



**First Nations Tax Commission**  
**Commission de la fiscalité des premières nations**

The First Nations Tax Commission, pursuant to the *First Nations Fiscal and Statistical Management Act*, hereby approves the following law made by the Lower Kootenay Indian Band in the Province of British Columbia,

***Lower Kootenay Indian Band Property Taxation Law, 2008***

Dated at Fredericton, New Brunswick the 9th day of July, 2008.

On behalf of the First Nations Tax Commission

C.T. (Manny) Jules - Chief Commissioner  
First Nations Tax Commission



**LOWER KOOTENAY INDIAN BAND  
PROPERTY TAXATION LAW, 2008**

**TABLE OF CONTENTS**

Part I	Citation .....	2
Part II	Definitions and References .....	2
Part III	Administration.....	5
Part IV	Liability for Taxation .....	6
Part V	Exemptions from Taxation .....	7
Part VI	Grants and Tax Abatement.....	8
Part VII	Levy of Tax.....	9
Part VIII	Tax Roll and Tax Notice .....	10
Part IX	Periodic Payments .....	12
Part X	Payment Receipts and Tax Certificates.....	12
Part XI	Penalties and Interest .....	13
Part XII	Revenues and Expenditures .....	13
Part XIII	Collection and Enforcement .....	15
Part XIV	Seizure and Sale of Personal Property .....	17
Part XV	Seizure and Assignment of Taxable Property .....	18
Part XVI	Discontinuance of Services.....	22
Part XVII	General Provisions .....	22

**SCHEDULES**

I	Request for Information by Tax Administrator
II	Tax Notice
III	Costs Payable by Debtor Arising from Seizure and Sale of Personal Property
IV	Tax Certificate
V	Tax Arrears Certificate

- VI Notice of Seizure and Sale of Personal Property
- VII Notice of Sale of Seized Personal Property
- VIII Notice of Seizure and Assignment of Taxable Property
- IX Notice of Sale of a Right to Assignment of Taxable Property
- X Notice of Discontinuance of Services

**WHEREAS:**

A. Pursuant to section 5 of the *First Nations Fiscal and Statistical 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 Lower Kootenay Indian Band 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 Lower Kootenay Indian Band 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 and Statistical Management Act*;

NOW THEREFORE the Council of the Lower Kootenay Indian Band, at a duly convened meeting, enacts as follows:

**PART I**

**CITATION**

**Citation**

1. This Law may be cited as the Lower Kootenay Indian Band *Property Taxation Law, 2008*.

**PART II**

**DEFINITIONS AND REFERENCES**

**Definitions and References**

2.(1) In this Law:

“Act” means the *First Nations Fiscal and Statistical 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 *Lower Kootenay Indian Band Property Assessment Law, 2008*;

“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;

“Commission” means the First Nations Tax Commission established under the Act;

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

“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 Lower Kootenay Indian Band, being a band named in the schedule to the Act;

“First Nation Corporation” means a corporation that is at least majority-owned by the First Nation;

“FMB” means the First Nations Financial Management Board established under the Act;

“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;

“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*;

- “manufactured 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;
- “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;
- “property class” has the meaning given to that term in the Assessment Law;
- “Province” means the province of British Columbia;
- “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*;
- “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;
- “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;
- “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
- (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 the Band Administrator, 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.

### **Authorization of Financial Management Board**

4. Notwithstanding any other provision of this Law, if the FMB gives notice to Council pursuant to the Act that third-party management of the revenues raised under this Law is required, Council authorizes the FMB to act as agent of the First Nation to fulfill any of the powers and obligations of the Council under this Law and the Act.

## **PART IV**

### **LIABILITY FOR TAXATION**

#### **Application of Law**

5. This Law applies to all interests in land.

#### **Tax liability**

6.(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 not subject to taxation, the liability for taxation of any other interest in the same property is not affected.

(4) Where a person alleges that he or she is not liable to pay taxes imposed under this Law, the person may seek a remedy from the Assessment Review Board, Council, or the Commission, or initiate proceedings in a court of competent jurisdiction.

(5) Taxes are due and payable under this Law notwithstanding a proceeding under subsection (4).

(6) 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**

7.(1) Where

(a) the Assessment Review Board, Council, the Commission or a court of competent jurisdiction determines that a person is not liable for taxes under this Law, or

(b) it is determined under this Law that a person was 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 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 April 1, July 1, October 1 and January 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**

**8.(1)** The following interests in land are exempt from taxation under this 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 purpose 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) 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

(f) 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 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.

