

## **ANNOTATED SAMPLE FIRST NATION PROPERTY TAXATION 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, interests in reserve lands, or rights to occupy, possess or use 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 taxation law creates the framework for the administration of the taxation regime, including setting out the duties of the tax administrator, how taxes are levied, exemptions from taxation, the preparation of the tax roll and tax notices, the imposition of penalties and interest, and the enforcement and collection of taxes.

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 Taxation Enforcement Regulations* (“Enforcement Regulations”), which set out detailed requirements for the enforcement of property taxation laws. The Commission has established *Standards for First Nation Property Taxation Laws, 2016* (“Taxation Law Standards”), which provide further requirements for the form and content of taxation laws. The Commission has also established the *Standards for the Timing of First Nation Annual Tax Rates and Expenditure Laws, 2017* (“Timing Standards”).

The Commission prepares sample laws for use and adaptation by First Nations. The sample First Nation Property Taxation Law (“sample law”) complies with the legislative framework and provides a comprehensive taxation law, including enforcement measures, that reflects taxation practices on reserve lands and incorporates components of the Manitoba provincial taxation regime where appropriate. It provides a best practices sample for use and adaptation by First Nations in drafting their own FMA taxation 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 TAXATION 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, interests in reserve lands or rights to occupy, possess or use 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 Taxation 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 Assessment 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 Assessment 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;

“assessed value” has the meaning given to that term in the Assessment Law;

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

“Assessment Review Board” means the assessment review board established under the Assessment Law;

“assessment roll” has the meaning given to that term in the Assessment Law;

“assessor” means a person appointed to that position under the Assessment 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.

“debtor” means a person liable for unpaid taxes imposed under this Law;

“expenditure law” means an expenditure law enacted under paragraph 5(1)(b) of the Act;

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

This definition can be modified to create a greater share holding requirement than a majority, but cannot be modified to allow a share holding of less than a majority. Note that this definition cannot be expanded to include non-corporate business ventures.

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

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

(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 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

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

(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 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;

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

“local revenue account” means the local revenue account referred to in section 13 of the Act;

“locatee” means a person who is in lawful possession of land in the reserve under subsections 20(1) and (2) of the *Indian Act*;

“mobile home” has the meaning given to that term in the Assessment Law;

“Notice of Discontinuance of Services” means a notice containing the information set out in Schedule X;

The notices relating to enforcement are required by the Enforcement Regulations to include certain content. Any modifications need to be consistent with those requirements.

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

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

“portioned value” has the meaning given to that term in the Assessment Law;

“property class” has the meaning given to that term in the Assessment Law;

“Province” means the province of Manitoba;

“registry” means any land registry in which interests in land are registered;

“reserve” means any land set apart for the use and benefit 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;

“tax administrator” means a person appointed by Council under subsection 3(1) to administer this Law;

“Tax Arrears Certificate” means a certificate containing the information set out in Schedule V;

The content of a Tax Arrears Certificate is prescribed under the [Enforcement Regulations](#).

“Tax Certificate” means a certificate containing the information set out in Schedule IV;

“Tax Notice” means a notice containing the information set out in Schedule II and includes an amended or supplementary tax notice;

“tax roll” means a list prepared pursuant to this Law of persons liable to pay tax on taxable property;

“taxable property” means an interest in land that is subject to taxation under this Law;

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

“taxes” include

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

This definition includes penalties, interest and costs added to unpaid taxes.

(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

“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 1), subsection (e.g. subsection 2(1)), paragraph (e.g. paragraph 3(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.

### **PART III ADMINISTRATION**

#### **Tax Administrator**

3.(1) Council must, by resolution, appoint a tax administrator to administer this 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 Law and the Assessment Law.

(3) 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.

(4) The tax administrator’s responsibilities include

(a) the collection of taxes and the enforcement of payment under this Law; and

(b) the day to day management of the First Nation’s local revenue account.

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

#### **Application of Law**

4. This Law applies to all interests in land.

This definition allows a First Nation to use the collection and enforcement provisions in this law to collect taxes owing under the First Nation’s other FMA local revenue laws.

