of the person(s) liable to pay the taxes is (are) as follows:

\_\_\_\_\_  
\_\_\_\_\_

Assessed value	\$ _____
Taxes (current year)	\$ _____
Unpaid Taxes (previous years)	\$ _____
Penalties	\$ _____
Interest	\$ _____
Total Payable	\$ _____

\_\_\_\_\_  
Tax Administrator for the \_\_\_\_\_ First Nation

Dated: \_\_\_\_\_, 20\_\_

**SCHEDULE III**  
**TAX CERTIFICATE**

In respect of the interest in land described as: \_\_\_\_\_ and pursuant to the \_\_\_\_\_ *First Nation Property Taxation By-law, 20\_\_*, I hereby certify as follows:

That all taxes due and payable in respect of the above-referenced interest in land have been paid as of the date of this Certificate.

OR

That unpaid taxes, including interest, penalties and costs in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_) are due and owing on the above-referenced interest in land as of the date of this Certificate.

The following persons are jointly and severally liable for all unpaid taxes:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Tax Administrator for the \_\_\_\_\_ First Nation

Dated: \_\_\_\_\_, 20\_\_

**SCHEDULE IV**  
**TAX ARREARS CERTIFICATE**

In respect of the interest in land described as: \_\_\_\_\_ and pursuant to the \_\_\_\_\_ *First Nation Property Taxation By-law, 20* \_\_\_\_, I hereby certify as follows:

That taxes, interest and penalties are unpaid in respect of the above-referenced interest in land, as follows:

Taxes: \$ \_\_\_\_\_

Penalties: \$ \_\_\_\_\_

Interest: \$ \_\_\_\_\_

Total unpaid tax debt: \$ \_\_\_\_\_

The total unpaid tax debt is due and payable immediately.

If the total unpaid tax debt is paid on or before \_\_\_\_\_, no further penalties and interest will be assessed on this amount.

If all or any portion of the tax debt is not paid on or before \_\_\_\_\_, a further penalty of \_\_\_\_\_ dollars (\$\_\_\_\_\_) will be assessed on that date.

The unpaid tax debt accrues interest each day that it remains unpaid, at a rate of \_\_\_\_percent (\_\_\_\_%) per year.

Payments must be made at the offices of the \_\_\_\_\_ First Nation, located at [address] during normal business hours. Payment must be by cheque, money order or cash.

The following persons are jointly and severally liable for the total unpaid tax debt:

\_\_\_\_\_  
\_\_\_\_\_

TAKE NOTICE that the failure to pay in full the above-mentioned tax debt within thirty (30) days from the date of this Demand may result in procedures being taken by the First Nation for the enforcement and collection of such debt.

\_\_\_\_\_  
Tax Administrator for the \_\_\_\_\_ First Nation

Dated: \_\_\_\_\_, 20\_\_

**SCHEDULE V**

**COSTS PAYABLE BY DEBTOR ARISING FROM CERTAIN ENFORCEMENT PROCEEDINGS**

For costs arising from enforcement proceedings under Parts XIII, XV and XVI:

1. For preparation of notices \$ \_\_\_\_\_
2. For service of notices on each person or place by the First Nation \$ \_\_\_\_\_
3. For service of a notice on each person or place by a process server, bailiff or delivery service, if required \$ Actual Cost
4. Advertising in newspaper, if required \$ Actual Cost
5. For staff time spent in conducting a seizure and sale of personal property, not including costs otherwise recovered under this Schedule: \$ \_\_\_ per person per hour
6. Actual costs incurred by the First Nation for the seizure, storage, and sale of personal property will be charged based on receipts.



**SCHEDULE VI**

**NOTICE OF SEIZURE AND SALE OF PERSONAL PROPERTY**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_

TAKE NOTICE that taxes, penalties and interest in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) remain unpaid and are due and owing in respect of the above-referenced interest in land.

AND TAKE NOTICE that a Tax Arrears Certificate dated \_\_\_\_\_ was delivered to you in respect of these unpaid taxes.

AND TAKE NOTICE that:

1. Failure to pay the full amount of the unpaid tax debt within SEVEN (7) days after delivery of this Notice may result in the tax administrator, pursuant to the \_\_\_\_\_ *First Nation Property Taxation By-law, 20\_\_*, seizing the personal property described as follows:

[general description of the personal property to be seized].

