



First Nations Tax Commission
Commission de la fiscalité des premières nations

The First Nations Tax Commission, pursuant to the *First Nations Fiscal Management Act*, hereby approves the following law made by the Esquimalt Nation in the Province of British Columbia,

Esquimalt Nation Property Taxation Law, 2019

Dated at Kamloops, British Columbia this 20th day of December, 2019.

On behalf of the First Nations Tax Commission

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



**ESQUIMALT NATION
PROPERTY TAXATION LAW, 2019**

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WHEREAS:

A. Pursuant to section 5 of the *First Nations Fiscal Management Act*, the council of a first nation may make laws respecting taxation for local purposes of reserve lands, and interests in reserve lands;

B. The Council of Esquimalt Nation deems it to be in the best interests of Esquimalt Nation to make a law for such purposes; and

C. The Council of Esquimalt Nation has given notice of this law and has considered any representations received by the Council, in accordance with the requirements of the *First Nations Fiscal Management Act*;

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NOW THEREFORE the Council of Esquimalt Nation duly enacts as follows:

PART I CITATION

Citation

1. This Law may be cited as the *Esquimalt Nation Property Taxation Law, 2019*.

PART II DEFINITIONS AND REFERENCES

Definitions and References

2.(1) In this Law:

“Act” means the *First Nations Fiscal Management Act*, S.C. 2005, c. 9, and the regulations enacted under that Act;

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

“Assessment Law” means the *Esquimalt Nation Property Assessment Law, 2019*;

“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;

“child” includes a child for whom a person stands in the place of a parent;

“civil resolution tribunal” means the civil resolution tribunal established under the *Civil Resolution Tribunal Act*, S.B.C. 2012, c. 25;

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

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

“Esquimalt Nation” means Esquimalt Nation, being a band named in the schedule to the Act;

“Esquimalt Nation Entity” means

(a) a corporation in which Esquimalt Nation beneficially owns, directly or indirectly, shares

(i) having not less than fifty percent (50%) of the votes that could be cast at an annual meeting of the shareholders of the corporation, or

(ii) having not less than fifty percent (50%) of the fair market value of all of the issued shares of the capital stock of the corporation; or

(b) a partnership in which Esquimalt Nation beneficially owns, directly or indirectly,

(i) not less than fifty percent (50%) of all voting rights of the partnership, or

(ii) interests in the partnership having not less than fifty percent (50%) of the fair market value of all of the interests in the partnership;

“exemption certificate” means a certificate issued under subsection 8(5);

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

“holder”, in relation to an interest in reserve lands, means a person

(a) in possession of the interest,

(b) entitled through a lease, licence or other legal means to the interest,

(c) in actual occupation of the interest, or

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- (d) who is a trustee of the interest;
- “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 relation to reserve lands, means any estate, right or interest of any nature in or to the lands, including any right to occupy, possess or use the lands, but does not include title to the lands that is held by Her Majesty;
- “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 reserve lands 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 reserve lands are registered;
- “related individual” means, in respect of a member of Esquimalt Nation,
- (a) that member’s spouse, child, grandchild, great-grandchild, parent, grandparent, great-grandparent or guardian,
 - (b) the spouse of that member’s parent, grandparent, great-grandparent, child, grandchild or great-grandchild, or
 - (c) the child, grandchild, great-grandchild, parent, grandparent or great-grandparent of that member’s spouse;
- “reserve” means a reserve of Esquimalt 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;
- “revitalization agreement” means an agreement made pursuant to subsection 8(2);
- “spouse” includes a common law partner;
- “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;

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“taxable property” means an interest in reserve lands 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 Esquimalt 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) For greater certainty, an interest, in relation to reserve lands, includes improvements.

(3) 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 Esquimalt Nation Executive Director, assign the performance of any duties of the tax administrator to any officer, employee, contractor or agent of Esquimalt 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 Esquimalt Nation’s local revenue account.

PART IV LIABILITY FOR TAXATION

Application of Law

4. This Law applies to all interests in reserve lands.

Tax Liability

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

(2) Taxes levied under this Law are a debt owed to Esquimalt Nation recoverable by Esquimalt Nation in any manner provided for in this Law.

(3) 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.

(4) Any person who is a holder of taxable property in any taxation year is liable to Esquimalt 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 greater certainty, interest, penalties and costs as

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provided in this Law.

