

Minister of Indian Affairs  
and Northern Development



Ministre des Affaires  
indiennes et du Nord canadien

On behalf of the Minister of Indian Affairs and Northern Development,  
I HEREBY APPROVE, pursuant to section 83 of the *Indian Act*, the  
following by-law made by the Kwaw Kwaw Apilt First Nation, in the  
Province of British Columbia, at a meeting held on the 14<sup>th</sup> day of  
September, 1993.

**KWAW KWAW APILT FIRST NATION  
BUDGET AND EXPENDITURE BY-LAW - 1993**

Dated at Hull, Quebec

this 30<sup>th</sup> day of June 1994.

  
Dan E. Goodleaf  
Deputy Minister

KWAW KWAW APILT FIRST NATION  
BUDGET AND EXPENDITURE BY-LAW  
- 1993 -

# KWAW KWAW APILT FIRST NATION

## BUDGET AND EXPENDITURE BY-LAW - 1993

**WHEREAS** pursuant to section 83(1) of the Indian Act the Council of a band may make by-laws for the purpose of taxation for local purposes of land, or interests in land in a reserve with respect to any matters rising out of or ancillary to such purpose;

**AND WHEREAS** the Council of the Kwaw Kwaw Apilt First Nation, (also known as the Kwaw Kwaw Apilt Indian Band) enacted the Kwaw Kwaw Apilt Indian Band Property Taxation By-law (the "Taxation By-law") pursuant to section 83(1) of the Indian Act on February 11, 1992;

**WITHOUT PREJUDICE TO THE EXISTING ABORIGINAL RIGHTS OF THE FIRST NATION, BE IT HEREBY RESOLVED** that the Chief and Council of the Kwaw Kwaw Apilt First Nation enacts the following By-law pursuant to section 83(1) the Indian Act for the purpose of authorizing the expenditure of revenue raised under the Taxation By-law.

### PART 1 - INTERPRETATION

#### SHORT TITLE

1.1 This By-law may be cited as the Expenditure By-law.

#### DEFINITIONS

2.1 In this By-law:

"administrative costs" include but are not limited to:

1. remuneration of the assessor, collector and any other employees engaged by the First Nation to administer this By-law, the Assessment By-law or the Taxation By-law;
2. remuneration of the members of the Assessment Review Committee and Court of Revision as authorized by the Assessment By-law;

3. legal fees incurred in preparing and defending any challenges to this By-law, the Assessment By-law and the Taxation By-law; and
4. any other costs reasonably incurred by the First Nation in preparing, administering, enforcing and defending this By-law, the Assessment By-law and the Taxation By-law;

**"annual budget"**

means a statement of the estimated revenues to be raised or received under the Taxation By-law from the taxation of property within the Reserve and estimated expenses of the First Nation in providing local government services and utility services to the Reserve for a fiscal year;

**"Assessment Review Committee"**

means the Assessment Review Committee as described in section 35 of the Assessment By-law;

**"Assessment By-law"**

means the Kwaw Kwaw Apilt Indian Band Property Assessment By-law dated February 11 1992, 1991 and any amendments thereto;

**"assessor"**

means assessor as defined in the Assessment By-law;

**"Chief and Council"**

means the Chief and Council of the First Nation;

**"Collector"**

means the collector as defined in the Taxation By-law;

**"Court of Revision"**

means Court of Revision as defined in the Assessment By-law;

**"First Nation"**

means the Kwaw Kwaw Apilt First Nation, also known as the Kwaw Kwaw Apilt Indian Band which is a band as defined in section 2(1) of the Indian Act;

<b>"fiscal year"</b>	means January 1 of any year to December 31 of the succeeding year;
<b>"holder"</b>	means a holder as defined in the Taxation By-law;
<b>"Indian Act"</b>	means the Indian Act, R.S.C. 1985, c. I-5 and any amendments thereto;
<b>"local government services"</b>	means local services as defined in the Taxation By-law;
<b>"local improvement"</b>	means local improvement as defined in the Taxation By-law;
<b>"Minister"</b>	means the Minister of Indian Affairs and Northern Development;
<b>"Municipal Act"</b>	means the Municipal Act, R.S.B.C. 1979, c. 290 and any amendments thereto;
<b>"provincial taxing authority"</b>	means <ul style="list-style-type: none"> <li>(i) a municipality, a regional district or an improvement district as defined in the Municipal Act;</li> <li>(ii) the Minister of Finance and Corporate Relations, on behalf of the Province, under the Taxation (Rural Area) Act; or</li> <li>(iii) any other local or provincial public authority that is authorized under an enactment to impose real property taxes or receive revenue from real property taxes or collected for it by the Surveyor of Taxes or by a municipality;</li> </ul>
<b>"provisional budget"</b>	means a preliminary and interim statement of the estimated revenues and expenses to be raised by the First Nation under the Taxation By-law for all or part of a fiscal year;

- "Reserve"** means reserve as defined in the Taxation By-law;
- "Resolution"** means a resolution passed by a majority of the councillors of the First Nation present at a duly convened meeting of the Chief and Council;
- "Taxation By-Law"** means the Kwaw Kwaw Apilt Indian Band Property Taxation By-law dated February 11, 1992 and any amendments thereto;
- "taxation fund"** means the account or accounts maintained in the name of the First Nation at a financial institution designated solely for the purpose of depositing moneys raised or received under the Taxation By-law; and
- "taxation roll"** means taxation roll as defined in the Taxation By-law;
- "Taxation (Rural Area) Act"** means the Taxation (Rural Area) Act, R.S.B.C. 1979, c. 400 and any amendments thereto.
- "utility services"** means utility services as defined in the Taxation By-law.