The law must provide for the appointment of a tax administrator, as the tax administrator has specific required duties under [Enforcement Regulations](#) and this law. [Taxation Law Standards](#) s. 1.

This provision provides flexibility where the tax administrator is not able to personally fulfill all of the duties at any given time.

This provision sets out the general responsibilities of the tax administrator as well as other duties specified in this law and the assessment law.

The law applies to all interests in land in the reserve. [Taxation Law Standards](#) paragraph 2.1(a).

## **Tax Liability**

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

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

(3) Where an interest in land is exempt from taxation under paragraph 7(1)(a) or (b), that exemption does not affect the liability to taxation of other holders of interests in the same property

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

## **Tax Refunds**

6.(1) Where a person is taxed in excess of the proper amount in a taxation year, 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 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;

All interests in land in the reserve are liable for property taxation, unless exempted under this law. [Taxation Law Standards](#) paragraph 2.1(b).

Taxes owing are a debt to the First Nation, and can be collected in the same manner as other debts in addition to collection under this law.

Where an interest in land is not taxable under this law, another holder or another interest in the same property may be taxable.

This provision ensures that taxes are paid even where a taxpayer is appealing an assessment or seeking any other remedy in respect of those taxes.

This provision addresses the situation where there are multiple interests in the same property. Each interest in the property is subject to taxation, and every holder who shares the same interest in taxable property is jointly and severally liable for taxes.

This section provides wording for tax refunds. The law must include provisions for refunds of taxes paid where a change in assessment results in a reduction of taxes. [Taxation Law Standards](#) paragraph 10.1(a).

The First Nation can apply refunds to other amounts that the taxpayer owes the First Nation that relate to the taxable property. [Taxation Law Standards](#) subsection 10.2.

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

The law must provide for interest to be paid at a rate of at least prime minus two percent. [Taxation Law Standards](#) paragraph 10.1(b).

## 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 law. Refer to the Taxation Law Standards for further information and limitations on the types of exemptions that may be included. The following are examples of exemptions a First Nation may wish to consider in its law.]**

This Part includes sample wording for exemptions from taxation that a First Nation may want to include in its law. It is the First Nation's decision whether to provide any exemptions from taxation in its law. All exemptions provided must be set out in the law. [Taxation Law Standards](#) subsection 5.1.

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

Exemptions that may be included are those falling within any of the following categories: exemptions for interests in land held or occupied by members of the First Nation; exemptions for interests in land held or occupied by the First Nation or corporations that are at least majority-owned by the First Nation; and exemptions within a class of exemption used by local governments in the Province. [Taxation Law Standards](#) subsection 5.2.

(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) property used for a public school or a private school, to a maximum exemption of 4.047 hectares;

(d) property owned by a religious denomination and occupied and used by the denomination primarily

**(i) as a church, synagogue or place of religious worship,**

**(ii) as a religious retreat house, or**

**(iii) for religious instructional purposes,**

to a maximum exemption of 0.81 hectare;

(e) property used for a hospital, to a maximum exemption of 4.047 hectares;

(f) property owned or used by, or held for use by, a university or college;

(g) property used primarily as a non-profit daycare centre;

(h) property used by a non-profit organization, charitable organization or municipality as an elderly persons housing unit or hostel, to a maximum exemption of 0.81 hectare; and

(i) property owned or used by a municipality, religious denomination or non-profit corporation as a cemetery, to a maximum exemption of 8.09 hectares.

**(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 that interest in land is actually occupied by someone other than a member of the First Nation, the First Nation, or a First Nation Corporation.**

This provision ensures that exemptions for interests in land held or occupied by members, the First Nation or First Nation-owned corporations will not be given where someone other than an exempted person is actually occupying the property.

**(3) Where a portion of a building is used for a purpose for which an exemption from taxation is available under subsection (1), the exemption applies to a portion of the taxation**

This provision provides for a portion of surrounding land to be included as part of an exemption for a building.