(3) An exemption from taxation applies only to that portion 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 TAX ABATEMENT

#### Grants for Surrounding Land

9. 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

10.(1) Council may provide for a grant to a holder, equivalent to or less than the taxes payable on a property, where

(a) the holder of the property is a charitable, philanthropic or other not-for-profit corporation; and

(b) Council considers that the property is used for a purpose that is directly related to the purposes of the corporation.

(2) Council may provide for a grant to holders who 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.

(3) A grant under subsection (2) must be in an amount equal to 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 law.

**PART VII**  
**LEVY OF TAX**

**Tax Levy**

11.(1) On or before May 28 in each taxation year, Council must adopt a law setting the rate of tax to be applied to each property class.

(2) A 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 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 interest in land, provided that the minimum tax must not exceed one hundred dollars (\$100.00).

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

**Tax Payments**

12.(1) Taxes are due and payable on or before 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 Lower Kootenay Indian Band.

**PART VIII**  
**TAX ROLL AND TAX NOTICE**

**Tax Roll**

13.(1) On or before May 31 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 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 Law; and
- (b) the amount of any unpaid taxes from previous taxation years.

**Annual Tax Notices**

14.(1) On or before June 1 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.
- (6) Where applicable, a Tax Notice must state that taxes are payable in conjunction with periodic lease payments under Part IX.

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

- 15.(1)** Where the assessment roll has been revised in accordance with the Assessment Law, or where a supplementary assessment roll is issued in accordance with the Assessment 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 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 7.
- (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**

- 16.(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 the 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**

17.(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).

## **PART IX**

### **PERIODIC PAYMENTS**

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

18.(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 X**

### **PAYMENT RECEIPTS AND TAX CERTIFICATES**

#### **Receipts for Payments**

19. 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**

20.(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 twenty-five dollars (\$25.00) for each tax roll folio searched.

## **PART XI**

### **PENALTIES AND INTEREST**

#### **Penalty**

21. If all or part of the taxes remain unpaid after July 2 of the year in which they are levied, a penalty of ten percent (10 %) 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.

#### **Interest**

22. If all or any portion of taxes remains unpaid on July 2 of the year levied, the unpaid portion accrues interest at ten percent (10%) per annum, compounded annually.

#### **Application of Payments**

23. 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 XII**

### **REVENUES AND EXPENDITURES**

#### **Revenues and Expenditures**

24.(1) All revenues raised under this Law must be placed into a local revenue 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 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.

## **Reserve Funds**

**25.(1)** Council may establish reserve funds for one or more of the following purposes:

- (a) capital infrastructure replacement; and
- (b) capital infrastructure improvement.

(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 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 law.

(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.

**PART XIII****COLLECTION AND ENFORCEMENT****Recovery of Unpaid Taxes**

26.(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) 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.

(4) Before commencing enforcement proceedings under Parts XIV, XV or XVI, the tax administrator must request authorization from Council by resolution.

**Tax Arrears Certificate**

27.(1) Before taking any enforcement measures or commencing any enforcement proceedings under Parts XIV, XV or XVI 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**

28.(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.

(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**

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

(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 XIV**

### **SEIZURE AND SALE OF PERSONAL PROPERTY**

#### **Seizure and Sale of Personal Property**

**30.(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.

(3) The costs payable by the debtor under this section are set out in Schedule III to this Law.

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

**31.(1)** Before proceeding under subsection 30(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.

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

**32.(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**

**33.(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 32(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**

34. 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**

35.(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 XV**

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

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

36.(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.

(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.

(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.

(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**

37.(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 41(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**

38.(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**

39. The tax administrator must, without delay, notify the Minister of Indian and Northern Affairs in writing of the sale of a right to an assignment of taxable property made under this Law.

### **Subsisting Rights**

40. 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 41(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**

41.(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 and Northern Affairs 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 38(3).

### **Assignment of Taxable Property**

42.(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.

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

(4) Upon registration under subsection (2), any remaining debt of the debtor with respect to the taxable property is extinguished.

### **Proceeds of Sale**

43.(1) At the end of the redemption period, the proceeds from the sale of a right to 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 First Nation**

44.(1) If the right to assignment of taxable property is purchased by the First Nation under subsection 38(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.

## PART XVI

### DISCONTINUANCE OF SERVICES

#### Discontinuance of Services

45.(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.

