

Ministre des Affaires indiennes et
du Nord canadien et interlocuteur fédéral
auprès des Métis et des Indiens non inscrits



Minister of Indian Affairs and
Northern Development and Federal Interlocutor
for Métis and Non-Status Indians

Ottawa, Canada K1A 0H4

I, Minister of Aboriginal Affairs and Northern Development, HEREBY
APPROVE, pursuant to section 83 of the *Indian Act*, the following by-law
made by the Eskasoni, in the Province of Nova Scotia, at a meeting held
on the 28th day of February 2012.

- **Eskasoni Property Assessment and Taxation By-law, 2012**

A handwritten signature in blue ink, appearing to be 'A. M. ...'.

Dated at Ottawa, Ontario, this 24th day of April 2012.

ESKASONI PROPERTY ASSESSMENT AND TAXATION BY-LAW, 2012

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WHEREAS:

A. Pursuant to paragraph 83(1)(a) 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 the reserve, including rights to occupy, possess or use land in the reserve; and

B. The Council of the Eskasoni deems it to be in the best interests of the band to make a by-law for such purposes;

NOW THEREFORE the Council of the Eskasoni duly enacts as follows:

PART I CITATION

Citation

1. This By-law may be cited as the *Eskasoni Property Assessment and Taxation By-law, 2012*.

PART II DEFINITIONS AND REFERENCES

Definitions and References

2. (1) In this By-law:

“aquaculture property” means the land, land covered by water and complementary buildings used for aquaculture purposes, but does not include any residential property or the land used in connection with residential property;

“assessable property” means property that is liable to assessment under this By-law;

“assessed value” means the value of an interest in land or improvements, or both, as if the land or improvements were held in fee simple off the reserve, as determined under this By-law;

“assessment” means a value of property as determined in accordance with this By-law;

“*Assessment Act*” means the *Assessment Act* R.S., c.23, s.1;

“Assessment Notice” means a notice containing the information set out in Schedule V;

“Assessment Review Board” means a board established by Council in accordance with section 19;

“assessment roll” means a roll prepared pursuant to this By-law and includes an amended assessment roll;

“assessor” means a person appointed by Council under subsection 3(1);

“*Bankruptcy and Insolvency Act*” means the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3;

“base date” means the date prescribed by the Director of Assessments under the *Assessment Act* for the purposes of determining the market value of assessable property;

“bed and breakfast establishment” means a private home in which the owner resides and provides accommodation to the travelling or vacationing public of a maximum of four (4) bedrooms and a common living room and serves breakfast of which the cost is included in the price of the accommodation;

“Business Day” means Monday through Friday, except prescribed statutory holidays in the Province and in Canada;

“*Cemetery and Funeral Services Act*” means the *Cemetery and Funeral Services Act*, R.S., c.62, s.1;

“chair” means the chair of the Assessment Review Board;

“commercial activity” means any particular transaction, act or conduct or any regular course of conduct that is of a commercial character, including the selling, bartering or leasing of donor, membership or other fundraising lists;

“commercial property” means all property except residential and resource property;

“complainant” means a person who commences an appeal of an assessment under this By-law;

“*Criminal Code*” means the *Criminal Code*, R.S.C., 1985, c. C-46;

“Council” has the meaning given to ‘Council of the band’ in section 2 of the *Indian Act*;

“debtor” means a person liable for unpaid taxes imposed under this By-law;

“Demand for Payment/Notice of Enforcement” means a notice containing the information set out in Schedule XIII;

“expenditure by-law” means a by-law under subsection 66(3);

“farming” includes tillage of the soil, growing and harvesting agricultural crops, livestock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairy farming, fruit growing and the keeping of bees, but does not include an office or employment under a person engaged in the business of farming;

“farm property” means the land and complementary buildings used principally in the course of carrying on business of farming but does not include any residential property or the land used in connection with residential property;

“First Nation” means Eskasoni, being a band as defined under section 2 of the *Indian Act*;

“First Nation Corporation” means a corporation in which at least a majority of the shares are owned and controlled in trust for the sole benefit of the First Nation or all of the members of the First Nation;

“*First Nations Land Management Act*” means the *First Nations Land Management Act*, S.C. 1999, c. 24;

“forest property” means any land used principally in the course of carrying on business of production and harvesting trees, excluding any buildings or structures on such land used or intended to be used for residential or commercial or industrial purposes or any combination of such purposes;

“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) any building, fixture, structure or similar thing other than land, that is included in the definition of assessable property in the *Assessment Act*, and
- (b) utility poles and lines;

“*Income Tax Act*” means the *Income Tax Act*, R.S.C., 1985, c. C-46;

“*Indian Act*” means the *Indian Act*, R.S.C., 1985, c. I-5;

“interest in land” 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;

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

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

“Notice of Assessment Inspection” means a notice containing the information set out in Schedule II;

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

“Notice of Hearing” means a notice containing the information set out in Schedule VII;

“Notice of Sale of a Right to Assignment of Taxable Property” means a notice containing the information set out in Schedule XVIII;

“Notice of Sale of Seized Personal Property” means a notice containing the information set out in Schedule XVI;

“Notice of Seizure and Assignment of Taxable Property” means a notice containing the information set out in Schedule XVII;

“Notice of Seizure of Personal Property” means a notice containing the information set out in Schedule XV;

“Notice of Withdrawal” means a notice containing the information set out in Schedule IX ;

“Order to Attend Hearing/Produce Documents” means notice containing the information set out in Schedule VIII;

“party”, in respect of an appeal of an assessment under this By-law, means the parties to an assessment appeal under section 30;

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

“personal information” means information about an identifiable individual, but does not include the name, title or business address or telephone number of an employee of an organization;

“PIPEDA” means the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5;

“property” has the same meaning as “interest in land”;

“property class” means those categories of property established in subsection 7(1) for the purposes of assessment and taxation;

“Province” or “provincial” refers to the province of Nova Scotia;

“registry” means any government or First Nation land registry in which interests in land are registered;

“Request for Information by Assessor” means a notice containing the information set out in Schedule I;

“Request for Information by Tax Administrator” means a notice containing the information set out in Schedule X;

“reserve” means any land set apart for the use and benefit of the First Nation within the meaning of the *Indian Act*;

“residential property” means property or part thereof used or intended to be used for residential purposes but does not include the portion of a hotel or motel used for the purposes of lodging for the public or an apartment hotel;

“resolution” means a motion passed and approved by a majority of Council present at a duly convened meeting;

“resource property” means

- (a) farm property;
- (b) aquaculture property;
- (c) forest property held by a person who holds less than fifty thousand (50,000) acres of forest property in the reserve;
- (d) land of a municipal water utility, excluding any building or structure on that land; and
- (e) community fishermen’s service buildings, occupied and used by boat owners who are licensed commercial fishermen, and the land used in connection with such buildings;

“secretary” means the secretary of the Assessment Review Board appointed under subsection 24(1);

“tax administrator” means the person appointed by Council to that position under subsection 3(4);

“Tax Notice” means a notice containing the information set out in Schedule XI;

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

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

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

“taxes” includes all taxes imposed, levied, assessed or assessable under the this By-law, and all penalties, interest and costs added to taxes under this By-law;

“taxpayer” means a person liable for taxes in respect of taxable property; and

“utility poles and lines” includes any pole lines, metallic or fibre optic cables, towers, poles, wires, transformers, substations, conduits and mains that are used to provide electric light, power, telecommunications, broadcasting, rebroadcasting, transportation and similar services, including power wiring for production machinery up to the main electrical panels or motor control centre, those panels and that centre;

(2) In this By-law, references to a Part (e.g. Part I), section (e.g. section 2), subsection (e.g. subsection 3(1)) paragraph (e.g. paragraph 5(7)(a)) or Schedule (e.g. Schedule I) is a reference to the specified Part, section, subsection, paragraph or Schedule of this By-law, except where otherwise stated.

PART III ADMINISTRATION

Assessor and Tax Administrator

3. (1) Council must, by resolution, appoint one or more assessors to undertake assessments of assessable property in accordance with this By-law and such other duties as set out in this By-law or as directed by Council.

- (2) An appointment under subsection (1) is on the terms and conditions set out in the resolution.
- (3) An assessor appointed by Council must be qualified to conduct assessments of real property in the Province.
- (4) Council must, by resolution, appoint a tax administrator to administer this By-law in accordance with its terms.
- (5) An appointment under subsection (4) is on the terms and conditions set out in the resolution.
- (6) The tax administrator appointed by Council must be qualified to perform the duties and function incumbent upon those in such a position.
- (7) The tax administrator's responsibilities include the collection of taxes and the enforcement of payment under this By-law.
- (8) 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.
- (9) The tax administrator may deliver a Request for Information by Tax Administrator 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 By-law.
- (10) The tax administrator is not bound by the information provided under subsection (9).

