

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, the Minister of Indian Affairs and Northern Development, HEREBY
APPROVE, pursuant to section 83 of the *Indian Act*, the following by-law
made by the Nicomen Indian Band, in the Province of British Columbia, at
a meeting held on the 19th day of July 2010.

- **Nicomen Indian Band
Property Tax Expenditure By-law**

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

Dated at Ottawa, Ontario, this *28* day of *August*, 2010.

NICOMEN INDIAN BAND
PROPERTY TAX EXPENDITURE BY-LAW

BY-LAW No. 07-2010

WHEREAS the *Property Assessment and Taxation By-law* was made pursuant to subsection 83(1) of the *Indian Act*, R.S.C. 1985, c.I-5, for the purpose of taxation for local purposes of land, or interests in land, in the Reserve (as defined in the *Property Assessment and Taxation By-law*), including rights to occupy, possess or use land in the Reserve;

AND WHEREAS subsection 83(2) of the *Indian Act* provides that an expenditure made out of moneys raised pursuant to subsection 83(1) of the *Indian Act* must be made under the authority of a by-law of the council of the band;

AND WHEREAS section 24(5) of the *Nicomen Indian Band Property Assessment and Taxation By-law* authorizes the making of certain expenditures out of property tax revenue and, in addition, the *Taxation Expenditure By-law* was enacted for the purpose, *inter alia*, of establishing procedures for the authorization of expenditures to be made out of property tax revenue from time to time;

AND WHEREAS Council wishes to revoke the *Taxation Expenditure By-law* and to authorize expenditures (in addition to those authorized under section 24(5) of the *Property Taxation By-law*) to be made out of property tax revenue from time to time in this by-law;

NOW BE IT HEREBY RESOLVED that the following by-law be and is hereby enacted pursuant to the provisions of the *Indian Act* and in particular subsections 83(1) and (2) thereof, for the purpose of authorizing expenditures to be made out of property tax revenue.

SHORT TITLE

1. This By-law may be cited for all purposes as the *Property Tax Expenditure By-law*.

REVOCATION OF TAXATION EXPENDITURE BY-LAW

2. The *Taxation Expenditure By-law* approved and passed by the Band Council of the Nicomen Indian Band on the 27 day of May, 2005 and approved on behalf of the Minister of Indian Affairs and Northern Development on the 27 day of June, 2005 is hereby revoked in its entirety.

INTERPRETATION

3. In this By-law, including, without limiting the generality of the foregoing in the recitals and this section, "annual property tax budget" means a budget that includes and identifies in a general way projected property tax revenue for a fiscal year, surplus or deficit property tax revenue carried over from previous fiscal years and projected expenditures to be made out of property tax revenue for the fiscal year for local purposes; "Band" means the Nicomen Indian Band; "band council resolution" means a motion passed and approved at a meeting of Council pursuant to the consent of a majority of the quorum of the Councillors of the Band; "community services" includes, without limitation, programs and services (other than utility services), operated, controlled, managed, administered, provided or financially supported, wholly or in part, by the Band or Council on behalf of the Band and of benefit to any residents of Reserve (whether in common with any non-residents of Reserve or not) including, without limiting the generality of the foregoing, social, public health, cultural, recreation, education, daycare, library, park, playground, police or fire protection programs and services; "community works" includes, without limitation, designing, constructing, reconstructing, creating, replacing, enlarging, extending, removing, moving, repairing, maintaining and operating buildings, works and facilities (other than public works), located within Reserve and owned, operated, controlled, managed, administered, provided or financially supported, wholly or in part, by the Band or Council on behalf of the Band and used for community services or general government services, including, without limiting the generality of the foregoing, Band administration offices, Band public works yards, cemeteries, longhouses, cultural centres, daycare centres, group homes, libraries, archives, museums, art galleries, recreation centres, parks and playgrounds, together with Reserve lands appurtenant thereto; "Council" means the Council of the Nicomen Indian Band within the meaning of subsection 2(1) of the *Indian Act* as elected by the Band members from time to time pursuant to the custom of the Band; "fiscal year" means April 1 of a calendar year through March 31 of the following calendar year; "general government services" includes, without limitation, government and administrative programs, services and operations of the Band or Council on behalf of the Band including, without limiting the generality of the foregoing, the operations of Council and the development, preparation, enforcement and administration of Council or Band policies, by-laws and programs and the administration and operation of departments of the Band;