Tax Refunds

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

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

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

- (a) subject to subsections (2) and (3), an interest held or occupied by Esquimalt Nation, an Esquimalt Nation Entity, or a member of Esquimalt Nation;
- (b) an interest occupied as a residence by one (1) or more members of Esquimalt Nation and related individuals of those members and by no other persons;
- (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) a building used solely as a hospital, not operated for profit, and the land on which the building stands;
- (f) a building used as a university, technical institute or public college, not operated for profit, and the land on which the building stands;
- (g) an institutional building used to provide housing accommodation for the elderly or persons suffering from physical or mental disability, not operated for profit, and the land on which the building stands; and
- (h) that land of a cemetery actually used for burial purposes.

(2) Where an interest in reserve lands is held by Esquimalt Nation, an Esquimalt Nation Entity or a member of Esquimalt Nation, as the case may be, and is wholly occupied by a person who is not Esquimalt Nation, an Esquimalt Nation Entity or a member of Esquimalt Nation,

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(a) the exemption in paragraph (1)(a) does not apply to the person who is not Esquimalt Nation, an Esquimalt Nation Entity or a member of Esquimalt Nation;

(b) that person is responsible for the taxes levied in respect of the interest; and

(c) the taxes are a liability only on that person.

(3) Where an interest in reserve lands is occupied by Esquimalt Nation, an Esquimalt Nation Entity or a member of Esquimalt Nation and is also occupied by a person who is not Esquimalt Nation, an Esquimalt Nation Entity or a member of Esquimalt Nation,

(a) the exemption in paragraph (1)(a) does not apply to that person;

(b) taxes under this Law must be levied in respect of that person's proportionate occupation of the interest; and

(c) the taxes are a liability only on that person.

(4) An exemption in paragraph (1)(c) to (h) applies only to that portion of the interest that is used for the purposes for which the exemption is given.

(5) Where subsection (4) applies to an interest that is a portion of a building, the exemption also applies to a proportionate part of the land on which the building stands.

Revitalization Program

8.(1) A revitalization program is hereby established to encourage one or more of the following objectives:

(a) economic revitalization;

(b) environmental revitalization; and

(c) social or cultural revitalization,

of reserve lands by providing tax incentives for those who invest in reserve lands.

(2) Under the revitalization program, an interest in reserve lands may be granted a complete or partial exemption from taxation, for a maximum duration of ten (10) years where:

(a) a proponent taxpayer and Esquimalt Nation enter into a revitalization agreement regarding the applicable interest in reserve lands; and

(b) subject to subsection (c), the revitalization agreement obligates the proponent taxpayer to invest in the rehabilitation or development of the applicable reserve lands to the following minimum amounts:

(i) \$1,000,000, if the objective provided for in the revitalization agreement is economic revitalization;

(ii) \$250,000, if the objective provided for in the revitalization agreement is environmental revitalization; and

(iii) \$125,000, if the objective provided for in the revitalization agreement is cultural or social revitalization, or

(c) where the proponent taxpayer is a corporation of which one hundred percent (100%) of its shares are owned by one or more members of Esquimalt Nation, and the proponent taxpayer is a holder of an interest in reserve lands used for business purposes, the revitalization agreement obligates the proponent taxpayer to invest in the rehabilitation or development of the applicable reserve lands to the following minimum amounts:

(i) \$1, if the objective provided for in the revitalization agreement is economic revitalization;

(ii) \$25,000, if the objective provided for in the revitalization agreement is environmental

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revitalization; and

(iii) \$10,000, if the objective provided for in the revitalization agreement is cultural or social revitalization.

(3) A revitalization agreement must be finalized prior to October 31st in the year before the taxation exemption is to go into effect and must:

(a) describe the interest in reserve lands, or proposed interest in reserve lands, which is the subject of the revitalization agreement by reference to an assessment roll folio number, or by reference to a lot number and survey plan, or by other sufficient and reliable form of description;

(b) provide the details of the nature and time-table of the investment to be made by the proponent taxpayer in the reserve lands which are the subject of the revitalization agreement;

(c) detail the taxation year that the exemption will go into effect, any conditions precedent to the exemption going into effect, the duration of the revitalization agreement, and the percentage of exemption provided in regard to the interest in reserve lands which is the subject of the revitalization agreement;

(d) include a provision that the exemption from taxation will end if the proponent taxpayer does not actually carry out the investment described in the revitalization agreement, or otherwise breaches the revitalization agreement; and

(e) provide that the tax administrator shall be responsible for the implementation of the revitalization agreement on behalf of Esquimalt Nation, and provide the name of the individual responsible for the implementation of the revitalization agreement on behalf of the proponent taxpayer.