Application of By-law

4. This By-law applies to all interests in land within the reserve.

PART IV ASSESSED VALUE

Assessment and Valuation

5. (1) The assessor must assess all interests in land
 - (a) that are subject to taxation under this By-law, including interests in land that would be non-assessable under provincial laws; and
 - (b) for which payments-in-lieu may be accepted by Council.
- (2) The assessor must determine the assessed value of an interest in land and must enter the assessed value of the interest in land on the assessment roll.
- (3) The assessor must assess each property at its market value, such value being the amount which in the opinion of the assessor would be paid if it were sold on the base date in the open market by a willing seller to a willing buyer as if both the property and the parties were off the reserve.
- (4) In forming his or her opinion under subsection (3), the assessor must have regard to the assessment of other properties, both on the reserve and in the vicinity of the reserve, to ensure that taxation falls in a uniform manner upon all residential and resource property, and in a uniform manner upon all commercial property in the reserve.
- (5) Notwithstanding subsections (3) and (4), the assessment of a property must reflect the state of the property as it existed on the first day of December immediately preceding the filing of the assessment roll.
- (6) Except as provided in this By-law, the assessor must make no reduction in the assessed value of a property

merely because the property is subject to any lien, mortgage, lease, claim, licence or any other encumbrance.

(7) Where there is an easement or right-of-way appurtenant to any property, the assessment of the dominant tenement must be increased by the added value that in the opinion of the assessor it receives from the easement or right-of-way and the assessment of the servient tenement must be reduced by the amount that in the opinion of the assessor the value has lost because of the easement or right-of-way.

(8) Property in which there exists any life or similar tenancy or estate, arising otherwise than by a lease, must be assessed to the life tenant or person entitled to possession as if that person were the owner in fee simple off the reserve, but if the remainderman, or all the remaindermen if there are more than one (1), request the assessor in writing to do so, the property may thereafter be assessed to the remainderman or remaindermen as if that person or persons were the owner in fee simple off the reserve.

(9) Whenever two (2) or more persons are, either as business partners, joint tenants, tenants in common or by any other kind of joint interest, the holders of any property, the names of each of them, or of so many of them as can be ascertained by diligent inquiry, must be entered on the assessment roll and the assessment may be apportioned among them to the best of the assessor's judgment or the property may be assessed as a unit to all of the holders known to the assessor.

(10) Where the holder liable to be assessed in respect of any property is unknown to the assessor, the property shall be duly assessed if entered on the assessment roll in the name of "holder unknown".

(11) When the assessor believes that the holder formerly assessed is deceased, the assessor may assess property in the name of the "Estate of _____ (giving name of deceased former holder), deceased".

(12) Property under the control of a person as executor, administrator, trustee, guardian or agent may be assessed in that person's name in his or her representative capacity, and the assessment and any subsequent proceedings must be kept separate and distinct from those based on assessment of the property held by that person in his or her own right.

(13) Where property referred to in subsection (12) is under the control of more than one (1) person, the assessor is not required to serve all of them with an Assessment Notice or any other notice required to be given, but notice given to any one of them is deemed to be notice given to all of them.

(14) The assessor must assess property that is non-assessable under provincial legislation, and must not apply any exemptions from taxation provided for in provincial legislation and standards.

(15) Except as otherwise provided in this By-law, for the purposes of assessing interests in land the assessor must use:

- (a) the valuation methods, standards, rates, rules and formulas established under provincial assessment legislation at the time of assessment; and
- (b) the assessment rules, practices and guidelines used by assessors in the Province for conducting assessments off the reserve.

Assessment and Valuation - Specific Rules

6. (1) Where in determining the assessment of a hotel, motel or apartment hotel used for the purpose of lodging for the public, it is necessary to determine the value of the personal property used in the operation of the hotel or motel, the personal property is deemed to have a value equal to fifteen percent (15%) of the value of the hotel, motel or apartment hotel.

(2) For greater certainty, nothing in subsection (1) shall be construed to mean that personal property used in respect of the operation of a hotel, motel or apartment hotel is assessable property.

(3) In calculating the acreage of forest property, the assessor must include, as forest property held by a person, any forest property held by that person either in his own name or in the name of a body corporate, trust, partnership, fund, an unincorporated association or organization in which that person owns or controls a majority of the voting interest, a subsidiary wholly owned corporation, a subsidiary controlled corporation or other entity.

(4) The assessor must assess a pipeline in the name of its owner as a separate assessment from the land on, in, under, along or across which it is located, and a pipeline must be assessed notwithstanding that it is located on, in, under, along or across lands exempt from taxation or lands that are non-assessable.

(5) Notwithstanding subsection 6(4), a pipeline market value for assessment purposes may be calculated as follows:

(a) the assessed value of a pipeline is the base cost for each pipe or class of pipe in the pipeline prescribed by provincial regulations less depreciation in the pipeline determined in accordance with the depreciation rate prescribed by such regulations; and

(b) the depreciation of a pipeline that is relocated continues as if the pipeline were not relocated.

(6) The assessor must assess utility poles and lines in the name of its owner as a separate assessment from the land on, in, under, along or across which it is located, and utility poles and lines must be assessed notwithstanding that they are located on, in, under, along or across lands exempt from taxation or lands that are non-assessable.

Property Classes

7. (1) Council hereby establishes the property classes of residential property, commercial property and resource property for the purposes of assessment and imposing taxes under this By-law.

(2) When preparing an assessment of property, the assessor must designate each property as being residential property, commercial property or resource property, or partly one and partly another.

(3) In designating a property class to each property, the assessor must use the corresponding provincial classification rules for the property classes.

(4) Where a property is in part one of, and in part another one or more of, residential property, commercial property or resource property, the assessor must enter on the assessment roll the value of each such part.

(5) Notwithstanding any other section of this By-law, the assessor must classify a bed and breakfast establishment as residential property.

(6) The assessor must classify farm property as resource property.

(7) The assessor must classify forest property as resource property.

PART V REQUESTS FOR INFORMATION AND INSPECTIONS

Requests for Information

8. (1) The assessor may, for any purpose related to the administration of this By-law, deliver a Request for Information by Assessor to a holder, a person who has disposed of assessable property or any other person that in the reasonable opinion of the assessor may have information to assist the assessor administer this By-law.

(2) A person to whom a request has been delivered under subsection (1) must provide the assessor all

reasonable assistance and furnish the information requested by answering and completing the request with a true statement of the particulars requested by the assessor, and must sign and return the information to the assessor within thirty (30) days from the date of delivery, or a longer period as specified in the notice.

(3) Information received under subsection (2) does not bind the assessor nor excuse the assessor from making due inquiry to ascertain its correctness, and notwithstanding such information the assessor may assess any property at such assessment as the assessor believes to be just and correct, or may omit from the assessment roll a person's name or any property which that person claims to own if the assessor believes the person is not liable to be placed on the roll or to be assessed for such property.

Inspections

9. (1) The assessor may, for any purposes related to assessment, enter into or on and inspect land and improvements.

(2) Where the assessor wishes to conduct an inspection of assessable property for the purpose of assessing its value, the assessor must deliver a Notice of Assessment Inspection by personal delivery, mail, fax or e-mail to the person named on the assessment roll at the address indicated on the assessment roll.

(3) Personal delivery of a Notice of Assessment Inspection is made

(a) in the case of delivery to a residential dwelling, by leaving the notice with a person at least eighteen (18) years of age residing there; and

(b) in the case of delivery to any other assessable property, by leaving the notice with the person apparently in charge, at the time of delivery, on those premises.

(4) A Notice of Assessment Inspection is considered to have been delivered

(a) if delivered personally, at the time personal delivery is made;

(b) if sent by mail, five (5) days after the day on which the notice is postmarked;

(c) if sent by fax, at the time indicated on the confirmation of transmission; and

(d) if sent by e-mail, at the time indicated in the electronic confirmation that the e-mail has been opened.

(5) Where an assessable property is occupied by a person other than the person named on the assessment roll, the person named on the assessment roll must make arrangements with the occupant to provide access to the assessor.

(6) Unless otherwise requested by the person named on the assessment roll, inspections of an assessable property must be conducted between 09:00 and 17:00 local time.

(7) If the assessor attends at an assessable property to inspect it and no occupant eighteen (18) years of age or older is present or permission to inspect the property is denied, the assessor may assess the value of the assessable property based on the information available to the assessor.

(8) As part of an inspection under this section, the assessor must be given access to, and may examine and take copies of and extracts from, the books, accounts, vouchers, documents and appraisals respecting the assessable property and the occupant must, on request, furnish every facility and assistance required for the entry and examination.

PART VI ASSESSMENT ROLL AND ASSESSMENT NOTICE

Assessment Roll

- 10.** (1) Not later than December 31 of each taxation year, the assessor must complete a new assessment roll containing a list of every interest in land that is liable to assessment under this By-law.
- (2) The assessment roll must be in paper or electronic form and must contain the following information:
- (a) the name and last known address of the holder;
 - (b) location and a concise description of the interest in land;
 - (c) the classification of the interest in land;
 - (d) the assessed value by classification of the interest in land;
 - (e) the assessed value of the interest in land subject to taxation under this By-law; and
 - (f) any other information the assessor considers necessary.

Certification by Assessor

- 11.** On completion of the assessment roll the assessor must
- (a) certify in writing in substantially the form set out in Schedule III that the assessment roll was completed in accordance with the requirements of this By-law; and
 - (b) deliver a copy of the certified assessment roll to Council.

Amendments to Assessment Roll

- 12.** (1) Where the assessor amends the assessment roll to correct errors and omissions or implement decisions of the Assessment Review Board, the assessor must:
- (a) date and initial amendments made to the assessment roll; and
 - (b) report the change or correction to Council and to the tax administrator.
- (2) Where the assessment roll is amended under this By-law, the amendments are an integral part of the assessment roll and are deemed to be effective as of the date the assessment roll was certified under section 11.
- (3) The assessor must not amend the assessment roll contrary to an order or direction of the Assessment Review Board or a court of competent jurisdiction.

