



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 Whitecap Dakota First Nation in the Province of Saskatchewan,

Whitecap Dakota First Nation Property Taxation Law, 2012

Dated at Kamloops, British Columbia this 3rd day of October, 2012.

On behalf of the First Nations Tax Commission

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



**WHITECAP DAKOTA FIRST NATION
PROPERTY TAXATION LAW, 2012**

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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 Whitecap Dakota 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 Whitecap Dakota 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 and Statistical Management Act*;

NOW THEREFORE the Council of the Whitecap Dakota First Nation duly enacts as follows:

**PART I
CITATION**

Citation

1. This Law may be cited as the *Whitecap Dakota First Nation Property Taxation Law, 2012*.

**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 *Whitecap Dakota First Nation Property Assessment Law, 2012*;

“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;

“building” means any structure used or occupied or intended for supporting or sheltering any use or occupancy, and includes a trailer or mobile home that is:

(a) not in storage, and

(b) situated on the reserve for a period of more than thirty (30) days;

“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 Whitecap Dakota 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 and which is incorporated and operated on a not-for-profit basis;

“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

(a) a building or structure erected or placed on, over or under land or over or under water but does not include machinery and equipment unless the machinery and equipment is used to service the building or structure,

(b) anything affixed to or incorporated in a building or structure affixed to land but does not include machinery and equipment unless the machinery and equipment is used to service the building or structure,

(c) any resource production equipment of any mine or petroleum oil or gas well, and

(d) any pipeline on or under land;

“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*;

“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 Saskatchewan;

“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 and includes an amended Tax Notice and a supplementary Tax Notice;

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

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

“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 Council, 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 and in subsection (6), 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) 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.

(6) The terms of any agreement made prior to the coming into force of this Law for the provision of a grant in lieu of property taxes remains in force, and the tax liability for any property covered by such an agreement will be fully met by the payment of the grant in lieu.

Tax Refunds

7.(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;

- (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.

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) any interest in land held by a corporation that is wholly owned by a member of the First Nation and where the interest in land is occupied by that member as his or her principal residence;
- (d) property that is held and occupied by, and used for, an independent school, not operated for profit;
- (e) property that is held and occupied by, and used for, a public school;
- (f) a place of public worship and the land used in connection with it, subject to the following limits:
 - (i) the maximum amount of land is the greater of 0.81 hectare, and 10 square metres of land for every one square metre of occupied building space,
 - (ii) the place of public worship and land must be held by a religious organization, and
 - (iii) the exemption does not apply to any portion of property that is used as a residence or for any purpose other than as a place of public worship;
- (g) property used solely as a hospital, not operated for profit, and excluding doctors' or nurses' residences;
- (h) property held by a university and used for university purposes, not operated for profit;
- (i) property used as a cemetery that is not operated for profit.

(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.

Taxation Agreements

9.(1) For the purposes of advancing the economic development, the social development, or environmental rehabilitation or protection of the reserve, the Council, subject to subsection (2), may enter into an agreement with a taxpayer reducing or eliminating the taxpayer's liability to taxation under this law .

(2) An agreement under subsection (1) must be in writing, approved by resolution of Council, signed and formally executed by the Chief on behalf of the First Nation and signed and formally executed by the taxpayer, and must:

- (a) be limited to a duration of five taxation years or less;
- (b) detail the nature and amount of the investment to be undertaken by the taxpayer in furtherance of one or more of the purposes set out in subsection (1);
- (c) state the percentage of exemption from taxation liability to be provided to the taxpayer during the time the agreement is in effect;
- (d) provide for the cancellation of the agreement by the First Nation and the re-establishment of the liability to taxation of the taxpayer if the investment described in paragraph "b" is not actually made;
- (e) make the tax administrator responsible for administering the agreement on behalf of the First Nation, and name the person responsible for administering the agreement on behalf of the taxpayer.

(3) An agreement entered into pursuant to this section may provide for any other terms and conditions that Council and taxpayer think advisable in the circumstances which do not contradict the provisions of this Law or the Assessment Law or any other enactment of the First Nation.

(4) The Council may, from time to time, establish by resolution any forms, policies, or publications required to administer or publicize the tax agreement provision in this section.

(5) For the purposes of this section, "taxpayer" includes any person proposing to acquire an interest in land on the reserve in relation to a specific development.

PART VI

GRANTS AND TAX ABATEMENT

Annual Grants

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

- (a) where the holder is a charitable, philanthropic or other not-for-profit corporation or society, and Council considers that the property is used for a purpose that is directly related to the purposes of the corporation; and
- (b) the holder submits a written application in the form determined from time to time by Council requesting a grant and undertaking to continue to use the property for the balance of the calendar year for the charitable, philanthropic, or other not-for-profit purpose.