(a) that applies to the building, in the same proportion as the used portion of the building bears to the building as a whole; and

(b) that applies to the land on which the building is located, in a proportion that reflects the portion of the land that is required for the exempted use of the portion of the building.

**(4) Where a portion of land is used for a purpose for which an exemption from taxation is available under subsection (1), the exemption applies to a portion of the taxation that applies to the land, in a proportion that reflects the portion of the land that is required for the exempted use of the portion of the land.]**

## PART VI GRANTS

**[Note to First Nation: The First Nation should consider what, if any, grants it wishes to provide in its law. The qualifying requirements for grants must be set out in this law, with the amounts to be determined each year in an expenditure law. The following are examples of possible grants.]**

### Annual Grants

**8.(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; and

(b) [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; and

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

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

This Part includes sample wording for grants a First Nation may want to include in its law. The qualifying requirements for any grants must be set out in the law. The amounts of grants to be given in each year are authorized in the annual expenditure law. [Taxation Law Standards](#) subsection 6.2 and 6.3.

This section provides sample wording for implementing certain types of grants, including grants to non-profits.

The law may include additional granting programs, provided the qualifying criteria for the granting program are set out in the law.

Once a First Nation decides what grants, if any, it will include in the law, this sample language should be tailored to reflect the First Nation's decisions. Where the law establishes a granting program, the requirements in subsection 8(2) must be included in the law. [Taxation Law Standards](#) section 6.

This provision reflects that grants are approved each year by Council in the First Nation's annual expenditure law. [Taxation Law Standards](#) paragraph 6.1(d).

## PART VII LEVY OF TAX

### Tax Levy

9.(1) On or before May 29 in each taxation year, Council must adopt a law setting the rate of tax to be applied to all interests in land.

(2) Portioned values must be used to determine the amount of tax applicable in respect of an interest in land within a property class for which a percentage of value is prescribed under the Assessment Law.

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

(4) Except as provided in section 14, taxes levied under this 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 law setting the rate of tax, a minimum tax payable in respect of a taxable property.

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

### Tax Payments

10.(1) Taxes are due and payable on or before \_\_\_\_\_ 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.

The law sets out the date by which Council must adopt an annual rates law in each year. The Standards for the Timing of First Nation Annual Tax Rates and Expenditure Laws, 2017, require the date to be no later than July 31 of the taxation year. [Timing Standards](#), section 1 and [FMA](#) section 10.

The law follows the provincial practice of using portioned values to determine the amount of tax owing each year.

First Nations in Manitoba use a “mill” rate, which is the rate of tax applied against each one thousand dollars of the portioned value of the interest in land.

Taxes are levied for the entire calendar year, beginning January 1, although they are not collected until later in the year.

If the First Nation wishes to allow a minimum tax to be set in each year, the law must include this provision. A minimum tax is the lowest amount of tax payable, despite the assessed value of the property. [Taxation Law Standards](#) subsection 2.3.

The minimum tax is set each year in the First Nation's annual rates law. The Commission's [Tax Rates Law Standards](#) section 4 and 5 include provisions that apply to setting a minimum tax.

The law must set a tax due date, which must be at least thirty days after the date the tax notices are sent. First Nations are encouraged to establish tax due dates that are consistent with provincial practices.

The law must set out where taxes may be paid, and the forms of payment accepted. [Taxation Law Standards](#) subsection 8.1. Note that a First Nation can provide for the payment of taxes by instalments, as permitted by the Taxation Law Standards subsection 8.2. Sample wording is not included for instalment payments; however, the FNTC can assist with including appropriate wording on request.

## PART VIII TAX ROLL AND TAX NOTICE

### Tax Roll

11.(1) No later than August 31 in each taxation year, the tax administrator must create a tax roll for that taxation year.

The law must set a date by which the tax administrator will create a tax roll in each taxation year. [Taxation Law Standards](#) subsection 9.1

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

The tax roll must include the listed 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 and portioned 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 Law; and
- (f) the amount of any unpaid taxes from previous taxation years.