Validity of Assessment Roll

- 13.** An assessment roll is effective on certification and, unless amended in accordance with this By-law by a decision of the Assessment Review Board or by an order of a court of competent jurisdiction, is
- (a) valid and binding on all parties concerned, despite
 - (i) any omission, defect or error committed in, or with respect to, the assessment roll;
 - (ii) any defect, error or misstatement in any notice required; or
 - (iii) any omission to mail any notice required; and
 - (b) for all purposes, the assessment roll of the First Nation until the next certified assessment roll or certified revised assessment roll.

Inspection and Use of Assessment Roll

14. (1) On receipt by Council, the assessment roll is open to inspection in the First Nation's office at 63 Mini Mall Dr., Eskasoni, NS B1W 1C2 by any person during regular business hours.
- (2) A person must not, directly or indirectly, use the assessment roll or information contained in the assessment roll to
- (a) obtain personal information for commercial activity whether by telephone, mail or any other means; or
 - (b) threaten, intimidate or harass anyone.
- (3) The assessor or the tax administrator may require a person who wishes to inspect the assessment roll to complete a declaration in substantially the form set out in Schedule IV
- (a) specifying the purpose for which the information is to be used; and
 - (b) certifying that the information contained in the assessment roll will not be used in a manner prohibited under this section.

Protection of Privacy in Assessment Roll

15. (1) On application by a holder, and at the tax administrator's reasonable discretion, the tax administrator may omit or obscure personal information about the holder that would ordinarily be included in an assessment roll if, in the tax administrator's opinion, the inclusion of personal information could reasonably be expected to be used in breach of subsection 14(2) or threaten the safety or mental or physical health of the holder or a member of the holder's household.
- (2) Where the tax administrator omits or obscures information under subsection (1), such information must be obscured from all assessment rolls that are available for public inspection under subsection 14(1) or are otherwise accessible to the public.

Assessment Notice

16. (1) The assessor must, on completion of the assessment roll each year, deliver an Assessment Notice to every person named in the assessment roll in respect of each assessable property, which notice may be delivered
- (a) either personally or by leaving it at the residence or place of business of the person assessed,
 - (b) by posting it in a conspicuous place on the property assessed, or
 - (c) by mailing it postage pre-paid, addressed to the last or usual place of residence or business, if known to the assessor,
- but where such place of residence or business is not known to the assessor, failure to deliver the notice will not render invalid the assessment or any subsequent proceedings based on that assessment.
- (2) Where requested by the recipient, an Assessment Notice may be e-mailed to a person named on the assessment roll, and the Assessment Notice will be deemed to have been delivered on the date that the e-mail is sent by the assessor.
- (3) A person whose name appears in the assessment roll must give written notice to the assessor of any change of address.
- (4) If a person who is assessed in the assessment roll dies either before or after the completion of the assessment roll, the assessor may mail the Assessment Notice to the deceased's executors or administrators and if no

executor or administrator has been appointed, or if they are not known to the assessor, then the assessor may mail the notice to a person whom the assessor believes to have an interest in the property, or it may be posted on the property assessed.

(5) Any number of interests in land assessed in the name of the same holder may be included in one Assessment Notice.

(6) Subject to section 14, the assessor must provide, to any person who requests it and pays the fee of ten dollars (\$10), the information contained in the current Assessment Notice sent by the assessor.

PART VII AMENDMENTS TO THE ASSESSMENT ROLL

Omissions, Errors and Changes in Assessment Roll

17. (1) If in any taxation year after the certification of the assessment roll under section 11, the assessor discovers that property liable to assessment has been omitted from the assessment roll, the assessor must before the end of the taxation year assess the property and amend the assessment roll, and mail an amended Assessment Notice to every person named in the assessment roll in respect of the property affected.

(2) Where in any taxation year after certification of the assessment roll under section 11, the assessor determines that:

- (a) property has been assessed in the name of someone other than the holder;
- (b) property has been entered on the assessment roll in error;
- (c) property has been improperly classified;
- (d) property has been improperly assessed as taxable or exempt; or
- (e) a gross and manifest error has occurred in the assessment, the assessor may, at any time before the end of the taxation year in respect of which the assessment roll has been certified, amend the assessment roll to correct the error and mail an amended Assessment Notice to every person named in the assessment roll in respect of the property affected.

(3) If the assessor discovers that any property exempt from taxation ceases to be so exempt on or before the first day of March in any taxation year, the assessor must amend the assessment roll to reflect the change and classify the property according to its current use, and mail an amended Assessment Notice to every person named in the assessment roll in respect of the property affected.

(4) If the assessor is notified by a holder or otherwise determines that a property has become exempt from taxation during a taxation year, the assessor must amend the assessment roll to reflect the change and mail an amended Assessment Notice to every person named in the assessment roll in respect of the property affected.

Improper Classification of Commercial Property

18. (1) If in any taxation year after the certification of the assessment roll under section 11, the assessor discovers that property liable to assessment has been improperly classified as other than commercial property, the assessor must before the end of the taxation year assess the property and amend the assessment roll, and mail an amended Assessment Notice to every person named in the assessment roll in respect of the property affected.

(2) If in any taxation year after the certification of the assessment roll under section 11, the assessor discovers that property liable to assessment has been improperly classified as commercial property, the assessor must before the end of the taxation year assess the property and amend the assessment roll, and mail an amended Assessment Notice to every person named in the assessment roll in respect of the property affected.

**PART VIII
ASSESSMENT REVIEW BOARD**

Council to Establish Assessment Review Board

19. (1) Council must, by resolution, establish an Assessment Review Board to hear and determine assessment appeals under this By-law.

(2) The Assessment Review Board must consist of not less than three (3) members, including at least one (1) who:

- (a) is a member of the law society of the Province;
- (b) is a member of the First Nation, resident on the reserve, but not a member of Council; and
- (c) has experience in assessment appeals in the Province.

(3) Each member of the Assessment Review Board must hold office for a period of three (3) years unless the member resigns or is removed from office in accordance with this By-law.

(4) If a member of the Assessment Review Board is absent, disqualified, unable or unwilling to act, Council may appoint another person, who would otherwise be qualified for appointment as a member, to replace the member until the member returns to duty or the member's term expires, whichever comes first.

Remuneration and Reimbursement

20. (1) The First Nation must remunerate

- (a) a member of the Assessment Review Board and a replacement member appointed to act, other than the chair, for his or her services at a rate of two hundred and fifty dollars (\$250) per half day, and
- (b) the chair, or acting chair, for his or her services at a rate of three hundred dollars (\$300) per half day,

for time spent on activities related to the Assessment Review Board.

(2) The First Nation must reimburse a member of the Assessment Review Board and a replacement member appointed to act for reasonable travel and out of pocket expenses necessarily incurred in carrying out his or her duties.

Removal of Member

21. Council may terminate the appointment of a member of the Assessment Review Board for cause, including where a member:

- (a) is convicted of an indictable offence under the *Criminal Code*;
- (b) makes an assignment for the benefit of creditors generally or files a proposal under the *Bankruptcy and Insolvency Act* or a receiving order is made or a petition is filed under the *Bankruptcy and Insolvency Act* against the member.
- (c) fails to attend three (3) consecutive hearings of the Assessment Review Board;
- (d) fails to perform any of his or her duties under this By-law in good faith and in accordance with the terms of this By-law; or
- (e) is otherwise disqualified under this By-law.

Conflicts of Interest

22. (1) A person is disqualified to serve as a member of the Assessment Review Board if the person
- (a) is the Chief of the First Nation or a member of Council;
 - (b) is an employee of the First Nation; or
 - (c) has financial dealings with the First Nation which might reasonably give rise to a conflict of interest or impair that person's ability to deal fairly and impartially with an appeal as required under the terms of this By-law.
- (2) For the purposes of paragraph (1)(a), membership in the First Nation does not in itself constitute a personal or financial interest in assessable property.

Appointment of Chair

23. (1) Council must, by resolution, appoint one of the members of the Assessment Review Board as chair.
- (2) The chair must:
- (a) supervise and direct the work of the Assessment Review Board;
 - (b) undertake administrative duties as necessary to oversee and implement the work of the Assessment Review Board;
 - (c) determine procedures to be followed at hearings consistent with this By-law;
 - (d) administer an oath or solemn affirmation to a person or witness before his or her evidence is taken; and
 - (e) preside at hearings of the Assessment Review Board.
- (3) If the chair is absent or incapacitated, Council must designate a member of the Assessment Review Board as the acting chair for the period that the chair is absent or incapacitated.

Appointment of Secretary

24. (1) Council must, by resolution, appoint a secretary of the Assessment Review Board.
- (2) The secretary of the Assessment Review Board must
- (a) have the custody and care of all records, documents, orders and decisions made by or pertaining to the Assessment Review Board; and
 - (b) fulfill such other duties as directed by the chair and the Assessment Review Board.