(4) Esquimalt Nation may enter into more than one revitalization agreement with a proponent taxpayer for the same interest in reserve lands in subsequent years provided that a new investment meeting the criteria in subparagraph (2)(b) or 2(c) is made.

(5) Once any conditions precedent in a revitalization agreement have been met, or if there are no conditions precedent, once the revitalization agreement has been approved and signed by both Esquimalt Nation and the proponent taxpayer, the tax administrator will issue an exemption certificate to the proponent taxpayer.

(6) An exemption certificate must be finalized prior to October 31st in the year before the taxation exemption is to go into effect and must specify the following:

(a) the extent of the tax exemption;

(b) the amount of the tax exemption or the formula for determining the exemption;

(c) the term of the tax exemption;

(d) if applicable, the conditions on which the tax exemption is provided;

(e) if applicable, that a recapture amount is payable if the exemption certificate is cancelled, and how that amount is to be determined.

(7) Council may, from time to time, by resolution prescribe any procedures, application forms, or other materials required for the proper promotion and administration of the revitalization program.

(8) The tax administrator will provide the assessor a copy of

(a) any revitalization agreement within ten (10) days of its final approval and signing by Esquimalt Nation and the proponent taxpayer, and

(b) any exemption certificate within ten (10) days of its issuance by the tax administrator.

(9) Where an exemption certificate has been issued, Esquimalt Nation may only terminate the certificate by resolution:

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- (a) at the request of the holder; or
 - (b) if the holder fails to make the investment described in the applicable revitalization agreement, or otherwise breaches the revitalization agreement.
- (9) Upon termination of an exemption certificate by Esquimalt Nation under subsection (8):
- (a) the tax administrator must, within ten (10) days, notify the holder and the assessor of the cancellation and of the date on which it took effect or will take effect;
 - (b) where terminated under paragraph (8)(b), the holder is liable for all taxes that would have been payable in respect of the interest in reserve lands from the date of the breach; and
 - (c) the tax administrator must give written notice to the holder of:
 - (i) any taxes due from the date of cancellation; or
 - (ii) any taxes due from the date that the holder breached the agreement;
 - (d) the holder is liable and must, within thirty (30) days, pay Esquimalt Nation all amounts owing as set out in paragraph (c); and
 - (e) penalties are assessable and payable under Part X for any outstanding taxes or monies owing under paragraph (c) that are not paid within thirty (30) days in accordance with paragraph (d).
- (10) In this section “proponent taxpayer” includes a person who is not a holder at the time of signing the revitalization agreement but who makes a commitment in the revitalization agreement to acquire an identified interest in reserve lands subsequent to the execution of the revitalization agreement.

PART VI

GRANTS

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 of taxable property
- (a) where the holder is a charitable, philanthropic or other not-for-profit corporation, and Council considers that the taxable property is used for a purpose that is directly related to the purposes of the corporation; and
 - (b) where the holder would be entitled to a grant under the provisions of the *Home Owner Grant Act* (BC) if the holder’s taxable property was subject to taxation by a local government.
- (2) Grants provided under subsection (1)
- (a) may be given only to a holder of taxable 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 taxable property in the current taxation year, less any other grants; and
 - (c) must be used only for the purposes of paying the taxes owing on the taxable property in the current taxation year.
- (3) A grant under paragraph (1)(b) must be in an amount that is not more than the amount to which a person would be entitled under the *Home Owner Grant Act* (BC) if the holder’s taxable property was subject to taxation by a local government.

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(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 reserve lands.

(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 property.

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

Tax Payments

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 Esquimalt 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 Esquimalt Nation.

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 in respect of each interest in reserve lands:

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

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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 taxable 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 taxable properties are assessed in the name of the same holder, any number of those taxable properties may be included in one Tax Notice.
- (5) Where the holder of a charge on an interest 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 interest to the holder of the charge during the duration of the charge.