## PART XVII

### GENERAL PROVISIONS

#### Disclosure of Information

46.(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**

47. Notwithstanding section 46, 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**

48. 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.

### **Limitation on Proceedings**

49.(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 making of the payment.

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



## Notices

**50.(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.

(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

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

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

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

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

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

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

**Repeal**

**52.** The *Lower Kootenay Indian Band Property Taxation By-law* dated November 20, 1991, as amended, is hereby repealed in its entirety.

**Force and Effect**

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

THIS LAW IS HEREBY DULY ENACTED by Council at a duly convened meeting held on the 8 day of July, 2008, in the Ktunaxa Nation Territory.

A quorum of Council consists of three members of Council.

  
\_\_\_\_\_

Chris Luke  
Chief

  
\_\_\_\_\_

Joe Pierre  
Councillor

\_\_\_\_\_  
Arlene Basil  
Councillor

  
\_\_\_\_\_

M. Jason Louie  
Councillor

\_\_\_\_\_  
Anne Jimmie  
Councillor

**SCHEDULE I**

(Subsection 17(1))

**REQUEST FOR INFORMATION BY TAX ADMINISTRATOR  
FOR THE LOWER KOOTENAY INDIAN BAND**

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

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

PURSUANT to subsection \_\_ of the *Lower Kootenay Indian Band Property Taxation Law, 2008*, I request that you provide to me, in writing, no later than \_\_\_\_\_, the following information relating to the above-noted interest in land:

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

\_\_\_\_\_  
Tax Administrator for the Lower Kootenay Indian Band  
Dated: \_\_\_\_\_, 20\_\_.

**SCHEDULE II**

(Subsection 14(1))

**TAX NOTICE**

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

PURSUANT to the provisions of the *Lower Kootenay Indian Band Property Taxation Law, 2008*, 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 \_\_\_\_\_. Payments for unpaid taxes, penalties and interest are past due and must be paid immediately.

Payments must be made at the offices of the Lower Kootenay Indian Band, 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 *Lower Kootenay Indian Band Property Taxation Law, 2008*.

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 Lower Kootenay Indian Band  
Dated: \_\_\_\_\_, 20\_\_

**SCHEDULE III**

(Subsection 30(3))

**COSTS PAYABLE BY DEBTOR ARISING FROM  
SEIZURE AND SALE OF PERSONAL PROPERTY**

For costs arising from the seizure and sale of personal property:

- |    |   |                   |
|----|---|-------------------|
| 1. | For preparation of a notice   | \$ 25.00          |
| 2. | For service of notice on each person or place                         | \$ 25.00          |
| 3. | For advertising in newspaper  | \$ 25.00          |
| 4. | For time spent in conducting a seizure and sale of personal property  | \$ 30.00 per hour |
| 5. | Actual cost of seizure and storage will be charged based on receipts. |                   |

**SCHEDULE IV**

(Subsection 20(1))

**TAX CERTIFICATE**

In respect of the interest in land described as: \_\_\_\_\_ and pursuant to the *Lower Kootenay Indian Band Property Taxation Law, 2008*, 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 Lower Kootenay Indian Band  
Dated: \_\_\_\_\_, 20\_\_

**SCHEDULE V**

(Subsection 27(1))

**TAX ARREARS CERTIFICATE**

In respect of the interest in land described as: \_\_\_\_\_ and pursuant to the *Lower Kootenay Indian Band Property Taxation Law, 2008*, 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 annum, compounded [monthly/yearly].

Payments must be made at the offices of the Lower Kootenay Indian Band, located at [insert 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:

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

\_\_\_\_\_  
Tax Administrator for the Lower Kootenay Indian Band  
Dated: \_\_\_\_\_, 20\_\_

**SCHEDULE VI**

(Subsection 31(1))

**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 subsection \_\_ of the *Lower Kootenay Indian Band Property Taxation Law, 2008*, seizing the personal property described as follows: [insert general description of the personal property to be seized].

2. The tax administrator may retain a sheriff, bailiff or bylaw 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 Lower Kootenay Indian Band  
Dated: \_\_\_\_\_, 20\_\_



**SCHEDULE VII**

(Subsection 32(1))

**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 Lower Kootenay Indian Band will take place on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock at \_\_\_\_\_ [location].

The following personal property, seized pursuant to subsection \_\_\_ of the *Lower Kootenay Indian Band Property Taxation Law, 2008*, 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 registered security interests in the property and to the First Nation in order of their priority under the laws applicable in the Province of British Columbia and any remaining proceeds shall be paid to the debtor.