Duty of Member

25. (1) In performing their duties under this By-law, the members of the Assessment Review Board must act faithfully, honestly and impartially and to the best of their skill and ability, and must not disclose to any person information obtained by them as a member, except in the proper performance of their duties.
- (2) Every member of the Assessment Review Board must before commencing his or her duties, take and subscribe before the Band Manager or a notary public or commissioner for taking oaths an oath or affirmation in the form as follows:

“I, _____, of _____ do solemnly swear [or affirm] that I will, to the best of my judgment and ability, and without fear, favour or partiality, honestly decide

the appeals to the assessment review board which may be brought before me for hearing and decision as a member of the assessment review board.”

**PART IX
APPEAL TO ASSESSMENT REVIEW BOARD**

Appeals

26. The Assessment Review Board must hear and determine appeals made under this Part.

Notice of Appeal

27. (1) Any person, including without limitation the First Nation and the assessor, may appeal an assessment to the Assessment Review Board by delivering

- (a) a completed Notice of Appeal;
- (b) a copy of the Assessment Notice; and
- (c) an administration fee of thirty dollars (\$30),

to the assessor at the address set out in the Assessment Notice within thirty (30) days after the date on which the Assessment Notice was mailed or e-mailed to the person named on the assessment roll in respect of the assessable property.

(2) A valid ground for an appeal may be in respect of one or more of the following:

- (a) the liability of the holder to taxation under this By-law;
- (b) the assessed value of the property;
- (c) the assessment classification of the property;
- (d) the applicability of an exemption to the property; or
- (e) any alleged error or omission in an assessment or Assessment Notice.

(3) Where an appeal is commenced with respect to an assessment amended under section 17 or 18, the appeal must be confined to the amendment.

(4) No appeal may be brought respecting an assessment amended to reflect a decision of the Assessment Review Board or a court of competent jurisdiction.

Agents and Solicitors

28. Where a complainant is represented in an appeal through a solicitor or agent, all notices and correspondence required to be given to the complainant are properly given if delivered to the solicitor or agent at the address set out in the Notice of Appeal.

Scheduling of Hearing

29. (1) On delivery of a Notice of Appeal to the assessor, the chair must, in consultation with the assessor, schedule a hearing of the appeal.

(2) The chair must, at least six (6) days before the hearing, deliver a Notice of Hearing to the parties and to each person named on the assessment roll in respect of the assessable property.

Parties

30. (1) The parties in a hearing are
- (a) the complainant;
 - (b) the holder of the assessable property, if not the complainant;
 - (c) the assessor; and
 - (d) any person who the Assessment Review Board determines may be affected by the appeal, upon request by that person.
- (2) The First Nation may request that it be added as a party to an appeal and, upon receipt of such a request the Assessment Review Board must add the First Nation as a party. .

Delivery of Documentation

31. The assessor must without delay deliver a copy of any document submitted by a party in relation to a hearing to all other parties.

Timing for Hearing

32. Subject to section 44, the Assessment Review Board must commence and complete all appeal hearings without delay.

Daily Schedule

33. (1) The chair must
- (a) create a daily schedule for the hearings of the Assessment Review Board; and
 - (b) post the daily schedule at the place where the Assessment Review Board is to meet.
- (2) The Assessment Review Board must proceed to deal with appeals in accordance with the daily schedule, unless the Assessment Review Board considers a change in the schedule necessary and desirable in the circumstances.

Conduct of Hearing

34. (1) The Assessment Review Board must give all parties a reasonable opportunity to be heard at a hearing.
- (2) A party may be represented by counsel or an agent and may make submissions as to fact and law.
 - (3) The Assessment Review Board may conduct a hearing whether the complainant is present or not, provided the complainant was given notice of the hearing in accordance with this By-law.
 - (4) The burden of proof in an appeal is on the person bringing the appeal.
 - (5) In an oral hearing, a party may call and examine witnesses, present evidence and submissions and conduct cross-examination of witnesses as reasonably required by the Assessment Review Board for a full and fair disclosure of all matters relevant to the issues in the appeal.
 - (6) The Assessment Review Board may reasonably limit examination or cross examination of a witness if it is satisfied that the examination or cross examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the appeal.

(7) The Assessment Review Board may question any witness who gives oral evidence at a hearing.

(8) The Assessment Review Board may receive and accept information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.

(9) The Assessment Review Board may conduct its proceedings by any combination of written, electronic and oral hearings.

(10) An oral hearing must be open to the public unless the Assessment Review Board, on application by a party, determines that the hearing should be held in whole or in part *in camera*.

Quorum

35. (1) A majority of the members of the Assessment Review Board constitutes a quorum, provided that there shall not be less than three (3) members present at any time.

(2) Where a quorum of the members of an Assessment Review Board is not present at the time at which a hearing is to be held, the hearing must be adjourned to the next day that is not a holiday, and so on from day to day until there is a quorum.

Interest by Member of Assessment Review Board

36. (1) No member of the Assessment Review Board will sit during the hearing or participate in the decision of an appeal with respect to any property that a member has any interest, either direct or indirect.

(2) When the Assessment Review Board decides that a member is disqualified on grounds of interest from hearing any appeal and that the disqualification will mean that an appeal cannot be heard due to a lack of quorum, then a member of the Assessment Review Board will immediately advise Council in writing.

(3) Where a disqualification on grounds of interest results in the lack of quorum to hear any appeal, the Council will appoint temporarily sufficient person to the Assessment Review Board to constitute a quorum to hear and decide the appeal.

Maintaining Order at Hearings

37. (1) The Assessment Review Board may, at an oral hearing, make orders or give directions that it considers necessary to maintain order at the hearing.

(2) Without limiting subsection (1), the Assessment Review Board may, by order, impose restrictions on a person's continued participation in or attendance at a hearing and may exclude a person from further participation in or attendance at a hearing until the Assessment Review Board orders otherwise.

Summary Dismissal

38. (1) At any time after a Notice of Appeal is received by the Assessment Review Board, the Assessment Review Board may dismiss all or part of the appeal where it determines that any of the following apply:

(a) the appeal is not within the jurisdiction of the Assessment Review Board;

(b) the appeal was not filed within the applicable time limit; or

(c) the complainant failed to diligently pursue the appeal or failed to comply with an order of the Assessment Review Board.

(2) Before dismissing all or part of an appeal under subsection (1), the Assessment Review Board must give the complainant an opportunity to make submissions to the Assessment Review Board.

(3) The Assessment Review Board must give written reasons for any dismissal made under subsection (1) to all parties.

Combining Hearings

39. The Assessment Review Board may conduct a single hearing of two or more appeals related to the same assessment roll if the matters in each hearing are addressing the same assessable property or substantially the same issues.

Power to Determine Procedures

40. Subject to this By-law, the Assessment Review Board has the discretionary power to control its own processes and may make rules respecting practice and procedure to facilitate the just and timely resolution of the matters before it.

Orders to Attend/Provide Documents

41. (1) At any time before or during a hearing, but before its decision, the Assessment Review Board may make an order requiring a person to:

(a) attend a hearing to give evidence; or

(b) produce a document or other thing in the person's possession or control as specified by the Assessment Review Board, by issuing an Order to Attend Hearing/Produce Documents and serving it on the person at least two (2) days before the hearing.

(2) Where an order is made under subsection (1), the Assessment Review Board must pay to the person a twenty dollar (\$20) witness fee plus reasonable traveling expenses to attend and give evidence before the Assessment Review Board.

(3) A party may request that the Assessment Review Board make an order under subsection (1) to a person specified by the party.

(4) Where a party makes a request under subsection (3):

(a) the chair must sign and issue an Order to Attend Hearing/Produce Documents and the party must serve it on the witness at least two (2) days before the hearing; and

(b) a party requesting the attendance of a witness must pay a twenty dollar (\$20) witness fee plus reasonable travel expenses to the witness to attend and give evidence before the Assessment Review Board.

(5) The Assessment Review Board may apply to a court of competent jurisdiction for an order directing a person to comply with an order under subsection (1).

(6) A person that is required to attend a hearing under this subsection (4) may request the Assessment Review Board to order additional fees and expenses to be paid for the person's attendance as a witness.

(7) If the Assessment Review Board is satisfied that the fees and expenses paid for the person's attendance are insufficient, then Assessment Review Board may order the party requesting the attendance of such a witness to pay the person at once such additional fees and expenses as the Assessment Review Board considers sufficient.

Adjournments

42. The Assessment Review Board may

(a) hear all appeals on the same day or may adjourn from time to time until all matters have been heard and determined; and

- (b) at any time during a hearing, adjourn the hearing.

Costs

43. The Assessment Review Board may make orders for payment as follows:

- (a) requiring a party to pay all or part of the costs of another party in connection with the appeal; and
- (b) requiring a party to pay all or part of the costs of the Assessment Review Board in connection with the appeal, where the Assessment Review Board considers the conduct of a party has been improper, vexatious, frivolous or abusive.

Matters before the Courts

44. If a proceeding with respect to liability to pay taxes in respect of assessable property that is the subject of an appeal is brought before a court of competent jurisdiction

- (a) before the hearing is to commence, the hearing must be deferred until the matter is decided by the court;
- (b) during the hearing, the hearing must be adjourned until the matter is decided by the court; or
- (c) after the hearing has concluded but before a decision on the appeal is given, the decision must be deferred until the matter is decided by the court.

Withdrawal of Appeal

45. (1) A complainant may withdraw an appeal under this By-law by delivering a Notice of Withdrawal to the Assessment Review Board.

- (2) Upon receipt of a Notice of Withdrawal under subsection (1), the Assessment Review Board must dismiss the matter set for its consideration.