(2) Grants provided under subsection (1)

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

- (b) must be in an amount equal to or less than the taxes payable on the property in the current taxation year, less any other grants, abatements and offsets; and
- (c) must be used only for the purposes of paying the taxes owing on the property in the current taxation year.

Annual Authorization

11. 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

12.(1) On or before June 15 in each taxation year, Council must adopt a law setting the rate of tax to be applied to all properties.

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

(3) Taxes levied under this Law are deemed to be imposed on January 1 of the taxation year in which the levy is first made.

(4) Subsection (3) does not apply to supplementary taxes levied under section 17.

(5) Notwithstanding subsection (2), Council may establish, in its annual law setting the rate of tax, a minimum tax payable in respect of a taxable interest in land.

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

(7) An early payment discount of six per cent (6%) will be provided for taxpayers who pay their taxes at least fifteen (15) days in advance.

Tax Payments

13.(1) Taxes are due and payable on or before July 31 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 Whitecap Dakota First Nation.

**PART VIII
TAX ROLL AND TAX NOTICE**

Tax Roll

14.(1) On or before June 30 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 and the taxable assessment by classification of property 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.
- (4) The fact that any information shown on the tax roll contains an error, omission or misdescription does not invalidate any other information on the tax roll.

Annual Tax Notices

15.(1) On or before June 30 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) If requested by a recipient, the tax administrator may provide a Tax Notice by facsimile or e-mail at the number or address provided by that person and the Tax Notice is deemed to have been mailed as required under subsection (1).
- (4) The mailing of the Tax Notice by the tax administrator constitutes a statement of and demand for payment of the taxes.
- (5) A Tax Notice may include a number of taxable properties if the same person is the taxpayer for all of them.
- (6) The Tax Notice and the Assessment Notice required under the Assessment Law relating to the same property may be sent together or may be combined into one notice.
- (7) 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.
- (8) Where applicable, a Tax Notice must state that taxes are payable in conjunction with periodic lease payments under Part IX.
- (9) If a material error, omission or misdescription is discovered in any of the information

shown on a Tax Notice, the tax administrator must prepare and send an amended Tax Notice to every person affected by the amendment.

(10) No defect, error or omission in the form or substance of a Tax Notice, or in its service, transmission or receipt, invalidates any subsequent proceedings for the recovery of taxes.

Amendments to Tax Roll and Tax Notices

16.(1) Where the 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 affected by the amendment.

(2) If an error, omission or misdescription is discovered in any of the information shown on the tax roll, the tax administrator

(a) may correct the tax roll for the current year only; and

(b) on correcting the tax roll must prepare and send an amended Tax Notice to every person affected by the amendment.

(3) If it is discovered that no tax has been imposed on taxable property, the tax administrator may impose the tax for the current year only and must prepare and send a Tax Notice to every person affected by the amendment.

(4) If exempt property becomes taxable or taxable property becomes exempt under this Law, the tax administrator must

(a) correct the tax roll; and

(b) send an amended Tax Notice to every person affected by the amendment.

(5) Where the taxable status of property changes under subsection (4), the tax administrator must prorate the tax imposed so that the tax is payable only for the part of the year in which the property is not exempt.

(6) The date of every entry made on the tax roll under this section must be shown on the tax roll.

(7) 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.

(8) 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.

Supplementary Tax Roll

17.(1) Where a supplementary assessment is prepared under the Assessment Law, the tax administrator must prepare a supplementary tax roll.

(2) A supplementary tax roll must be in the same form and contain the same information shown on the tax roll with respect to each property on the supplementary tax roll, and must show the date for determining the tax that may be imposed for the taxation year.

(3) The tax administrator must

- (a) prepare supplementary Tax Notices for all taxable property shown on the supplementary tax roll; and
- (b) send the supplementary Tax Notices to every person entitled to a Tax Notice in respect of that property.
- (4) Where a supplementary assessment is made in accordance with the Assessment Law, the amount of taxes levied in that taxation year is to be adjusted to correspond with
 - (a) the portion of the year following the date on which construction of the building was completed, unless the building or a portion of the building was occupied before that date, in which case the amount levied is to be adjusted to correspond with the portion of the year following the date of occupancy;
 - (b) the portion of the year that elapsed before the completion of the removal or demolition of the building; or
 - (c) the portion of the year that has elapsed since the value of the property changed.
- (5) 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.
- (6) Where a supplementary Tax Notice indicates an increase in the amount of taxes owing, the taxes are due and payable on the date of mailing of the supplementary 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.