Amendments to Tax Roll and Tax Notices

- 15.(1) Where the assessment roll has been revised 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 it is discovered that there is an error, omission or misdescription in any of the information shown on the tax roll
- (a) the tax administrator may correct the tax roll for the current taxation year only; and
 - (b) on correcting the tax roll, the tax administrator must mail an amended Tax Notice to every person affected by the amendment.
- (3) Where an amended Tax Notice indicates a reduction in the amount of taxes owing, the tax administrator must forthwith refund any excess taxes that have been paid, in accordance with section 6.
- (4) Where an amended Tax Notice indicates an increase in the amount of taxes owing, the taxes are due and payable on the date of mailing of the amended Tax Notice; however, the taxpayer must be given thirty (30) days to pay those taxes and a penalty and interest must not be added in that period.

Taxation Based on Supplementary Assessment

- 16.(1) Where a supplementary assessment roll is issued in accordance with the Assessment Law, the tax administrator must make the necessary changes to the tax roll and mail a Tax Notice to every person affected by the supplementary assessment roll.
- (2) Where a Tax Notice is given under this section, subsections 15(3) and (4) apply.

Subdivision

- 17.(1) If a taxable 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 taxable properties created by the subdivision in the same proportions as taxes would have been payable in respect of the taxable 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.

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(2) Taxes apportioned to a taxable property under subsection (1) are the taxes payable in respect of the taxable 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

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 an interest in reserve lands, 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

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 reserve lands 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 reserve lands, 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 X

PENALTIES AND INTEREST

Penalty

21. If all or any portion of the taxes remains unpaid after July 2 of the year in which they are levied, a penalty of ten percent (10%) of the portion of the current year's taxes that remains unpaid will be added to the amount of the unpaid taxes and the amount so added is, for all purposes, deemed to be part of the current year's taxes.

Interest

22. If all or any portion of taxes remains unpaid after July 2 of the year in which they are levied, the unpaid portion accrues interest at fifteen percent (15%) per year until paid or recovered, and accrued interest is, for all purposes, deemed to be part of the taxes.

Application of Payments

23. Payments for taxes must be credited by the tax administrator first, to unpaid taxes from previous taxation years, with taxes imposed earlier being discharged before taxes imposed later and second, to unpaid taxes for the current taxation year.

PART XI

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 Esquimalt Nation.

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(2) Revenues raised include

- (a) taxes, including, for greater certainty, interest, penalties and costs, as set out in this Law; and
- (b) payments-in-lieu of taxes.

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

Reserve Funds

25.(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 Esquimalt 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 Esquimalt Nation, no later than the time when the moneys are needed for the purposes of that reserve fund.

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

- (a) assumed third-party management of Esquimalt Nation's local revenue account, and
- (b) determined that moneys must be borrowed from a reserve fund to meet the financial obligations of Esquimalt Nation,

the First Nations Financial Management Board 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 XII

COLLECTION AND ENFORCEMENT

Recovery of Unpaid Taxes

26.(1) The liability referred to in subsection 5(2) is a debt recoverable by Esquimalt Nation

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- (a) in any court of competent jurisdiction,
- (b) in a proceeding before the civil resolution tribunal, and
- (c) by any other method authorized in this Law,

and, unless otherwise provided, the use of one method does not prevent seeking recovery by one or more other methods.

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

(3) Costs incurred by Esquimalt Nation in the collection and enforcement of unpaid taxes

- (a) are determined in accordance with Schedule III; and
- (b) are payable by the debtor as unpaid taxes.

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

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

Tax Arrears Certificate

27.(1) Before taking any enforcement measures under Parts XIII, XIV or XV 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 taxable 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 reserve lands to which they pertain that attaches to the interest and binds subsequent holders of the interest.

(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 reserve lands.

(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 reserve lands.

(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 XIII, XIV and XV.