Decisions

46. A decision of the majority of the members is a decision of the Assessment Review Board and, in the case of a tie, the decision of the chair governs.

Power of Assessment Review Board

47. On any appeal, the Assessment Review Board may

- (a) confirm, reduce or increase the valuation of the property that is the subject of the appeal, and confirm, reduce or increase an assessment notwithstanding that the assessment was not appealed;
- (b) dismiss the appeal;
- (c) add to the roll the name and assessment of any person left off the roll;
- (d) strike off the roll the name of any person wrongfully entered on it;
- (e) transfer the assessment to the proper person when any property has been assessed in the name of a person who is not liable to be assessed respecting the property that is subject the appeal;
- (f) when any property has been assessed more than once, strike out the assessment that is improper;
- (g) change the classification of all or part of the property that is the subject of the appeal; and

- (h) correct any clerical errors made by the assessor in the assessment roll.

Delivery of Decisions

48. (1) The Assessment Review Board must, at the earliest opportunity after the completion of a hearing, deliver a written decision on the appeal to all parties.
- (2) The written decision submitted by the Assessment Review Board under this section must include a statement that the appellant has a further right of appeal on a question of law to a court of competent jurisdiction.
- (3) Any person may obtain a copy of a decision of the Assessment Review Board from the tax administrator on request and payment of a fee of ten dollars (\$10).
- (4) The tax administrator may obscure or omit personal information (other than name and address) and financial business information from decisions provided under subsection (3) provided that assessment and property tax information must not be obscured or omitted.
- (5) The assessor must make any changes to the assessment roll that are necessary to reflect a decision of the Assessment Review Board and must mail an amended Assessment Notice to every person named in the assessment roll in respect of the interest in land affected.

Appeals

49. (1) An appeal lies from the Assessment Review Board to a court of competent jurisdiction on a question of law.
- (2) An appeal under subsection (1) must be commenced within thirty (30) days of the delivery of the Assessment Review Board's decision under subsection 48(1).

Delivery of Documents under this Part

50. (1) Delivery of a document under this Part may be made personally or by sending it by registered mail, fax or e-mail.
- (2) Personal delivery of a document is made
- (a) in the case of an individual, by leaving the document with the individual or with a person at least 18 years of age residing at the individual's place of residence;
 - (b) in the case of a first nation, by leaving the document with the person apparently in charge, at the time of delivery, of the administrative office of the first nation or with the first nation's legal counsel; or
 - (c) in the case of a corporation, by leaving the document with the person apparently in charge, at the time of delivery, of the head office or a branch office of the corporation, or with an officer or director of the corporation or the corporation's legal counsel.
- (3) Subject to subsection (4), a document is considered to have been delivered
- (a) if delivered personally, at the time that personal delivery is made;
 - (b) if sent by registered mail, on the fifth day after it is mailed;
 - (c) if sent by fax, at the time indicated on the confirmation of transmission; or
 - (d) if sent by e-mail, at the time indicated in the electronic confirmation that the e-mail has been opened.

(4) A document delivered on a non-business day or after 17:00 local time on a Business Day is considered to have been delivered at 09:00 on the next Business Day.

Special Hearings and Time Extensions

51. (1) If any holder shows, within sixty (60) days from delivery of the Notice of Assessment by oath or affidavit, to the satisfaction of the Assessment Review Board, in writing, that the holder has been prevented by absence, illness or other sufficient cause from appealing his or her assessment or from duly prosecuting his or her appeal, the Assessment Review Board may grant such person a hearing and arrange a sitting to hear the appeal, and the Assessment Review Board may impose such terms as to notice and service of documents as it considers proper.

(2) The Assessment Review Board may sit at such time and place as it shall determine to hear and determine appeals authorized under this section.

PART X LIABILITY FOR TAXATION

Tax Liability

52. (1) Except as provided in Part XI, all interests in land are subject to taxation under this By-law.

(2) Taxes levied under this By-law are a debt owed to the First Nation, recoverable by the First Nation in any manner provided for in this By-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 By-law notwithstanding any proceeding initiated or remedy sought by a taxpayer respecting his or her liability to taxation under this By-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 By-law during the taxation year and for all unpaid taxes imposed in previous taxation years, including for clarity interest, penalties and costs as provided in this By-law.

Refunds

53. (1) Where it is determined under this By-law that a person was taxed in excess of the proper amount, the tax administrator must refund to that person any excess taxes paid by that person.

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

(3) Where a person is entitled to be refunded an amount of taxes paid under this By-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 XI EXEMPTIONS FROM TAXATION

Exemptions

54. (1) The following interests in land are exempt from taxation under this By-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) every church and place of worship and the land used in connection with it, and every churchyard and church burial ground and every church hall used for religious or congregational purposes exclusively save only for occasions specially authorized by church authorities and for which no revenue in excess of one hundred dollars (\$100) per annum is received, but in computing revenue for the purposes of this paragraph there shall be excluded any contribution paid towards the reasonable additional costs of upkeep imposed by the use;
 - (d) the property of a non-profit community cemetery, as cemetery is defined by the *Cemetery and Funeral Services Act*;
 - (e) the property of every college, academy or other public institution of learning with the exception of property mainly used for commercial, industrial, business, rental or other non-educational purposes;
 - (f) public school property;
 - (g) the property of a fire department or an emergency services provider, used directly and solely for community purposes or fund-raising activities of the department or provider; and
 - (h) the property of a hospital 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.

PART XII GRANTS

Annual Grants

55. (1) Council may provide for a grant to a holder, equivalent to or less than the taxes payable on a property, where the holder is a
- (a) registered Canadian charitable organization under the *Income Tax Act* and Council considers that the property is used directly or solely for a charitable use; and
 - (b) non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization and Council considers that the organization provides a service that might otherwise be a responsibility of the Council.
- (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.

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

PART XIII LEVY OF TAX

Tax Levy

56. (1) On or before May 1 in each taxation year, Council must adopt a by-law pursuant to section 83 of the *Indian Act* setting the rate of tax to be applied to each property class.
- (2) A by-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 hundred dollars (\$100) of assessed value of the interest in land.
 - (4) Taxes levied under this By-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 by-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.

Tax Payments

57. (1) Taxes are due and payable on or before June 30 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 Eskasoni.

Tax Roll

58. (1) The tax administrator must create a tax roll on or before May 31 of each taxation year.
- (2) The tax roll must be in paper or electronic form and must contain the following information:
 - (a) a description of the property as it appears on the assessment roll;
 - (b) the name and address of the holder entered on the assessment roll with respect to the property;
 - (c) the name and address of every person entered on the assessment roll with respect to the property;
 - (d) the assessed value by classification of the land and the improvements as it appears in the assessment roll, exclusive of exemptions, if any;

- (e) the amount of taxes levied on the property in the current taxation year under this By-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 By-law; and
 - (b) the amount of any unpaid taxes from previous taxation years.
- (4) An error, omission or misdescription on the tax roll does not invalidate any other information on the tax roll or the tax roll itself.

Annual Tax Notices

59. (1) On or before May 31 of each taxation year, the tax administrator must mail a Tax Notice to:
- (a) each holder of taxable property under this By-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) Where there is an error in the name of a person on a Tax Notice, the taxes may be collected from the person intended to be taxed if the person is taxable and can be identified.
- (3) The tax administrator must enter on the tax roll the date of mailing a Tax Notice.
- (4) The mailing of the Tax Notice by the tax administrator constitutes a statement of and demand for payment of the taxes.
- (5) If a number of properties are assessed in the name of the same holder, any number of those properties may be included in one Tax Notice.
- (6) Where applicable, a Tax Notice must state that taxes are payable in conjunction with periodic lease payments under section 62.
- (7) If it is discovered that there is an error, omission or misdescription in any of the information shown on a Tax Notice, the tax administrator may prepare and send an amended Tax Notice to every person to whom a Tax Notice must be sent under subsection (1).

Amendments to Tax Roll and Tax Notices

60. (1) Except as provided in subsections (2) and (3), where the assessment roll has been amended in accordance with sections 17 or 18, the holder of the affected property must be taxed in respect of that property at the rate fixed for the current taxation year in the same manner as if the property had been properly assessed on the assessment roll when it was certified under section 11.
- (2) Where property exempt from taxation ceases to be so exempt on or before the first day of March in any taxation year, the holder of the property after it ceases to be exempt must be taxed in respect of that property only for the portion of the taxation year during which it is not exempt.
- (3) Where property becomes exempt from taxation during a taxation year, the holder of the property must be taxed only for that portion of the taxation year during which it was not exempt, and the holder must be refunded any taxes paid for the portion of the taxation year in which the property is exempt.
- (4) Upon receipt of notice of an amendment to the assessment roll, the tax administrator must amend the tax roll

and mail an amended Tax Notice to every person to whom a Tax Notice must be sent under subsection 59(1).

(5) 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 to whom a Tax Notice must be sent under subsection 59(1).

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

(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 53.

(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 interest must not be added in that period.

Subdivision

61. (1) If a property is subdivided, by lease or other legal instrument, in the taxation year, the tax administrator may:

- (a) apportion the taxes payable in that year among the properties created by the subdivision in the same proportions as taxes would have been payable in respect of the properties had the subdivision occurred on or before the assessment roll was certified under this By-law; and
- (b) on making an apportionment under paragraph (a), record the apportionment in the manner that the tax administrator considers necessary.