2. The tax administrator may retain a sheriff, bailiff or by-law enforcement officer to seize the property and the seized property will be held in the possession of the tax administrator, at your cost, such cost being added to the amount of the unpaid taxes.

3. If the unpaid taxes, penalties, interest and costs of seizure are not paid in full within sixty (60) days following the seizure of the property, the tax administrator may

(a) publish a Notice of Sale of Seized Personal Property in two (2) consecutive issues of the \_\_\_\_\_ newspaper; and

(b) at any time after the second publication of the notice, sell the seized property by public auction.

AND TAKE NOTICE that the tax administrator will conduct the public auction at the time and place set out in the Notice of Sale of Seized Personal Property, unless it is necessary to adjourn the public auction, in which case a further notice will be published.

\_\_\_\_\_  
Tax Administrator for the \_\_\_\_\_ First Nation

Dated: \_\_\_\_\_, 20\_\_

**SCHEDULE VII**

**NOTICE OF SALE OF SEIZED PERSONAL PROPERTY**

TAKE NOTICE that a sale by public auction for unpaid taxes, penalties, interest and costs owed to the \_\_\_\_\_ First Nation will take place on \_\_\_\_, 20\_\_ at \_\_\_\_ o'clock at \_\_\_\_\_ [location].

The following personal property, seized pursuant to the \_\_\_\_\_ *First Nation Property Taxation By-law, 20\_\_*, will be sold at the public auction:

[general description of the goods]

The proceeds of sale of the seized property shall be paid to any holders of security interests in the property and to the First Nation in order of their priority under applicable provincial laws. Any moneys received from the sale of the seized property that are in excess of these amounts owing will be paid to the debtor.

\_\_\_\_\_  
Tax Administrator for the \_\_\_\_\_ First Nation

Dated: \_\_\_\_\_, 20\_\_

### SCHEDULE VIII

#### NOTICE OF SEIZURE AND ASSIGNMENT OF TAXABLE PROPERTY

TO: \_\_\_\_\_  
(the "debtor")

ADDRESS: \_\_\_\_\_

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_  
(the "taxable property")

TAKE NOTICE that taxes, penalties, and interest in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_) remain unpaid and are due and owing in respect of the taxable property.

AND TAKE NOTICE that a Tax Arrears Certificate dated \_\_\_\_\_ was delivered to you in respect of these unpaid taxes.

AND TAKE NOTICE that failure to pay the full amount of the unpaid tax debt within six (6) months after service of this Notice may result in the tax administrator, pursuant to the \_\_\_\_\_ *First Nation Property Taxation By-law, 20\_\_* and with the consent of the Minister of Indian Affairs and Northern Development, if required, seizing and selling the taxable property by public auction or tender as follows:

1. The public auction or tender, including any conditions that are attached to the acceptance of a bid to purchase the taxable property, shall be conducted in accordance with the procedures prescribed by the Council of the \_\_\_\_\_ First Nation, a copy of which may be obtained from the tax administrator.
2. The tax administrator will
  - (a) publish a Notice of Sale of a Right to Assignment of Taxable Property in the \_\_\_\_\_ newspaper at least once in each of the four (4) weeks preceding the date of the sale; and
  - (b) post the Notice of Sale of a Right to Assignment of Taxable Property in a prominent place on the reserve not less than ten (10) days preceding the date of the sale.
3. The Notice of Sale of a Right to Assignment of Taxable Property will set out the upset price for the right to assignment of the taxable property and any conditions attached to the acceptance of a bid.
4. The upset price will be not less than the total amount of the taxes, interest and penalties payable, calculated to the end of the redemption period, plus five percent (5%) of that total. The upset price is the lowest price for which the right to assignment of the taxable property will be sold.
5. The tax administrator will conduct the public auction or tender at the time and place set out in the Notice of Sale of a Right to Assignment of Taxable Property unless it is necessary to adjourn in which case a further notice will be published.
6. If the First Nation does not receive a bid that is equal to or greater than the upset price, the First Nation will be deemed to have purchased the taxable property for the amount of the upset price.
7. The debtor may redeem the taxable property after the sale by paying to the First Nation the amount of the upset price plus three percent (3%) any time within three (3) months after the holding of the public auction or tender in respect of the taxable property (hereinafter referred to as the "redemption period"). Where the taxable property is redeemed, the First Nation will, without delay, repay to the bidder the amount of the bid.