## **PART 2 - INVESTMENT AND EXPENDITURE OF TAXATION MONEYS**

### **ANNUAL BUDGET**

- 3.1 On or before November 30 in each year, the Chief and Council shall, by Resolution direct the preparation of a provisional budget for the succeeding fiscal year.
- 3.2 On or before April 15 in each fiscal year, the Chief and Council shall by Resolution adopt an annual budget.

- 3.3 The annual budget shall be submitted to the Minister for approval in accordance with section 83(1) of the Indian Act.

### **PART 3 - INVESTMENT AND EXPENDITURE OF TAXATION MONEYS**

#### **INVESTMENT OF TAXATION MONEYS**

- 4.1 All revenue raised under the Taxation By-law shall be deposited into the taxation fund.
- 4.2 All monies deposited into the taxation fund may be invested in
- 4.2.1 securities of Canada or of a province;
  - 4.2.2 securities guaranteed for principal and interest by Canada or by a province;
  - 4.2.3 investments guaranteed by a chartered bank; or
  - 4.2.4 deposits in a savings institution or evidence of membership in a credit union or trust company.

#### **EXPENDITURE OF TAXATION MONEYS**

- 5.1 The Chief and Council may, by Resolution or under this By-law, authorize or ratify the expenditure of monies deposited into the taxation fund for the following purposes:
- 5.1.1 payment of administrative costs incurred by the First Nation in preparing, administering, enforcing and defending this By-law, the Assessment By-law and the Taxation By-law;
  - 5.1.2 Where an agreement has been entered into with the British Columbia Assessment Authority for the provision of assessment services, for payment to the British Columbia Assessment Authority for the provision of such assessment

services;

5.1.3 where local government services are provided by the First Nation, for payment of the actual costs incurred by the First Nation in providing such local government services;

5.1.4 where an agreement has been entered into with a provincial taxing authority for the provision of local government services, for payment to the provincial taxing authority for the provision of such local government services;

5.1.5 payment of the cost of constructing local improvements;

5.1.6 payment of the cost of constructing specific local improvements; and

5.1.7 payment of tax refunds or any other amounts which the First Nation is required to make to holders under the Taxation By-law.

5.2 The Chief and Council may charge the person named in the taxation roll with all reasonable costs which are incurred in the collection of all taxes, interest and penalties levied under the Taxation By-law, and until the costs incurred in the collection of such taxes, interests and penalties are recovered from the person named in the taxation roll, may pay for the costs of the same out of taxes collected by the collector under the Taxation By-law.

5.3 No expenditure shall be made out of the taxation fund that

5.3.1 is not authorized or ratified under this By-law;

5.3.2 would result in an expenditure in excess of moneys on deposit in the taxation fund; or

5.3.3 would reduce the balance available in the taxation fund so that it would not be sufficient to meet the commitments chargeable against it.



- 5.4 All expenditures of monies deposited in the taxation fund shall be authorized by a Resolution of the Chief and Council.

#### **PART 4 - GENERAL PROVISIONS**

##### **TENSE**

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

##### **HEADINGS**

- 7.1 The headings contained in this By-law are inserted for convenience of reference only and form no part of this By-law.

##### **PLURAL**

- 8.1 Whenever the singular or masculine is used in this By-law, the same shall be construed as meaning the plural or feminine. 4

##### **CONFIDENTIALITY**

- 9.1 A person who has custody of or control over information or records under this By-law shall not disclose the information or records to any other person except:

9.1.1 in the course of administering or enforcing this or any other By-law of the First Nation,

9.1.2 in court proceedings relating to this or any other By-law of the First Nation.

##### **DATE IN FORCE**

- 10.1 This By-law is in force from the date of approval by the Minister.

## AMENDMENT

11.1 Any section of this By-law may be amended by a by-law of Chief and Council and approved by the Minister.

## SEVERABILITY

12.1 A finding by a court that a provision of this By-law is void or invalid shall not affect the validity of the rest of the By-law.

## EXTENSION OF TIME

13.1 The Chief and Council may by a Resolution, extend the time within which anything under this By-law is required to be done, and anything done within the extended period of time is as valid as if it had been done within the time provided for by this By-law.

## REVOCACTION

14.1 The Kwaw Kwaw Apilt Indian Band Expenditure By-law 1 - 1992 dated September 13<sup>th</sup>, 1993 and any subsequent amendments thereto are hereby revoked.

This By-law is hereby made and approved at a duly convened meeting of the Chief and Council of the Kwaw Kwaw Apilt First Nation, also known as the Kwaw Kwaw Apilt Indian Band this 14<sup>th</sup> day of September, 1993.

Harold Henry  
Chief