(2) Taxes apportioned to a property under subsection (1) are the taxes payable in respect of the property in the year for which they are apportioned.

(3) The assessor must provide the tax administrator with the assessed values necessary to calculate the proportions of taxes referred to in subsection (1).

PART XIV PERIODIC PAYMENTS

Taxes as a Percentage of Rental Payment

62. (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 XV PAYMENT RECEIPTS AND TAX CERTIFICATES

Receipts for Payments

63. 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

64. (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 ten dollars (\$10) for each tax roll folio searched.

PART XVI PENALTIES AND INTEREST

65. (1) If all or part of the taxes remain unpaid after June 30 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.
- (2) If all or any portion of taxes remains unpaid after June 30 of the year levied, the unpaid portion accrues interest at 1% per month, compounded monthly.
- (3) Where a person pays only a portion of the taxes due, the tax administrator must apply and credit the amount paid first to the payment of accumulated interest, and then to the taxes longest in arrears.

PART XVI APPLICATION OF REVENUES AND EXPENDITURES

Revenues and Expenditures

66. (1) All revenues raised under this By-law must be placed in an account separate from other moneys of the First Nation.
- (2) Revenues raised include:
- (a) taxes, including but not limited to, penalties and costs as set out in this By-law; and
 - (b) payments-in-lieu of taxes.
- (3) Subject to subsection (4), an expenditure of revenue raised under this By-law must be made under authority of an expenditure by-law of the First Nation.
- (4) The following expenditures of revenues raised under this By-law are hereby authorized:
- (a) refunds of overpayment and interest;
 - (b) expenses incurred in the preparation and administration of this By-law;
 - (c) remuneration of the assessor and the tax administrator;
 - (d) remuneration and expenses of the Assessment Review Board; and
 - (e) all enforcement costs.

Reserve Funds

67. (1) Reserve funds established by Council must
- (a) be established in an expenditure by-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, under an expenditure by-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) Council must authorize all payments into a reserve fund and all expenditures from a reserve fund in an expenditure by-law.
- (5) 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 XVII COLLECTION AND ENFORCEMENT

Recovery of Unpaid Taxes

68. (1) The liability referred to in subsection 52(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 By-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 By-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 taking any enforcement measures or commencing enforcement proceedings under Parts XVIII, XIX or XX, the tax administrator must request authorization from Council by resolution.

Demand for Payment/Notice of Enforcement

69. (1) On or after January 2 following the year for which taxes are imposed, the tax administrator must prepare a list of outstanding taxes and of the persons liable for those taxes.
- (2) After the tax administrator has obtained authorization from Council under subsection 68(4) and before taking any enforcement measures or commencing any enforcement proceedings under Parts XIX, XX, XXI, XXII or XXIII, the tax administrator must issue a Demand for Payment/Notice of Enforcement and deliver it to every person named on the tax roll in respect of that property.
- (3) A Demand for Payment/Notice of Enforcement must not be issued for at least six (6) months after the day on which the taxes became due.

Creation of Lien

70. (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 may register a lien created under this By-law in any registry in which the interest in land is registered, at any time after taxes are due and remain unpaid.
- (3) A lien registered under subsection (2) has priority over any unregistered or registered 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 in any registry in which the lien was registered under subsection (2).
- (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 or clerical error or omission in its creation or registration in a registry.

Delivery of Documents in Enforcement Proceedings

71. (1) This section applies to this Part and Parts XVIII, XIX and XX.
- (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 the individual or with an individual at least eighteen (18) years of age residing at the 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 a branch office of the corporation, or with an officer or director of the corporation or the corporation's legal counsel.
- (4) Subject to subsection (5), a document is considered to have been delivered
- (a) if delivered personally, at the time personal delivery is made; or

(b) if sent by registered mail, on the fifth day after it is mailed.

(5) A document delivered on a non-Business Day or after 17:00 local time on a Business Day is considered to have been delivered at 09:00 on the next Business Day.

(6) Where the notice is in respect of taxable property, copies of notices must be served on all persons named on the tax roll in respect of that taxable property.

PART XVIII SEIZURE AND SALE OF PERSONAL PROPERTY

Seizure and Sale of Personal Property

72. (1) If taxes remain unpaid more than thirty (30) days after a Demand for Payment/Notice of Enforcement is issued, the tax administrator may recover the amount of unpaid taxes, with costs, by way of 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 By-law.

(3) The costs payable by the debtor under subsection (1) are set out in Schedule XIV to this By-law.

(4) 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.

Notice of Seizure and Sale

73. (1) Before proceeding under subsection 72(1), the tax administrator must deliver a Notice of Seizure of Personal Property to the debtor.

(2) If the taxes remain unpaid more than seven (7) days after delivery of a Notice of Seizure of Personal Property, the tax administrator may request a sheriff, bailiff or by-law enforcement officer to seize any personal property that is located on the reserve and described in the Notice of Seizure of Personal Property, except for property exempt from seizure under subsection 72(2).

(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

74. (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

75. (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 74(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.

Proceeds of Sale

76. (1) The proceeds from a sale of seized personal property must be paid

- (a) first, 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

- (b) 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 remaining proceeds until the rights of the parties have been determined.

PART XIX SEIZURE AND ASSIGNMENT OF TAXABLE PROPERTY

Seizure and Assignment of Taxable Property

77. (1) If taxes remain unpaid for more than nine (9) months after a Demand for Payment/Notice of Enforcement 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

78. (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 82(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

79. (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 public 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 the Minister

80. The tax administrator must without delay notify the Minister of Aboriginal Affairs and Northern Development in writing of the sale of a right to an assignment of taxable property made under this By-law.

Subsisting Rights

81. 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 82(1);
- (b) the right to possession of the taxable property is not affected during the time allowed for redemption, subject 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

82. (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 five percent (5%).

(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 Aboriginal Affairs and Northern Development in writing of the redemption.

Assignment of Taxable Property

83. (1) No assignment of taxable property must be made until

- (a) the end of the redemption period provided for in subsection 82(1); and
- (b) where required, the tax administrator has obtained the consent of the Minister of Aboriginal Affairs and Northern Development to the assignment of the taxable property.

(2) Subject to a redemption under subsection 82(1) and subject to obtaining the consent under paragraph (1)(b) if required, 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 79(3).

(3) Taxable property must not be assigned to any person or entity that 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.

(4) The tax administrator must, in respect of any assignment of taxable property assigned in accordance with this By-law

- (a) register the assignment in every registry in which the taxable property is registered at the time of the assignment;
- (b) deliver confirmation of the assignment to the debtor and the purchaser; and
- (c) note the replacement of the debtor by the purchaser as the holder of the taxable property in all relevant records of the First Nation.

(5) An assignment under subsection (1) 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 deemed final under subsection (1), except an easement, restrictive covenant, building scheme or right of way registered against the interest in land.

(6) Upon an assignment under subsection (1), any remaining debt of the debtor with respect to the taxable property is extinguished.

Proceeds of Sale

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

- (a) first, to the First Nation;
- (b) second, to any other holders of registered interests in the property in order of their priority at law; and
- (c) third, 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 the remaining proceeds until the rights of the parties have been determined.

Resale by the First Nation

85. (1) If the right to assignment of the taxable property is purchased by the First Nation under subsection 79(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 By-law.

**PART XX
DISCONTINUANCE OF SERVICES**

Authorization

- 86.** Subject to this Part, the First Nation may discontinue any service it provides to the taxable property of a debtor if
- (a) revenues from this By-law or any other property taxation by-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 Demand for Payment/Notice of Enforcement is issued.

Notice of Discontinuance of Services

- 87.** Before proceeding under section 86, the tax administrator must deliver a Notice of Discontinuance of Services to the debtor and any locatee with an interest in the taxable property.

Discontinuance of Services

- 88.** (1) No less than thirty (30) days after delivery of a Notice of Discontinuance of Services, the tax administrator may, subject to subsection (2), discontinue services authorized under section 86.
- (2) 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 XXI
GENERAL PROVISIONS**

Disclosure of Information

- 89.** (1) The tax administrator or any other person who has custody or control of information or records obtained or created under this By-law must meet its obligations under PIPEDA and not disclose any personal information or records except
- (a) in the course of administering this By-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 or the assessor 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

90. Notwithstanding section 89, Council may disclose information and records to a third party for research purposes, including statistical research, provided:
- (a) PIPEDA is not breached;
 - (b) the information and records do not contain personal information in an identifiable form; or
 - (c) 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

91. Nothing under this By-law must be rendered void or invalid, nor must the liability of any person to pay taxes or amounts levied under this By-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 an assessment roll, the tax roll or any notice given under this By-law; or
 - (c) a failure of the First Nation, tax administrator or the assessor to do something within the required time.

Limitation on Proceedings

92. (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 By-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, appeal or other proceeding within the time limit described in this section, then money paid to the First Nation must be deemed to have been voluntarily paid.

Notices

93. (1) Where in this By-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 either the assessment roll or the taxation 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 either the assessment roll or the taxation roll.
- (2) Except where otherwise provided in this By-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.

Extensions of Deadlines

94. Chief and Council may, by resolution, extend for a maximum of thirty (30) days the time in which anything is required to be done under Parts X to XIX inclusive, of this By-law and anything done within this period of time is as valid as if it had been done within the time otherwise provided for by this By-law, provided that the tax administrator posts a notice describing the extensions in the administration office of First Nation.