8. A sale of taxable property by public auction or tender is not complete, and no transfer of the taxable property will be made, until the expiration of the redemption period. If the taxable property is not redeemed within the redemption period, then on the expiration of the redemption period, the First Nation will transfer the taxable property to the highest bidder or to itself as the deemed purchaser, as applicable. The taxable property will not be transferred to any person or entity who would not have been capable under the *Indian Act* or the *First Nations Land Management Act* of obtaining the interest or right constituting the taxable property.
9. Council of the \_\_\_\_\_ First Nation will, without delay, notify the Minister of Indian Affairs and Northern Development in writing of any sale of the right to the assignment of taxable property and of any redemption of the taxable property.
10. The tax administrator will register the assignment of the taxable property in every registry in which the taxable property is registered at the time of assignment.
11. An assignment of the taxable property operates
  - (a) as a transfer to the bidder or the First Nation, as the case may be, from the debtor of the taxable property, without an attestation or proof of execution, and
  - (b) to extinguish all the right, title and interest of every previous holder of the taxable property, or those claiming under a previous holder, and all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type, and whether or not registered, subsisting at the time the transfer is registered, except an easement, restrictive covenant, building scheme or right of way registered against the interest in land.
12. Upon assignment of the taxable property, the debtor will be required to immediately vacate the taxable property, and any rights or interests that the debtor held in the taxable property, including the improvements, will be transferred in full to the purchaser.
13. The proceeds of sale of the taxable property will be paid first to the First Nation, and then to any other holders of registered interests in the taxable property in order of their priority at law, and any remaining proceeds must be paid to the debtor in accordance with the \_\_\_\_\_ *First Nation Property Taxation By-law, 20\_\_*.

\_\_\_\_\_  
Tax Administrator for the \_\_\_\_\_ First Nation

Dated: \_\_\_\_\_, 20\_\_

### SCHEDULE IX

#### NOTICE OF SALE OF A RIGHT TO ASSIGNMENT OF TAXABLE PROPERTY

TO: \_\_\_\_\_  
(the "debtor")

ADDRESS: \_\_\_\_\_

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_  
(the "taxable property")

TAKE NOTICE that a Notice of Seizure and Assignment of Taxable Property was given in respect of the taxable property on \_\_\_\_\_, 20\_\_.

AND TAKE NOTICE that unpaid taxes, including penalties and interest, in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_), remain unpaid and are due and owing in respect of the taxable property.

AND TAKE NOTICE that a sale of the taxable property will be conducted by public [auction/tender] **[Note to First Nation: specify whether sale will be by auction or tender throughout this Notice]** for unpaid taxes, penalties and interest owed to the \_\_\_\_\_ First Nation.

The public [auction/tender] will take place on:

\_\_\_\_\_, 20\_\_ at \_\_\_\_\_ o'clock at \_\_\_\_\_ [insert location].

The tax administrator will conduct the public [auction/tender] at the above time and place unless it is necessary to adjourn in which case a further notice will be published.

AND TAKE NOTICE that:

1. The upset price for the taxable property is: \_\_\_\_\_ dollars (\$\_\_\_\_\_). The upset price is the lowest price for which the taxable property will be sold.
2. The public [auction/tender], including the conditions that are attached to the acceptance of an offer, shall be conducted in accordance with the procedures prescribed by the Council of the \_\_\_\_\_ First Nation as set out in this Notice.
3. If at the [auction/tender] there is no bid that is equal to or greater than the upset price, the First Nation will be deemed to have purchased the right to assignment of the taxable property for the amount of the upset price.
4. The debtor may redeem the taxable property after the sale by paying to the First Nation the amount of the upset price plus three percent (3%) any time within three (3) months after the holding of the public [auction/tender] in respect of the taxable property (hereinafter referred to as the "redemption period"). Where the taxable property is redeemed, the First Nation will, without delay, repay to the bidder the amount of the bid.
5. A sale of taxable property by public auction or tender is not complete, and no transfer of the taxable property will be made, until the expiration of the redemption period and, where required, the tax administrator has obtained the consent of the Minister of Indian Affairs and Northern Development. If the taxable property is not redeemed within the redemption period, then on the expiration of the redemption period, the First Nation will transfer the taxable property to the highest bidder or to itself as the deemed purchaser, as applicable. The taxable property will not be transferred to any person or entity who would not have been capable under the *Indian Act* or the *First Nations Land Management Act* of obtaining the interest or right constituting the taxable property.
6. Council of the \_\_\_\_\_ First Nation will, without delay, notify the Minister of Indian Affairs and

Northern Development in writing of any sale of the taxable property and of any redemption of the taxable property.