Requests for Information

18.(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

19.(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

20. 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

21.(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) for each tax roll folio searched.

**PART XI
PENALTIES AND INTEREST**

Penalty

22. If all or part of the taxes remain unpaid after July 31 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

23. If all or any portion of taxes remains unpaid after July 31 of the year in which they are levied, the unpaid portion accrues interest at 12 percent (12%) per year.

Application of Payments

24. 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

25.(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

26.(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 FMB has
- (i) assumed third-party management of the First Nation's local revenue account, and
 - (ii) determined that moneys must be borrowed from a reserve fund to meet the financial obligations of the First Nation,
- the FMB may, acting in the place of Council, borrow moneys from a reserve fund by 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

27.(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 and XVI, the tax administrator must request authorization from Council by resolution.

Tax Arrears Certificate

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

29.(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

30.(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

31.(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.

Notice of Seizure and Sale

32.(1) Before proceeding under subsection 31(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.

(4) The person who seizes personal property further to subsection (3) must deliver it up to the tax administrator immediately.

(5) The tax administrator must ensure that the seized personal property is safely and securely stored until it is either sold pursuant to this Part or returned to the debtor where the debt has been redeemed in full, including payment of the cost of the seizure and the cost of storage.

Notice of Sale of Seized Personal Property

33.(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

34.(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 33(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

35. 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

36.(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

37.(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

38.(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 42(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

39.(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

40. 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

41. 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 42(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

42.(1) At any time within three (3) months after the holding of a public tender or auction in

respect of taxable property, the debtor may redeem the taxable property by paying to the First Nation the amount of the upset price plus three percent (3%).

(2) On redemption of the taxable property under subsection (1),

(a) if the right to an assignment was sold to a bidder, the First Nation must, without delay, repay to that bidder the amount of the bid; and

(b) the tax administrator must notify the Minister of Indian Affairs and Northern Development in writing of the redemption.

(3) No assignment of taxable property must be made until the end of the redemption period provided for in subsection (1).

(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 39(3).

Assignment of Taxable Property

43.(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 42(4) 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 assignment under subsection 42(4), any remaining debt of the debtor with respect to the taxable property is extinguished.

Proceeds of Sale

44.(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

45.(1) If the right to assignment of taxable property is purchased by the First Nation under subsection 39(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

46.(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

47.(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

48. Notwithstanding section 47, 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

49. 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

50.(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.

Notices

51.(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

52.(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.

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 on the 13th day of September, 2012, at Whitecap, in the Province of Saskatchewan.

A quorum of Council consists of two (2) members of Council.


Chief Darcy M. Bear


Councillor Gary Eagle


Councillor Frank D. Royal

SCHEDULE I

**REQUEST FOR INFORMATION BY TAX ADMINISTRATOR
FOR THE WHITECAP DAKOTA FIRST NATION**

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

DATE OF REQUEST: _____

PURSUANT to Part VIII of the *Whitecap Dakota First Nation Property Taxation Law, 2012*, I request that you provide to me, in writing, no later than _____ **[Note: must be a date that is at least fourteen (14) days from the date of request]**, the following information relating to the above-noted interest in land:

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

Tax Administrator for the Whitecap Dakota First Nation

Dated: _____, 20__ .

SCHEDULE II

TAX NOTICE

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

PURSUANT to the provisions of the *Whitecap Dakota First Nation Property Taxation Law, 2012*, taxes in the amount of _____ dollars (\$_____) are hereby levied with respect to the above-noted interest in land. Taxes paid by July 15, 20__ can be reduced by a 6% early payment discount to the amount of _____ dollars (\$ _____)

If not paid by July 15th, the full amount of taxes are due and payable on or before July 31, 20___. Payments for unpaid taxes, penalties and interest are past due and must be paid immediately.

Payments must be made at the offices of the Whitecap Dakota First Nation, located at 182 Chief Whitecap Trail, Whitecap, Saskatchewan, S7K 2L2 during normal business hours. Payment must be by cheque, money order or cash.

Taxes that are not paid by July 31, 20__ shall incur penalties and interest in accordance with the *Whitecap Dakota First Nation Property Taxation Law, 2012*.

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

| | |
|-------------------------------|----------|
| Assessed value: | \$ _____ |
| Taxable assessment: | \$ _____ |
| Taxes (current year): | \$ _____ |
| Unpaid taxes (previous years) | \$ _____ |
| Penalties: | \$ _____ |
| Interest: | \$ _____ |
| Total Payable | \$ _____ |

[Note to First Nation: Other taxes owing under other property taxation laws may be included in this notice.]

Tax Administrator for the Whitecap Dakota First Nation

Dated: _____, 20__.