(3) The tax administrator may combine the tax roll and the assessment roll by adding the following information to the assessment roll:

The tax administrator may use the assessment roll as the tax roll with the addition of the total taxes payable for the year, as well as any unpaid taxes, including penalties and interest.

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

(4) The fact that information required to be shown on the tax roll is omitted or that information shown contains an error does not invalidate the roll or any other information shown on the roll.

## Annual Tax Notices

12.(1) On or before August 31 in each taxation year, the tax administrator must mail a Tax Notice to

(a) each holder of taxable property under this 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 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.

## Amendments to Tax Roll and Tax Notices

13.(1) Where the current year's assessment roll has been amended in accordance with the Assessment Law, the tax administrator must amend the tax roll and mail an amended Tax Notice to every person entitled to a Tax Notice under section 13 in respect of the property affected.

(2) 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.

(3) 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.

The tax administrator must mail tax notices to all holders and others whose names appears on the tax roll, by the date specified in the law. This date has to be at least thirty days before the tax due date. The tax notices must contain certain information, as set out in the sample tax notice form attached as Schedule II. [Taxation Law Standards](#) subsection 9.1, 9.2 and 9.3.

The tax administrator must mail a copy of the tax notice to chargeholders whose names are listed on the assessment roll in respect of a property.

The law must include provisions for amending the tax roll and sending out amended tax notices where the assessment roll is amended under the Assessment Law. [Taxation Law Standards](#) subsection 9.5.

Taxpayers are given thirty days to pay additional taxes before interest and penalties are assessed by the First Nation.

### Information Provided by Taxpayer

**14.** As an exception to subsection 13(3), if an error or omission in a tax roll or assessment roll

(a) resulted from a taxpayer knowingly providing false information to the assessor, and

(b) resulted in no tax being imposed or in the imposition of less tax than would have been imposed if the taxpayer had provided the correct information to the assessor,

the tax administrator may, for each year in which the assessment or the imposition of or exemption from tax was based on the false information, correct the tax roll, and impose taxes, penalties and interest from the time that the taxes would have been payable had it not been for the false information.

### Supplementary Taxes

**15.(1)** Where a supplementary assessment has been created under the Assessment Law, the tax administrator must amend the tax roll to impose supplementary taxes on that property and mail a supplementary Tax Notice to every person entitled to a Tax Notice under section 12.

(2) Supplementary taxes in respect of a property for a year or part of a year must be calculated using the applicable tax rate set by the First Nation for that taxation year.

(3) Supplementary taxes imposed under subsection (1) are payable for the period beginning on the date a supplementary assessment is effective under the Assessment Law, and ending December 31 of the year in which the supplementary assessment was created by the assessor.

(4) Where supplementary taxes are imposed, the taxes are due and payable on the date of mailing the supplementary Tax Notice; however, the taxpayer must be given ninety (90) days to pay those taxes and a penalty and interest must not be added in that period.

Where a taxpayer has provided false information, this provision allows the tax administrator to correct the roll and impose taxes, penalties and interest from the time the taxes would have been payable.

The tax administrator must prepare a supplementary tax roll where a supplementary assessment has been prepared under the Assessment Law.

Taxpayers are given ninety days to additional taxes before interest and penalties are assessed by the First Nation. The ninety days given in this section follows the provincial timeline given to pay supplementary taxes. The timeline in the law can be reduced, provided it is at least 30 days.

## Requests for Information

16.(1) The tax administrator may deliver a Request for Information containing the information set out in Schedule I, 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 Law.

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

The tax administrator is given the ability to request information respecting taxable property for any purpose related to the administration of the taxation law. A form of request is set out in Schedule I.

## PART IX

### PAYMENT RECEIPTS AND TAX CERTIFICATES

#### Receipts for Payments

17. 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.

The tax administrator must issue a receipt to the taxpayer and note the payment on the tax roll.

#### Tax Certificate

18.(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.

The tax administrator must issue a tax certificate on request, showing whether taxes have been paid on a property, and the amount of any outstanding taxes.