Interpretation

95. (1) The provisions of this By-law are severable, and where any provision of this By-law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion will not affect or bear upon the validity or invalidity of any other section or Part of this By-law or this By-law as a whole.

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

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

(4) Where a word or expression has been defined, other parts of speech, and grammatical forms of the same word or expression have corresponding meaning;

(5) This By-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.

(6) Reference in this By-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.

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

Repeal

96. The *Eskasoni Band Property Assessment and Taxation By-law*, 1998, is hereby repealed in its entirety and replaced with this By-law.

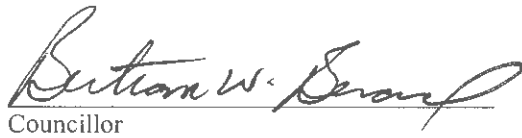
Force and Effect

97. This By-law comes into force and effect on approval by the Minister of Aboriginal Affairs and Northern Development.

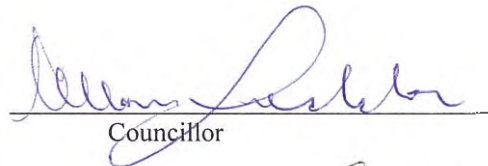
THIS BY-LAW IS HEREBY DULY ENACTED by Council on the 28 day of February, 2012, at Eskasoni
First Nation, in the Province of Nova Scotia.



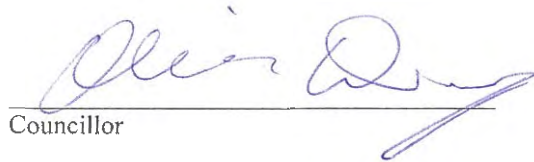
Chief



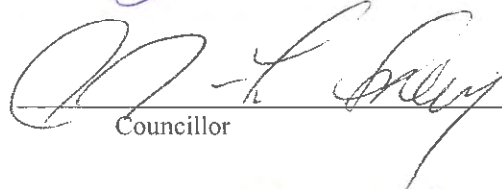
Councillor



Councillor



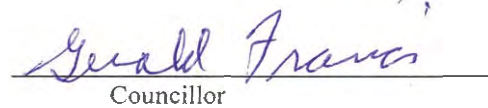
Councillor



Councillor



Councillor



Councillor

**SCHEDULE I
REQUEST FOR INFORMATION BY ASSESSOR**

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

PURSUANT to the *Eskasoni Property Assessment and Taxation By-law, 2012*, I request that you provide to me, in writing, no later than _____ (**Note: must be a date that is at least thirty (30) days from the date of delivery of the request**), the following information relating to the above-noted interest in land:

1. _____

2. _____

3. _____

If you fail to provide the requested information on or before the date specified above, an assessment of the property may be made on the basis of the information available to the assessor.

DATED: _____, 20____.

Assessor for Eskasoni

**SCHEDULE II
NOTICE OF ASSESSMENT INSPECTION**

TO: _____

ADDRESS: _____

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

DATE OF REQUEST: _____

TAKE NOTICE that, pursuant to subsection 8(2) of the *Eskasoni Property Assessment and Taxation By-law, 2012*, the assessor for Eskasoni proposes to conduct an inspection of the above-referenced assessable property on _____, 20__ at _____ A.M./P.M.

If the above date and time is not acceptable, please contact the assessor on or before _____ [date], at _____ [contact number], to make arrangements for an alternate time and date.

If the assessable property is occupied by a person other than you, you must make arrangements with the occupant to provide access to the assessor.

AND TAKE NOTICE that if, on attending at the assessable property, no occupant eighteen (18) years of age or older is present or permission to inspect the assessable property is denied, the assessor may assess the value of the assessable property based on the information available to the assessor.

Assessor for Eskasoni

Dated: _____, 20__ .

**SCHEDULE III
FORM OF ASSESSOR CERTIFICATION**

The assessor must certify the assessment roll in the following form:

I, _____, being the assessor for the Eskasoni, hereby certify that this is the Eskasoni [amended] assessment roll for the year 20__ and that this assessment roll is complete and has been prepared and completed in accordance with all requirements of the *Eskasoni Property Assessment and Taxation By-law, 2012*.

DATED: _____, 20__.

(Signature of Assessor)

**SCHEDULE IV
DECLARATION OF PURPOSE FOR THE USE OF ASSESSMENT INFORMATION**

I, _____ [insert name], of _____
_____ [insert street address], _____ [insert city], _____ [insert
province], _____ [insert postal code], declare and certify that I will not use the assessment roll or
information contained in the assessment roll to obtain personal information for commercial or solicitation purposes,
whether by telephone, mail or any other means or to threaten, intimidate or harass anyone.

I further declare and certify that any assessment information I receive will be used for the following purpose(s):

- (a) a complaint or appeal under the *Eskasoni Property Assessment and Taxation By-law, 2012*;
- (b) a review of an assessment to determine whether to seek an appeal of the assessment; or
- (c) other: _____
(insert description)

DATED: _____, 20____.

(Signature of Person Requesting Information)

(Print Name of Person Requesting Information)

**SCHEDULE V
ASSESSMENT NOTICE**

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

TAKE NOTICE that the assessment roll has been certified by the assessor for Eskasoni and delivered to the Eskasoni Council.

The following person(s) is/are the holders of the interest in land: **[insert name(s) & addresses]**

The interest in land is classified as: _____

The assessed value by classification of the land is: _____

TOTAL ASSESSED VALUE: _____

TOTAL ASSESSED VALUE LIABLE TO TAXATION: _____

AND TAKE NOTICE that you may appeal this assessment to the Assessment Review Board within thirty (30) days after the date on which this Assessment Notice was mailed or e-mailed to you. The Notice of Appeal must be in writing and in the form specified in the *Eskasoni Property Assessment and Taxation By-law, 2012*.

DATED: _____, 20 ____.

(Signature of Assessor)

**SCHEDULE VI
NOTICE OF APPEAL**

TO: Assessor for Eskasoni

[insert address for Assessor]

PURSUANT to the provisions of the *Eskasoni Property Assessment and Taxation By-law, 2012*, I hereby appeal the assessment of the following interest in land:

(description of the assessable property, including the assessment roll number as described in the Assessment Notice)

The grounds for appeal are (describe the grounds for appeal in as much detail as possible):

1. _____
2. _____
3. _____
4. _____

Complainant's mailing address to which all notices in respect of this appeal are to be sent:

name and address of any representative acting on complainant's behalf in respect of this appeal:

The required fee of \$_____ is enclosed with this Notice of Appeal.

DATED: _____, 20____.

(Signature of Appellant)

(Print Name of Appellant)

NOTE: A copy of the Assessment Notice must be enclosed with this Notice of Appeal.

**SCHEDULE VII
NOTICE OF HEARING**

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

TAKE NOTICE that the Assessment Review Board will hear an appeal from the assessment of the above-noted interest in land at:

Date: _____, 20__

Time: _____ (a.m./p.m.)

Location: [address].

AND TAKE NOTICE that you should bring to the hearing all relevant documents in your possession respecting this appeal.

AND TAKE NOTICE that you may file written submissions to the Assessment Review Board prior to the above noted hearing date at the following address, instead of appearing in person at the hearing.

A copy of the Assessment Notice and the Notice of Appeal are enclosed with this notice, as well as copies of:

DATED: _____, 20__.

(Signature of chair, Assessment Review Board)

**SCHEDULE VIII
ORDER TO ATTEND HEARING/PRODUCE DOCUMENTS**

TO: _____

ADDRESS: _____

TAKE NOTICE that an appeal has been made to the Assessment Review Board for Eskasoni in respect of the assessment of _____
_____ **[describe interest in land]**.

The Assessment Review Board believes that you may have information or documents that may assist the Assessment Review Board in making its decision.

THIS NOTICE REQUIRES you to **[check the applicable boxes below]**:

1. Attend before the Assessment Review Board at a hearing at

Date: _____, 20__

Time: _____ (a.m./p.m.)

Location: _____ **[address]**

to give evidence concerning the assessment and to bring with you the following documents:

and any other documents in your possession that may relate to this assessment.

A \$20 witness fee is enclosed. Your reasonable travelling expenses will be reimbursed as determined by the Assessment Review Board.

2. Deliver the following documents **[list documents]** OR any documents in your possession that may relate to this assessment, to the chair, Assessment Review Board, at _____
_____ **[address]** on or before _____.

Please contact _____ at _____ if you have any questions or concerns respecting this Order.

DATED _____, 20__.

(Signature of chair, Assessment Review Board)

**SCHEDULE IX
NOTICE OF WITHDRAWAL**

TO: Chair, Assessment Review Board for Eskasoni
[address]

PURSUANT to the provisions of the *Eskasoni Property Assessment and Taxation By-law, 2012*, I hereby withdraw my appeal of the assessment of the following interest in land:

Description of the interest in land: _____

Date of Notice of Appeal: _____

DATED: _____, 20____.

(Signature of Complainant or representative)

(Print Complainant's Name)

**SCHEDULE X
REQUEST FOR INFORMATION BY TAX ADMINISTRATOR**

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

DATE OF REQUEST: _____

PURSUANT to subsection ____ of the *Eskasoni Property Assessment and Taxation By-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 Eskasoni

Dated: _____, 20__.