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

(3) Personal delivery of a document is made

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- (a) in the case of an individual, by leaving the document with that individual or with an individual at least eighteen (18) years of age residing at that individual's place of residence;
 - (b) in the case of a first nation, by leaving the document with the individual apparently in charge, at the time of delivery, of the main administrative office of the first nation, or with the first nation's legal counsel; and
 - (c) in the case of a corporation, by leaving the document with the individual apparently in charge, at the time of delivery, of the head office or one of its branch offices, or with an officer or director of the corporation or the corporation's legal counsel.
- (4) A document is considered to have been delivered
- (a) if delivered personally, on the day that personal delivery is made; and
 - (b) if sent by registered mail, on the fifth day after it is mailed.
- (5) Copies of notices must be delivered
- (a) where the notice is in respect of taxable property, to all persons named on the tax roll in respect of that taxable property; and
 - (b) where the notice is in respect of personal property, to all holders of security interests in the personal property registered under the laws of the Province.

PART XIII

SEIZURE AND SALE OF PERSONAL PROPERTY

Seizure and Sale of Personal Property

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 reserve.

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

Notice of Seizure and Sale

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 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.

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(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 Esquimalt Nation in order of their priority under the laws applicable in the Province, and any remaining proceeds must be paid to the debtor.

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

PART XIV

SEIZURE AND ASSIGNMENT OF TAXABLE PROPERTY

Seizure and Assignment of Taxable Property

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

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(b) posted in a prominent place on 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, Esquimalt 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 Affairs and Northern Development 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 taxable property 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 Esquimalt 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, Esquimalt 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, Esquimalt 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

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interest 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 41(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 taxable property.

(4) Upon assignment under subsection 41(4), 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 Esquimalt Nation, and

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

and any remaining proceeds must be paid to the debtor.

(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 Esquimalt Nation

44.(1) If the right to assignment of taxable property is purchased by Esquimalt 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 XV

DISCONTINUANCE OF SERVICES

Discontinuance of Services

45.(1) Subject to this section, Esquimalt 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 Esquimalt 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.

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(3) Esquimalt 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 XVI

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, the civil resolution tribunal, 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 interest in reserve lands 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,

(a) the tax administrator may disclose information and records to a third party for research purposes, including statistical research, provided the information and records do not contain information in an individually identifiable form or business information in an identifiable form;

(b) Council may disclose information and records to a third party for research purposes, including statistical research, in an identifiable form where

(i) the research cannot reasonably be accomplished unless the information is provided in an identifiable form, and

(ii) the third party has signed an agreement with Council to comply with Council's requirements respecting the use, confidentiality and security of the information.

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 Esquimalt 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 Esquimalt Nation, whether under protest or otherwise, on account of a demand, whether valid or invalid, for taxes or

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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 Esquimalt 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.

Force and Effect

52. 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 16th day of December, 2019, at Esquimalt Reserve, in the Province of British Columbia.

A quorum of Council consists of three (3) members of Council.


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Chief Robert Thomas



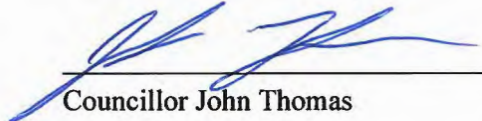
Councillor Mildred Modeste



Councillor Rene Thomas



Councillor Barbara Lecoy



Councillor John Thomas

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SCHEDULE I

**REQUEST FOR INFORMATION BY TAX ADMINISTRATOR
FOR ESQUIMALT NATION**

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN RESERVE LANDS: _____

DATE OF REQUEST: _____

PURSUANT to section 18 of the *Esquimalt Nation Property Taxation Law, 2019* , 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 reserve lands:

(1)

(2)

(3)

Tax Administrator for Esquimalt Nation

Dated: _____, 20____.

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SCHEDULE II

TAX NOTICE

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN RESERVE LANDS: _____

PURSUANT to the provisions of the *Esquimalt Nation Property Taxation Law, 2019*, taxes in the amount of _____ dollars (\$____) are hereby levied with respect to the above-noted interest.

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 Esquimalt Nation, located at 1189 Kosapsun Crescent, Victoria, BC V9A 7K7 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 *Esquimalt Nation Property Taxation Law, 2019*.

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: \$ _____

Costs: [insert details] \$ _____

Total Payable: \$ _____

Tax Administrator for Esquimalt Nation

Dated: _____, 20____.