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

The law must stipulate a fee, if any, to be paid for the issuance of a tax certificate. The fee should reflect an amount that compensates the First Nation's reasonable costs in providing the certificate.

## PART X

### PENALTIES AND INTEREST

**[Note to First Nations: The Act provides for both penalties and interest to be levied on unpaid taxes. Manitoba local governments levy a maximum penalty on tax arrears of one and one-quarter percent (1.25%) per month, and do not levy interest charges. The wording below reflects the approach enabled by the Act.]**

## Penalty

19. If all or any portion of the taxes remains unpaid after \_\_\_\_\_ of the year in which they are levied, a penalty of \_\_\_\_\_ percent (\_\_\_\_\_ %) **[Note to First Nation: maximum total penalty permitted is ten percent (10%)]** of the portion of the current year's taxes 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 current year's taxes.

The law may impose a penalty where taxes are not paid in full on the due date. The amount of the penalty and when it will be imposed must be specified in the law. The penalty cannot exceed ten percent. [Enforcement Regulations](#) subsection 4(3) and [Taxation Law Standards](#) subsection 11.1.

## Interest

20. If all or any portion of taxes remains unpaid after \_\_\_\_\_ of the year in which they are levied, the unpaid portion accrues interest at \_\_\_\_\_ percent (\_\_\_\_\_%) per year until paid or recovered and accrued interest is, for all purposes, deemed to be part of the taxes. **[Note to First Nation: maximum interest is fifteen percent (15%) per year.]**

The interest rate cannot exceed fifteen percent per year and the rate of interest must be specified in the law. [Enforcement Regulations](#) subsection 4(2).

## Application of Payments

21. 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

22.(1) All revenues raised under this Law must be placed into a local revenue account, separate from other moneys of the First Nation.

This provision requires that revenues raised under the law must be placed in the First Nation's local revenue account. The local revenue account is required by the FMA, and must be a separate account with a financial institution. [FMA](#) section 13.

(2) Revenues raised include

(a) taxes, including, for clarity, interest, penalties and costs, as set out in this Law; and

(b) payments-in-lieu of taxes.

(3) An expenditure of revenue raised under this Law must be made under the authority of an expenditure law or in accordance with section 13.1 of the Act.

This provision recognizes that a First Nation may also expend local revenues as permitted in section 13.1 of the FMA, which enables emergency expenditures and pre-budget expenditures.

## Reserve Funds

**23.(1)** Reserve funds established by Council must

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

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

(3) Council may, by expenditure law,

(a) transfer moneys in a capital purpose reserve fund to another reserve fund or account, provided that all projects for which the reserve fund was established have been completed;

(b) transfer moneys in a non-capital purpose reserve fund to another reserve fund or account; and

(c) borrow moneys 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 moneys are needed for the purposes of that reserve fund.

(4) As an exception to paragraph (3)(c), where the First Nations Financial Management Board has

(a) assumed third-party management of the First Nation's local revenue account, and

(b) determined that moneys must be borrowed from a reserve fund to meet the financial obligations of the First Nation,

the First Nations Financial Management Board may, acting in the place of Council, borrow moneys from a reserve fund by expenditure law.

These provisions set out how a First Nation may establish reserve funds, and how moneys may be transferred into and out of reserve funds. [Taxation Law Standards](#) section 7.

A new reserve fund must be established in an expenditure law. The [Standards for First Nation Expenditure Laws](#) include provisions respecting the types of reserve funds that may be established, and supporting information that is required at the time a reserve fund is established.

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

Reserve fund moneys may only be invested in the listed types of investments. [Taxation Law Standards](#) subsection 7.3.

## PART XII

### COLLECTION AND ENFORCEMENT

#### Recovery of Unpaid Taxes

**24.(1)** The liability referred to in subsection 6(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 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) Costs incurred by the First Nation in the collection and enforcement of unpaid taxes

- (a) are determined in accordance with Schedule III; and

This Part sets out general provisions respecting the collection of unpaid taxes and the enforcement of the law. The [Enforcement Regulations](#) set out detailed conditions and procedures for property tax enforcement. The law should include all enforcement mechanisms set out in the Regulations to ensure the First Nation has the option to choose the most effective mechanism for each enforcement situation.