7. The tax administrator will register the assignment of the taxable property in every registry in which the taxable property is registered at the time of the assignment.
8. A sale of the taxable property operates
  - (a) as a transfer to the bidder or the First Nation, as the case may be, from the debtor of the taxable property, without an attestation or proof of execution, and
  - (b) to extinguish all the right, title and interest of every previous holder of the taxable property, or those claiming under a previous holder, and all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type, and whether or not registered, subsisting at the time the transfer is registered, except an easement, restrictive covenant, building scheme or right of way registered against the interest in land.
9. Upon sale of the taxable property, the debtor will be required to immediately vacate the taxable property, and any rights or interests that the debtor held in the taxable property, including the improvements, will be transferred in full to the purchaser.
10. The proceeds of sale of the taxable property will be paid first to the First Nation, and then to any other holders of registered interests in the taxable property in order of their priority at law, and any remaining proceeds must be paid to the debtor in accordance with the \_\_\_\_\_ *First Nation Property Taxation By-law, 20*\_\_.

\_\_\_\_\_  
Tax Administrator for the \_\_\_\_\_ First Nation

Dated: \_\_\_\_\_, 20\_\_

**SCHEDULE X**

**NOTICE OF CANCELLATION OF INTEREST IN LAND**

TO: \_\_\_\_\_  
(insert debtor's name)

ADDRESS: \_\_\_\_\_

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_  
(the "taxable property")

TAKE NOTICE that taxes, penalties, interest and costs in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_) remain unpaid and are due and owing in respect of the taxable property as of the date of this Notice.

AND TAKE NOTICE that a Tax Arrears Certificate dated \_\_\_\_\_ was delivered to you in respect of these unpaid taxes.

AND TAKE NOTICE that:

1. Unless the above-noted outstanding taxes, interest, penalties and costs, and all subsequent taxes levied on the taxable property, are paid in full on or before \_\_\_\_\_, 20\_\_ , the interest you hold in the taxable property will be absolutely and unconditionally cancelled in accordance with section \_\_ of the \_\_\_\_\_ *First Nation Property Taxation By-law*, 20\_\_.
2. Upon the cancellation of your interest in the taxable property, you will be required to immediately vacate the taxable property.
3. Upon cancellation of your interest in the taxable property, all rights, title and interests which you have in respect of the taxable property, or which are claimed by a previous holder of the taxable property and those claiming under a previous holder, will be extinguished.
4. Upon cancellation of your interest in the taxable property, all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type subsisting at the time of the cancellation, whether or not registered, will be extinguished.

AND TAKE NOTICE that you may prevent cancellation by paying all taxes due and payable, including interest, penalties and costs, to the \_\_\_\_\_ First Nation on or before \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Tax Administrator for the \_\_\_\_\_ First Nation

Dated: \_\_\_\_\_, 20\_\_

**SCHEDULE XI**

**CERTIFICATE OF CANCELLATION OF INTEREST IN LAND**

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_  
(the "taxable property")

I, \_\_\_\_\_, tax administrator for the \_\_\_\_\_ First Nation, hereby certify that resulting from the failure of \_\_\_\_\_ [insert name of debtor] (the "Debtor") to pay the outstanding tax debt owing on the above-referenced taxable property, the debtor's interest in the taxable property is absolutely and unconditionally cancelled, pursuant to the \_\_\_\_\_ *First Nation Property Taxation By-law, 20\_\_*.

This Certificate certifies that:

1. The right, title and interest of the Debtor, every previous holder of the taxable property, and those claiming under a previous holder, is extinguished.
2. All claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type subsisting at the time of the cancellation, whether or not registered, are extinguished.