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SCHEDULE III

COSTS PAYABLE BY DEBTOR ARISING FROM THE COLLECTION AND ENFORCEMENT OF UNPAID TAXES

For costs arising from the collection and enforcement of unpaid taxes:

1. For preparation of a notice \$25.00
2. For service of notice on each person or place
by Esquimalt Nation \$45.00
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:
 - (a) in conducting a seizure and sale of
personal property under Part XIII,
not including costs otherwise recovered
under this Schedule;
 - (b) in conducting an auction or tender under
Part XIV, not including costs otherwise
recovered under this Schedule \$ 40 per person
per hour
6. Actual costs incurred by Esquimalt Nation for carrying out the enforcement measures under Parts
XIII, XIV and XV will be charged based on receipts.

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**SCHEDULE IV
TAX CERTIFICATE**

In respect of the interest in reserve lands described as: _____ and pursuant to the *Esquimalt Nation Property Taxation Law, 2019*, I hereby certify as follows:

That all taxes due and payable in respect of the above-referenced interest 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 as of the date of this certificate.

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

Tax Administrator for Esquimalt Nation

Dated: _____, 20____.

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**SCHEDULE V
TAX ARREARS CERTIFICATE**

In respect of the taxable property described as: _____ and pursuant to the *Esquimalt Nation Property Taxation Law, 2019*, I hereby certify as follows:

As of the date set out below, that taxes, interest and penalties are unpaid in respect of the above-referenced taxable property, as follows:

Taxes: \$ _____

Penalties: \$ _____

Interest: \$ _____

Total unpaid tax debt: \$ _____

The total unpaid tax debt is due and payable immediately.

The unpaid tax debt accrues interest each day that it remains unpaid, at a rate of _____ percent (___ %) per year.

Payments must be made at the offices of Esquimalt Nation, located at 1189 Kosapsum Crescent, Victoria, BC V9A 7K7 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 Esquimalt Nation

Dated: _____, 20____.

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SCHEDULE VI

NOTICE OF SEIZURE AND SALE OF PERSONAL PROPERTY

TO: _____

ADDRESS: _____

DESCRIPTION OF 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 above-referenced 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:

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 section 30 of the *Esquimalt Nation Property Taxation Law, 2019*, seizing the personal property described as follows:

[general description of the personal property to be seized]

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

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

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

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

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

Tax Administrator for Esquimalt Nation

Dated: _____, 20____.

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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 Esquimalt Nation will take place on _____, 20____ at _____ o'clock at _____ [location].

The following personal property, seized pursuant to section 30 of the *Esquimalt Nation Property Taxation Law, 2019*, 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 Esquimalt 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 Esquimalt Nation

Dated: _____, 20____.

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SCHEDULE VIII
NOTICE OF SEIZURE AND ASSIGNMENT OF
TAXABLE PROPERTY

TO: _____
(the "debtor")

ADDRESS: _____

DESCRIPTION OF TAXABLE PROPERTY: _____
(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 section 36 of the *Esquimalt Nation Property Taxation Law, 2019*, 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 Esquimalt 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 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, Esquimalt 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 Esquimalt 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

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the “redemption period”). Where the right to an assignment is redeemed, Esquimalt 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, Esquimalt 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 constituting the taxable property.

9. Council of Esquimalt 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 Esquimalt 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 taxable property.

12. Upon assignment of the taxable property, the debtor will be required to immediately vacate the taxable property, and any 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 Esquimalt 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 *Esquimalt Nation Property Taxation Law, 2019*.

Tax Administrator for Esquimalt Nation

Dated: _____, 20____.

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SCHEDULE IX

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

TO: _____
(the "debtor")

ADDRESS: _____

DESCRIPTION OF TAXABLE PROPERTY: _____
(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 Esquimalt 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 Esquimalt 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, Esquimalt 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 Esquimalt 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, Esquimalt 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, Esquimalt 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

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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 constituting the taxable property.

6. Council of Esquimalt 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 taxable property.

9. Upon assignment of the taxable property, the debtor will be required to immediately vacate the taxable property, and any 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 Esquimalt 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 *Esquimalt Nation Property Taxation Law, 2019*.

Tax Administrator for Esquimalt Nation

Dated: _____, 20____.

ESQUIMALT NATION PROPERTY TAXATION LAW, 2019

SCHEDULE X

NOTICE OF DISCONTINUANCE OF SERVICES

TO: _____

ADDRESS: _____

DESCRIPTION OF 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 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 *Esquimalt Nation Property Taxation Law, 2019*.

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 Esquimalt Nation

Dated: _____, 20____.