- “Minister” means the Minister of Indian Affairs and Northern Development and includes a person designated in writing by the Minister;
- “permitted property taxation by-law expenditures” means those expenditures out of property tax revenue authorized to be made under subsection 4(3) of the *Property Assessment and Taxation By-law*;
- “*Property Assessment By-law*” means the *Nicomén Indian Band Property Assessment By-law* approved and passed by the Council on the 5 day of December , 1991 and approved by the Minister on the 9 day of March , 1992 , as amended from time to time;
- “*Property Taxation By-law*” means the *Nicomén Indian Band Property Taxation By-law* approved and passed by the Council on the 5 day of December , 1991 and approved by the Minister on the 9 day of March , 1992 , as amended from time to time;
- “property tax revenue” includes all taxes and other moneys raised under the *Property Assessment and Taxation By-law*, including without limiting the generality of the foregoing all interest earned thereon and other accumulations thereto from time to time;
- “public works” includes
- (a) designing, constructing, reconstructing, creating, replacing, enlarging, extending, removing, moving, repairing, maintaining or operating
 - (i) roads, streets, overpasses, underpasses, sidewalks, foot crossings, curbing bridges, tunnels, culverts, embankments and retaining walls;
 - (ii) equipment, wires, works and facilities, including standards and conduits, necessary to supply public lighting within Reserve, including, without limiting the generality of the foregoing, all necessary poles, towers, cross-arms, encasements, transformer structures and other related works and facilities;
 - (iii) conduits for wires, fibre-optics and pipes for purposes other than providing public lighting within Reserve, including, without limiting the generality of the foregoing, all necessary poles, towers, cross-arms, encasements, transformer structures and other related works and facilities;
 - (iv) storm or sanitary sewer or water lines, works and facilities, including service connections to sewer or water lines on land abutting a main;
 - (v) sewage treatment and water treatment works, facilities and plants;
 - (vi) retaining walls, rip-rap, sheet-piling, sea-walls, pilings, dykes and breakwaters in, along or adjacent to the sea, a lake or a river; and
 - (vii) any buildings, works or facilities related or ancillary to anything referred to in subparagraphs (i) through (vi), together with Reserve lands appurtenant thereto;
 - (b) remediating environmentally contaminated Reserve lands; and
 - (c) creating new lands by any lawful means including, without limiting the generality of the foregoing, by the placement and compaction of permitted soils and other fill materials;
- “Reserve” means those lands the legal title to which is vested in Her Majesty, that have been set apart by Her Majesty for the use and benefit of the Band, whether they be designated lands or conditionally surrendered lands or otherwise;
- “Surveyor of Taxes” means the Surveyor of Taxes appointed by Council under the *Nicomén Property Assessment and Taxation By-law*;
- “taxation expenditure by-law” means the *Taxation Expenditure By-law* referred to in section 2;
- “utility services” includes water, storm sewer, sanitary sewer, garbage collection, garbage disposal, solid waste disposal, sewage treatment and water treatment programs, services and operations.

AUTHORIZATION OF EXPENDITURE OF PROPERTY TAX REVENUE

4.(1) This By-law authorizes the expenditure of property tax revenue by Council on behalf of the Band for local purposes.

(2) Without limiting the generality of subsection (1) but for greater certainty, this By-law authorizes the expenditure of property tax revenue by Council on behalf of the Band on community works, community services, general government services, permitted property taxation by-law expenditures, public works and utility services.

ANNUAL PROPERTY TAX BUDGET

5.(1) On or before July 31 in each fiscal year, the Surveyor of Taxes shall prepare and table with Council a draft annual property tax budget for the then current fiscal year and a draft band council resolution approving the budget, and Council shall endeavour to consider such budget and resolution on or before August 31 of the same fiscal year.

(2) An annual property tax budget may, but is not required to, be in the form of that draft annual property tax budget attached as Schedule "A" to this By-law.

(3) Subject to subsection (4), all expenditures made out of property tax revenue that Council is authorized to make under this By-law shall be made pursuant to an annual property tax budget that has been approved by band council resolution.

(4) For greater certainty

(a) Band Council may at any time and from time to time amend any annual property tax budget and any band council resolution approving an annual property tax budget; and

(b) nothing in this By-law shall have the effect of amending section 24(5) of the *Property Assessment and Taxation By-law* or of limiting the authorization of, or requiring additional procedures to permit, expenditures of property tax revenue thereunder.

PROPERTY TAX REVENUE ACCOUNTS

6.(1) All property tax revenue shall be deposited in a special account or accounts maintained in the name of the Band and be invested until required to be expended pursuant to an annual property tax budget that has been approved by band council resolution.

(2) Any surplus property tax revenue raised during a fiscal year that is not required for expenditure during that fiscal year pursuant to an annual property tax budget that has been approved by band council resolution, shall be set aside in a special surplus fund account or accounts maintained in the name of the Band and be invested until required for such expenditure in a future fiscal year.

ADMINISTRATION AND ENFORCEMENT

7. The Surveyor of Taxes shall administer this By-law.

BY-LAW REMEDIAL

8. This By-law shall be construed as being remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

MISCELLANEOUS

9.(1) Headings form no part of this By-law but shall be construed as being inserted for convenience of reference only.

(2) A finding by a court of competent jurisdiction that a section or provision of this By-law is void or invalid shall 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.

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

(4) In this By-law, words in the singular include the plural, and words in the plural include the singular.


COMING INTO FORCE

10. This By-law shall come into force immediately upon being approved by the Minister.

THIS BY-LAW IS HEREBY ENACTED by Council at a duly convened meeting held on the 19 day of July, 2010.

A quorum of Council consists of 2 (3) members of Council.


Chief, Donna M. Gallinger


Councillor, Arlene Quinn


Councillor, Tricia Spence

SCHEDULE "A"
2010 ANNUAL PROPERTY TAX BUDGET

REVENUES

Property Tax Levies, Interests & Penalties for
Current Fiscal Year \$5532.85

Surplus or Deficit Property Tax Revenue carried
over from previous Fiscal Years \$0.00 _____

TOTAL REVENUES

= **\$5532.85**

General Government Services \$3532.85

Protective Services \$0.00 _____

Transportation \$0.00 _____

Recreation and Cultural Services \$

Community Development \$1000

Environmental Health Services \$1000 _____

Fiscal Services \$0.00 _____

Taxes for Other Governments \$0.00 _____

Other Expenditures \$0.00 _____

– Permitted Property Assessment and Taxation By-law Expenditures \$0.00 _____

– Municipal Service Agreements \$0.00 _____

TOTAL EXPENDITURES

= **\$5532.85**

BALANCE

\$0.00