**SCHEDULE XI
TAX NOTICE**

TO: _____

ADDRESS: _____

RE: _____
(description of interest in land)

PURSUANT to the provisions of the *Eskasoni Property Assessment and Taxation By-law, 2012*, taxes in the amount of \$ _____ are hereby levied with respect to the above-noted interest in land.

All taxes are due and payable on or before _____ [Note to First Nation: if taxes are paid in conjunction with lease payments, insert the following instead: "Pursuant to Part XV of the *Eskasoni Property Assessment and Taxation By-law, 2012*, taxes are due and payable in conjunction with periodic lease payments 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 Eskasoni, located at [address] during normal business hours. Payment must be by cheque, money order or cash.

Taxes that are not paid by _____ shall incur penalties and interest in accordance with the *Eskasoni Property Assessment and Taxation By-law, 2012*.

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

Assessed value	\$ _____
Taxes (current year)	\$ _____
Unpaid Taxes (previous years)	\$ _____
Penalties	\$ _____
Interest	\$ _____
Total Payable	\$ _____

DATED: _____, 20____.

(Signature of tax administrator)

**SCHEDULE XII
TAX CERTIFICATE**

In respect of the interest in land described as: _____ and
pursuant to the *Eskasoni Property Assessment and Taxation By-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: \$ _____ 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:

DATED: _____, 20__

(Signature of tax administrator)

**SCHEDULE XIII
DEMAND FOR PAYMENT/NOTICE OF ENFORCEMENT**

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

In respect of the interest in land described as: _____ and pursuant to the *Eskasoni Property Assessment and Taxation By-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 the all or any portion of the tax debt is not paid on or before _____, a further penalty of \$_____ will be assessed on that date.

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

Payments must be made at the offices of the Eskasoni, located at [address] during normal business hours. Payment must be by cheque, money order or cash.

The following persons are jointly and severally liable for the total unpaid tax debt:

TAKE NOTICE that failure to pay in full the above-mentioned tax debt within 30 days from the date of this Demand may result in procedures being taken by the First Nation for the enforcement and collection of such debt.

DATED: _____, 20____.

(Signature of tax administrator)

**SCHEDULE XIV
COSTS PAYABLE BY DEBTOR ARISING FROM ENFORCEMENT PROCEEDINGS**

The following are allowable costs payable by the debtor arising from the enforcement proceedings authorized in Part XVIII:

- | | |
|---|----------------------|
| 1. Preparation of a notice | \$100 |
| 2. Service of notice on each person or place by Eskasoni staff | \$250 |
| 3. Service of notice on each person or place by a process server, bailiff, delivery service | Actual costs |
| 4. Advertising in newspaper | \$500 |
| 5. Staff time spent in conducting enforcement, not including costs otherwise recovered under this Schedule: | \$ 50 per person/hr. |
| 6. Actual cost of seizure and storage of personal property will be charged based on receipts. | |

**SCHEDULE XV
NOTICE OF SEIZURE OF PERSONAL PROPERTY**

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

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

AND TAKE NOTICE that a Demand for Payment/Notice of Enforcement 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 the *Eskasoni Property Assessment and Taxation By-law, 2012*, 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 *Halifax Chronicle-Herald* 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.

DATED: _____, 20__

(Signature tax administrator)

**SCHEDULE XVI
NOTICE OF SALE OF SEIZED PERSONAL PROPERTY**

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

The following personal property, seized pursuant to the *Eskasoni Property Assessment and Taxation By-law, 2012*, 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 security interests in the property and to Eskasoni in order of their priority under applicable Provincial laws. Any monies received from the sale of the seized property that are in excess of these amounts owing will be paid to the debtor.

DATED: _____, 20__

(Signature of tax administrator)

SCHEDULE XVII
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 \$_____ remain unpaid and are due and owing in respect of the taxable property.

AND TAKE NOTICE that a Demand for Payment/Notice of Enforcement 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 by June 30, 20__ may result in the tax administrator, pursuant to the *Eskasoni Property Assessment and Taxation By-law, 2012*, seizing and selling the taxable property by public auction or tender as follows:

1. The public auction or tender, including any conditions that are attached to the acceptance of a bid to purchase the taxable property, shall be conducted in accordance with the procedures prescribed by the Council of Eskasoni, 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 *Halifax Chronicle-Herald* newspaper at least once in each of the four 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 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 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 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 in which case a further notice will be published.

6. If the First Nation does not receive a bid that is equal to or greater than the upset price, the First Nation will be deemed to have purchased the taxable property for the amount of the upset price.

7. The debtor may redeem the taxable property after the sale by paying to the First Nation the amount of the upset price plus three percent any time within three months after the holding of the public auction or tender in respect of the taxable property (hereinafter referred to as the "redemption period"). Where the taxable property is redeemed, the First Nation will without delay repay to the bidder the amount of the bid.

8. A sale of taxable property by public auction or tender is not complete, and no transfer of the taxable property will be made, until the expiration of the redemption period and, where required, the tax administrator has obtained the consent of the Minister of Aboriginal Affairs and Northern Development. If the taxable property is not redeemed within the redemption period, then on the expiration of the redemption period, the First Nation will transfer the

taxable property to the highest bidder or to itself as the deemed purchaser, as applicable. The taxable property will not be transferred 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 Eskasoni will, without delay, notify the Minister of Aboriginal and Northern Affairs in writing of any sale of the taxable property and of any redemption of the taxable property.

10. The tax administrator will register the assignment in every registry in which the taxable property is registered, pursuant to the *Eskasoni Property Assessment and Taxation By-law, 2012*.

11. A sale of the taxable property operates:

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

12. Upon sale of the taxable property, the debtor will be required to immediately vacate the taxable property, and any rights or interests that the debtor held 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 Eskasoni, and any remaining proceeds must be paid to the debtor in accordance with the *Eskasoni Property Assessment and Taxation By-law, 2012*.

DATED: _____, 20__

(Signature of tax administrator)

**SCHEDULE XVIII
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 of Interest in Land was given in respect of the taxable property on _____, 20__.

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

AND TAKE NOTICE that a sale of the taxable property will be conducted by public [auction/tender] [Note to First Nation: **specify whether sale will be by auction or tender throughout this Notice**] for unpaid taxes, penalties and interest owed to Eskasoni.

The public [auction/tender] will take place on:

_____, 20__ at _____ o'clock at _____ [insert location].

The tax administrator will conduct the public [auction/tender] 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: \$_____. The upset price is the lowest price for which the taxable property will be sold.
2. The public [auction/tender], 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 Eskasoni as set out in this Notice.
3. If at the [auction/tender] there is no bid that is equal to or greater than the upset price, Eskasoni will be deemed to have purchased the right to assignment of the taxable property for the amount of the upset price.
4. The debtor may redeem the taxable property after the sale by paying to Eskasoni the amount of the upset price plus three percent any time within three months after the holding of the public [auction/tender] in respect of the taxable property (hereinafter referred to as the "redemption period"). Where the taxable property is redeemed, Eskasoni will without delay repay to the bidder the amount of the bid.
5. A sale of taxable property by public auction or tender is not complete, and no transfer of the taxable property will be made, until the expiration of the redemption period and, where required, the tax administrator has obtained the consent of the Minister of Aboriginal Affairs and Northern Development. If the taxable property is not redeemed within the redemption period, then on the expiration of the redemption period, Eskasoni will transfer the taxable property to the highest bidder or to itself as the deemed purchaser, as applicable. The taxable property will not be transferred 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.
6. Council of the Eskasoni will, without delay, notify the Minister of Aboriginal Affairs and Northern Development in writing of any sale of the taxable property and of any redemption of the taxable property.
7. The tax administrator will register the assignment in every registry in which the taxable property is registered,

pursuant to the *Eskasoni Property Assessment and Taxation By-law, 2012*.

8. A sale of the taxable property operates:

(a) as a transfer to the bidder or Eskasoni, 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 transfer is registered, except an easement, restrictive covenant, building scheme or right of way registered against the taxable property.

9. Upon sale of the taxable property, the debtor will be required to immediately vacate the taxable property, and any rights or interests that the debtor held 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 Eskasoni, and any remaining proceeds must be paid to the debtor in accordance with the *Eskasoni Property Assessment and Taxation By-law, 2012*.

DATED: _____, 20__

(Signature of tax administrator)

**SCHEDULE XIX
NOTICE OF DISCONTINUANCE OF SERVICES**

TO: _____ [Debtor's name]

ADDRESS: _____

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

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

AND TAKE NOTICE that a Demand for Payment/Notice of Enforcement dated _____ was delivered to you in respect of these unpaid taxes.

AND TAKE NOTICE that unless:

1. The above-noted outstanding taxes are paid in full on or before the 30th day after the date of this Notice, being _____; or
2. You have appeared before Council as set out below and Council has determined that the services will not be discontinued, the following services provided to this property will be discontinued: **[list services to be discontinued]**

AND TAKE NOTICE that you may attend a meeting of the Council of Eskasoni scheduled for _____, 20____ at _____ o'clock, **[date within the 30 days of the date set out below]** at _____ **[location]**, to make representations with respect to the discontinuance of the services.

AND TAKE NOTICE that you may prevent cancellation of services by paying in full the amount of \$ _____ to Eskasoni on or before _____.

DATED: _____, 20____.

(Signature of tax administrator)