\_\_\_\_\_  
Tax Administrator for the Lower Kootenay Indian Band  
Dated: \_\_\_\_\_, 20\_\_

**SCHEDULE VIII**

(Subsection 36(2))

**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 subsection \_\_\_ of the *Lower Kootenay Indian Band Property Taxation Law, 2008*, seizing and selling a right to an assignment of the taxable property by public tender [auction] as follows:

1. The public tender or auction, 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 Lower Kootenay Indian Band, 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 tender [auction] 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 at the public tender [auction] 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 an assignment of the taxable property for the amount of the upset price.
7. The debtor may redeem the right to an assignment of 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 tender [auction] in respect of the taxable property (hereinafter referred to as the “redemption period”). Where the right to an assignment is redeemed, the First Nation will, without delay, repay to the bidder the amount of the bid.
8. A sale of a right to an assignment of taxable property by public tender [auction] is not complete, and no assignment of the taxable property will be made, until the expiration of the redemption period. If the right to an assignment of the taxable property is not redeemed within the redemption period, then on the expiration of the redemption period, the First Nation will assign the taxable property to the highest bidder or to itself as the deemed purchaser, as applicable. The taxable property will not be assigned 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 Lower Kootenay Indian Band will, without delay, notify the Minister of Indian and Northern Affairs in writing of the sale of a right to an assignment of the taxable property and of any redemption of the right to an assignment 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 the 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 assignment 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 held by the debtor 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, then to any other holders of registered interests in the taxable property in order of their priority at law. Any moneys in excess of these amounts will be paid to the debtor in accordance with the *Lower Kootenay Indian Band Property Taxation Law, 2008*.

\_\_\_\_\_  
Tax Administrator for the Lower Kootenay Indian Band      Dated: \_\_\_\_\_, 20\_\_

**SCHEDULE IX**

(Subsection 38(1))

**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 right to assignment of the taxable property will be conducted by public tender [auction] for unpaid taxes, penalties and interest owed to the Lower Kootenay Indian Band.

The public tender [auction] will take place on:  
\_\_\_\_\_, 20\_\_ at \_\_\_\_\_ o'clock at  
\_\_\_\_\_ (location).

The tax administrator will conduct the public tender [auction] 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 tender [auction], 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 Lower Kootenay Indian Band as set out in this notice.
3. If at the public tender [auction] 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 an assignment of the taxable property for the amount of the upset price.
4. The debtor may redeem the right to an assignment of the taxable property 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 tender [auction] in respect of the taxable property (referred to as the “redemption period”). Where the right to an assignment is redeemed, the First Nation will, without delay, repay to the bidder the amount of the bid.

5. A sale of a right to an assignment of taxable property by public tender [auction] is not complete, and no assignment of the taxable property will be made, until the expiration of the redemption period. If the right to an assignment of the taxable property is not redeemed within the redemption period, then on the expiration of the redemption period, the First Nation will assign the taxable property to the highest bidder or to itself as the deemed purchaser, as applicable. The taxable property will not be assigned to any person or entity who would not have been capable under the *Indian Act* or the *First Nations Land Management Act*, as the case may be, of obtaining the interest or right constituting the taxable property.

6. Council of the Lower Kootenay Indian Band will, without delay, notify the Minister of Indian and Northern Affairs in writing of the sale of a right to an assignment of the taxable property and of any redemption of the right to assignment of the taxable property.

7. The tax administrator will register an assignment of the taxable property in every registry in which the taxable property is registered at the time of the assignment.

8. An assignment of the taxable property operates

(a) as a transfer to the bidder 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 assignment is registered, except an easement, restrictive covenant, building scheme or right-of-way registered against the interest in land.

9. Upon assignment of the taxable property, the debtor will be required to immediately vacate the taxable property, and any rights or interests held by the debtor 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, then to any other holders of registered interests in the taxable property in order of their priority at law. Any moneys in excess of these amounts will be paid to the debtor in accordance with the *Lower Kootenay Indian Band Property Taxation Law, 20\_\_*.

Tax Administrator for the Lower Kootenay Indian Band

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

**SCHEDULE X**

(Subsection 45(2))

**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 *Lower Kootenay Indian Band Property Taxation 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 Lower Kootenay Indian Band  
Dated: \_\_\_\_\_, 20\_\_