This section provides sample wording respecting tax collection, including allowing recovery by one or more methods set out in the law. Unpaid taxes are a debt and the First Nation can use other methods of recovery in addition to the specific enforcement measures set out in the law.

(b) are payable by the debtor as unpaid taxes.

(4) 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 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.

(5) Before commencing enforcement proceedings under Parts XIII, XIV and XV, the tax administrator must request authorization from Council by resolution.

### **Tax Arrears Certificate**

**25.**(1) Before taking any enforcement measures or commencing any enforcement proceedings under Parts XIII, XIV or XV of this Law and subject to subsection (2), the tax administrator must 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**

**26.**(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 Law.

(3) A lien listed under subsection (2) has priority over any unregistered or registered charge, 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.

Before a First Nation may commence certain types of enforcement proceedings, a tax arrears certificate must be issued to every person named on the tax roll in respect of a property on which there are unpaid taxes. The tax arrears certificate must include the information set out in Schedule V.

[Enforcement Regulations](#) section 5.

This section provides for the creation, recording and discharging of liens.

Where the law provides for the creation of liens, the tax administrator is required to maintain a list of all liens created and must register a discharge of a lien without delay on payment of outstanding amounts. [Enforcement Regulations](#) sections 7 and 8.

(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**

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

(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

These document delivery provisions must be included in the law and apply to enforcement proceedings under Parts XII to XV. [Enforcement Regulations](#) section 22.

(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**

**28.**(1) Where taxes remain unpaid more than thirty (30) days after a Tax Arrears Certificate is issued to a debtor, 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 Law.

##### **Notice of Seizure and Sale**

**29.**(1) Before proceeding under subsection 28(1), the tax administrator must deliver to the debtor a Notice of Seizure and Sale.

(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 described in the Notice of Seizure and Sale that is in the possession of the debtor and is located on the reserve.

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

This Part sets out detailed procedures that must be followed for a First Nation to undertake the seizure and sale of personal property belonging to a tax debtor. [Enforcement Regulations](#) section 17, 18 and 19.

This enforcement mechanism can be undertaken only after taxes remain unpaid for at least thirty days after the tax arrears certificate is issued.

Personal property that would be exempt from seizure under provincial law is exempt from seizure under the First Nation's law.

A Notice of Seizure and Sale is delivered to the debtor.

If taxes remain unpaid after seven days, the tax administrator may have the described personal property seized. The property must be located on the reserve lands

### **Notice of Sale of Seized Personal Property**

**30.(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.

After goods are seized, a Notice of Sale of Seized Personal Property is published in two consecutive issues of the local newspaper.

(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**

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

After the second publication of the Notice, the property may be sold at 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 30(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**

**32.** 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.

Where there are registered security interests against the property, Provincial law applies to the seizure and sale. [Enforcement Regulations](#) section 19.

### **Proceeds of Sale**

**33.(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.

Provincial law will apply to determine the priority that applies to the payment of secured interests in the property. The First Nation may be required to use the proceeds to first pay other interests before the tax debt. [Enforcement Regulations](#) section 20.

(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.

The proceeds can be paid into court where there is uncertainty or claims cannot be resolved.

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

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

This Part sets out detailed procedures that must be followed for a First Nation to undertake the seizure and assignment of taxable property. [Enforcement Regulations](#) sections 9 to 16.

**34.(1)** Where taxes remain unpaid 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.

This enforcement mechanism can be undertaken only after taxes remain unpaid for at least nine months after the tax arrears certificate is issued.

(2) Before proceeding under subsection (1), the tax administrator must serve a Notice of Seizure and Assignment of Taxable Property on the debtor and deliver a copy to any locatee with an interest in the taxable property.

A Notice of Seizure and Assignment of Taxable Property is delivered to the debtor and to any locatee.

(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 sell the right to an assignment of the taxable property by public tender or auction.