\_\_\_\_\_  
Tax Administrator for the \_\_\_\_\_ First Nation

Dated: \_\_\_\_\_, 20\_\_



**SCHEDULE XII**  
**NOTICE OF FORFEITURE**

TO: \_\_\_\_\_  
(insert debtor's name)

ADDRESS: \_\_\_\_\_

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_  
(the "taxable property")

TAKE NOTICE that taxes, including interest, penalties and costs in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_) remain unpaid and are due and owing in respect of the taxable property as of the date of this Notice.

AND TAKE NOTICE that a Tax Arrears Certificate dated \_\_\_\_\_ was delivered to you in respect of these unpaid taxes.

AND TAKE NOTICE that taxes imposed by the \_\_\_\_\_ First Nation for the above-noted taxable property have been outstanding for more than two (2) years, and pursuant to the \_\_\_\_\_ *First Nation Property Taxation By-law, 20\_\_*, the taxable property is now subject to forfeiture.

AND TAKE NOTICE that:

1. Unless the above-noted outstanding taxes are paid in full, including all interest, penalties and costs, on or before [insert date], being the later of the 40th day after the date of this Notice and December 1, 20\_\_, the interest you hold in the taxable property will be absolutely and unconditionally forfeited to, and vested in, the \_\_\_\_\_ First Nation, pursuant to the \_\_\_\_\_ *First Nation Property Taxation By-law, 20\_\_*.
2. Upon the forfeiture of your interest in the taxable property, you will be required to immediately vacate the taxable property.
3. Upon the forfeiture of your interest in the taxable property, all rights, title and interests which you have in respect of the taxable property, or which are claimed by a previous holder of the taxable property and those claiming under a previous holder, will be extinguished.
4. Upon forfeiture of your interest in the taxable property, all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type subsisting at the time of the forfeiture, whether or not registered, will be extinguished, except an easement, restrictive covenant, building scheme or right of way registered against the taxable property.

AND TAKE NOTICE that you may prevent forfeiture by paying all taxes due and payable, including interest, penalties and costs, to the \_\_\_\_\_ First Nation on or before \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Tax Administrator for the \_\_\_\_\_ First Nation

Dated: \_\_\_\_\_, 20\_\_

**SCHEDULE XIII**  
**CERTIFICATE OF FORFEITURE**

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_  
(the "taxable property")

I, \_\_\_\_\_, tax administrator for the \_\_\_\_\_ First Nation, hereby certify that resulting from the failure of \_\_\_\_\_ [insert name of debtor] (the "Debtor") to pay the outstanding tax debt owing on the above-referenced taxable property, the Debtor's interest in the taxable property has been absolutely and unconditionally forfeited to the \_\_\_\_\_ First Nation, pursuant to the \_\_\_\_\_ *First Nation Property Taxation By-law, 20\_\_*.

This Certificate certifies that:

1. The right, title and interest of the Debtor, every previous holder of the taxable property, and those claiming under a previous holder, is extinguished.
2. All claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type subsisting at the time of the forfeiture, whether or not registered, are extinguished, except an easement, restrictive covenant, building scheme or right of way registered against the taxable property.

\_\_\_\_\_  
Tax Administrator for the \_\_\_\_\_ First Nation

Dated: \_\_\_\_\_, 20\_\_

**SCHEDULE XIV**

**NOTICE OF DISCONTINUANCE OF SERVICES**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_

TAKE NOTICE that taxes, penalties, and interest in the amount of \_\_\_\_\_ dollars (\$\_\_\_\_\_) remain unpaid and are due and owing in respect of the taxable property.

AND TAKE NOTICE that a Tax Arrears Certificate dated \_\_\_\_\_ was delivered to you in respect of these unpaid taxes.

AND TAKE NOTICE that where a debtor fails to pay all unpaid taxes within thirty (30) days of the issuance of a Tax Arrears Certificate, the tax administrator may discontinue services that it provides to the taxable property of a debtor, pursuant to the *First Nation Property Taxation By-law, 20\_\_*.

AND TAKE NOTICE that if the taxes are not paid in full on or before \_\_\_\_\_, being thirty (30) days from the date of issuance of this notice, the following services will be discontinued:

[list services to be discontinued]

\_\_\_\_\_  
Tax Administrator for the \_\_\_\_\_ First Nation

Dated: \_\_\_\_\_, 20\_\_