SCHEDULE III

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 \$ 200
2. For service of notice on each person or place
by the First Nation \$ 300
3. For service of notice on each person or place by
a process server, bailiff or delivery service actual cost
4. For advertising in newspaper actual cost
5. For staff time spent in conducting a seizure and sale
of personal property, not including costs otherwise
recovered under this Schedule \$ 50 per person
per hour
6. Actual costs incurred by the First Nation for the seizure,
storage and sale of personal property will be charged based
on receipts.

SCHEDULE IV

TAX CERTIFICATE

In respect of the interest in land described as: _____ and pursuant to the *Whitecap Dakota First Nation Property Taxation Law, 2012*, 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 Whitecap Dakota First Nation

Dated: _____, 20__ .

SCHEDULE V

TAX ARREARS CERTIFICATE

In respect of the interest in land described as: _____ and pursuant to the *Whitecap Dakota First Nation Property Taxation Law, 2012*, 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 twelve percent (12%) per year.

Payments must be made at the offices of the Whitecap Dakota First Nation, located at 182 Chief Whitecap Trail, Whitecap, Saskatchewan, S7K 2L2 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 Whitecap Dakota First Nation

Dated: _____, 20__.

SCHEDULE VI

NOTICE OF SEIZURE AND SALE OF PERSONAL PROPERTY

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

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

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

AND TAKE NOTICE that:

1. Failure to pay the full amount of the unpaid tax debt within SEVEN (7) days after delivery of this notice may result in the tax administrator, pursuant to Part XIV of the *Whitecap Dakota First Nation Property Taxation Law, 2012*, seizing the personal property described as follows:

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

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

3. If the unpaid taxes, penalties, interest and costs of seizure and storage 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 Whitecap Dakota First Nation

Dated: _____, 20__ .

SCHEDULE VII

NOTICE OF SALE OF SEIZED PERSONAL PROPERTY

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

The following personal property, seized pursuant to Part XIV of the *Whitecap Dakota First Nation Property Taxation Law, 2012*, will be sold at the public auction:

[add 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 Saskatchewan and any remaining proceeds shall be paid to the debtor.

Tax Administrator for the Whitecap Dakota First Nation

Dated: _____, 20____.

SCHEDULE VIII

**NOTICE OF SEIZURE AND ASSIGNMENT OF
TAXABLE PROPERTY**

TO: _____
(the "debtor")

ADDRESS: _____

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

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

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

AND TAKE NOTICE that failure to pay the full amount of the unpaid tax debt within six (6) months after service of this Notice may result in the tax administrator, pursuant Part XV of the *Whitecap Dakota First Nation Property Taxation Law, 2012*, seizing and selling a right to an assignment of the taxable property by public tender [auction] as follows:

1. 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 Whitecap Dakota First Nation, a copy of which may be obtained from the tax administrator.
2. The tax administrator will
 - (a) publish a Notice of Sale of a Right to Assignment of Taxable Property in the _____ newspaper at least once in each of the four (4) weeks preceding the date of the sale; and
 - (b) post the Notice of Sale of a Right to Assignment of Taxable Property in a prominent place on the reserve not less than ten (10) days preceding the date of the sale.
3. The Notice of Sale of a Right to Assignment of Taxable Property will set out the upset price for the right to assignment of the taxable property and any conditions attached to the acceptance of a bid.
4. The upset price will be not less than the total amount of the taxes, interest and penalties payable, calculated to the end of the redemption period, plus five percent (5%) of that total. The upset price is the lowest price for which the right to assignment of the taxable property will be sold.
5. The tax administrator will conduct the public 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 Whitecap Dakota First Nation will, without delay, notify the Minister of Indian Affairs and Northern Development 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 *Whitecap Dakota First Nation Property Taxation Law, 2012*.

Tax Administrator for the Whitecap Dakota First Nation

Dated: _____, 20__.

SCHEDULE IX

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

TO: _____
(the "debtor")

ADDRESS: _____

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

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

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

AND TAKE NOTICE that a sale of the right to assignment of the taxable property will be conducted by public tender [auction] for unpaid taxes, penalties and interest owed to the Whitecap Dakota First Nation.

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 Whitecap Dakota First Nation 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 Whitecap Dakota First Nation will, without delay, notify the Minister of Indian Affairs and Northern Development 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 *Whitecap Dakota First Nation Property Taxation Law, 2012*.

Tax Administrator for the Whitecap Dakota First Nation

Dated: _____, 20__.

SCHEDULE X

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 *Whitecap Dakota First Nation Property Taxation Law, 2012*.

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 Whitecap Dakota First Nation

Dated: _____, 20____.