If taxes remain unpaid after six months, the tax administrator may 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.

Alternatively, the law could set out which method will be used and include any conditions that are attached to the acceptance of an offer.

### **Upset Price**

**35.(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 39(1), plus five percent (5%) of that total.

The tax administrator must set an upset price for the purchase of the property.

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

The property cannot be sold for less than the upset price.

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

**36.**(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 Minister**

**37.** 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 Law.

### **Subsisting Rights**

**38.** 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 39(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;

A Notice of Sale of a Right to Assignment of Taxable Property must be published in a local newspaper for four consecutive weeks, and posted on the reserve for at least ten days before the auction or tender.

The tax administrator must give notice to the Minister of every purchase under this provision.

The debtor retains the right to occupy the property during the three-month redemption period. The holder must not permit the property to deteriorate during this time, and the purchaser has the right to enter the property in order to maintain it.

(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**

**39.**(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%).

The debtor can redeem the property by paying the upset price plus three percent.

(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).

(4) Subject to a redemption under subsection (2), 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 36(3).

If the property is not redeemed before the end of the redemption period, the property transfers to the purchaser and the debtor is then required to vacate the property.

### **Assignment of Taxable Property**

**40.**(1) 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.

The tax administrator must register the assignment in any registry in which the property is registered.

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

(3) An assignment under subsection 39(4) operates

The assignment transfers the property to the purchaser and extinguishes all rights of previous holders of the property.

(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 registered under subsection (2), except an easement, restrictive covenant, building scheme or right-of-way registered against the interest in land.

(4) Upon assignment under subsection 39(4), any remaining debt of the debtor with respect to the taxable property is extinguished.

The assignment extinguishes any remaining debt of the debtor.

### **Proceeds of Sale**

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

The sale proceeds must be paid first to the First Nation and then to other registered security holders, with any remaining moneys to the debtor. [Enforcement Regulations](#) section 16.

(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 First Nation

**42.(1)** If the right to assignment of taxable property is purchased by the First Nation under subsection 36(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 Law.

If the First Nation is the deemed purchaser, it may sell the property for not less than the upset price.

## PART XV DISCONTINUANCE OF SERVICES

### Discontinuance of Services

**43.(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 Law or any property taxation 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.

This Part sets out detailed procedures that must be followed for a First Nation to discontinue services to taxable property. [Enforcement Regulations](#) section 21.

Services may only be discontinued where the services are provided from tax revenues, and where taxes remain unpaid for at least thirty days after the tax arrears certificate is issued.

The tax administrator must issue a Notice of Discontinuance of Services at least thirty days before discontinuing services.

This provision sets additional limits on the services that cannot be discontinued.

## PART XVI GENERAL PROVISIONS

### Disclosure of Information

**44.**(1) The tax administrator 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 tax administrator 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

**45.** Notwithstanding section 44,

- (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;
- (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
  - (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.

This section sets out the circumstances under which information or records obtained or created under the law can be disclosed. [Taxation Law Standards](#) section 12.

This section enables the tax administrator to disclose information for research and statistical purposes provided the information is not in an identifiable form. Council may disclose this information in an identifiable form provided Council takes steps to protect the confidentiality of the information. [Taxation Law Standards](#) section 12.

## Validity

**46.** Nothing under this Law must be rendered void or invalid, nor must the liability of any person to pay tax or any other amount under this 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, Tax 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.

## Limitation on Proceedings

**47.(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 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 prescribed in this section, then money paid to the First Nation must be deemed to have been voluntarily paid.

This section limits a person's ability to challenge a payment made under the taxation law. A person cannot challenge a payment after the expiration of six months from making the payment. This section wouldn't apply where the law specifically provides otherwise, for example where a refund is required.

## Notices

**48.(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 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.

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

- (2) Except where otherwise provided in this Law,
- (a) a notice given by mail is deemed received on the fifth day after it is posted;
  - (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**

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

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

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

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

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

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

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

### **Repeal**

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

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

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

**Force and Effect**

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

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

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

These enactment provisions must be filled in 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.