

FIRST NATION
PROPERTY TAXATION BY-LAW, 20__
(ALBERTA)

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SCHEDULES:

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WHEREAS:

A. Pursuant to paragraph 83(1)(a) of the *Indian Act*, the council of a first nation 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 _____ First Nation deems it to be in the best interests of the First Nation to make a by-law for such purposes;

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

**PART I
CITATION**

Citation

1. This By-law may be cited as the _____ *First Nation Property Taxation By-law, 20*__.

**PART II
DEFINITIONS AND REFERENCES**

Definitions and References

2.(1) In this By-law:

“assessed value” has the meaning given to that term in the Assessment By-law;

“Assessment By-law” means the _____ *First Nation Property Assessment By-law, 20*__;

“Assessment Review Board” means the assessment review board established under the Assessment By-law;

“assessment roll” has the meaning given to that term in the Assessment By-law;

“assessor” means a person appointed to that position under the Assessment By-law;

“Certificate of Cancellation of Interest in Land” means a certificate containing the information set out in Schedule XI;

“Certificate of Forfeiture” means a certificate containing the information set out in Schedule XIII;

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

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

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

“expenditure by-law” means a by-law made pursuant to section 83 of the *Indian Act* to authorize the expenditure of tax revenues;

“First Nation” means the _____ First Nation, being a band as defined in the *Indian Act*;

“First Nation Entity” means

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

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

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

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

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

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

“holder” means a person in possession of an interest in land or a person who, for the time being,

- (a) is entitled through a lease, licence or other legal means to possess or occupy the interest in land;
- (b) is in actual occupation of the interest in land;
- (c) has any right, title, estate or interest in the interest in land; or
- (d) is a trustee of the interest in land;

“improvement” means

- (a) a structure,
- (b) any thing attached or secured to a structure that would be transferred without special mention by transfer or sale of the structure,
- (c) a manufactured home, mobile home, modular home or travel trailer, and
- (d) machinery and equipment;

“interest in land” or “property” means land or improvements, or both, in the reserve and, without limitation, includes any interest in land or improvements, any occupation, possession or use of land or improvements, and any right to occupy, possess or use land or improvements;

“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 Cancellation of Interest in Land” means a notice containing the information set out in Schedule X;

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

“Notice of Forfeiture” means a notice containing the information set out in Schedule XII;

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

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

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

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

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

“property class” has the meaning given to that term in the Assessment By-law;

“Province” means the province of Alberta;

“registry” means any land registry in which interests in land are registered;

“related individual” means, in respect of a member of the First Nation,

- (a) that member’s spouse, child, grandchild, great-grandchild, parent, grandparent, great-grandparent or guardian,
- (b) the spouse of that member’s parent, grandparent, great-grandparent, child, grandchild or great-grandchild, or
- (c) the child, grandchild, great-grandchild, parent, grandparent or great-grandparent of that member’s spouse;

“reserve” means a reserve of the First Nation within the meaning of the *Indian Act*;

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

“spouse” includes a common law partner;

“tax administrator” means a person appointed by Council under subsection 3(1) to administer this By-law;

“Tax Arrears Certificate” means a certificate containing the information set out in Schedule IV;

“Tax Certificate” means a certificate containing the information set out in Schedule III;

“Tax Notice” means a notice containing the information set out in Schedule II and includes an amended Tax Notice;

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

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

(2) In this Law, references to a Part (e.g. Part I), section (e.g. section 4), subsection (e.g. subsection 5(1)) paragraph (e.g. paragraph 6(3)(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

Tax Administrator

3.(1) Council must, by resolution, appoint a tax administrator to administer this By-law on the terms and conditions set out in the resolution.

(2) The tax administrator must fulfill the responsibilities given to the tax administrator under this By-law and the Assessment By-law.

(3) The tax administrator’s responsibilities include the collection of taxes and the enforcement of payment under this By-law.

(4) The tax administrator may, with the consent of [insert title], assign the performance of any duties of the tax administrator to any officer, employee, contractor or agent of the First Nation.

PART IV

LIABILITY FOR TAXATION

Application of By-law

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

Tax Liability

5.(1) Except as provided in Part V, 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) 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.

(4) Any person who is a holder of taxable property in any taxation year is 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 a previous taxation year, including, for greater certainty, interest, penalties and costs as provided in this By-law.

Tax Refunds

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

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

EXEMPTIONS FROM TAXATION

Exemptions

[Note to First Nation: The First Nation should determine what, if any, exemptions it wishes to provide in its by-law. Refer to the Taxation By-law Policy for further information and limitations on the types of exemptions that may be included. The following are examples of exemptions a First Nation may wish to consider in its by-law.]

7.(1) The following interests in land are exempt from taxation under this By-law to the extent indicated:

- (a) subject to subsections (2) and (3), an interest in land held or occupied by the First Nation, a First Nation Entity, or a member of the First Nation;
- (b) an interest in land occupied as a residence by one (1) or more members of the First Nation and related individuals of those members and by no other persons;
- (c) an interest in land, other than a student dormitory, used in connection with school purposes, not operated for profit;
- (d) an interest in land held by a religious body and used chiefly for divine service, public worship or religious education, and any interest in land held by the religious body and used only as a parking area in connection with these purposes;
- (e) an interest in land, other than a student dormitory, used in connection with a hospital, not operated for profit;

- (f) an interest in land, other than a student dormitory, used as a university, technical institute or public college, not operated for profit;**
- (g) an interest in land used to provide housing accommodation for senior citizens, not operated for profit; and**
- (h) an interest in land consisting of the following:**
 - (i) land, to a maximum of 10 hectares, that is used as a cemetery; and**
 - (ii) any improvement on land described in subparagraph (i) that is used for burial purposes.**

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

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

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

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

(3) Where an interest in land is occupied by the First Nation, a First Nation Entity or a member of the First Nation and is also occupied by a person who is not the First Nation, a First Nation Entity or a member of the First Nation,

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

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

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

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

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

[Note to First Nation: Subsection (4) may be added on its own; however, subsection (5) can only be added if subsection (4) has been added.]

PART VI

GRANTS

[Note to First Nation: The First Nation should consider what, if any, grants or other forms of tax abatement it wishes to provide in its by-law. The qualifying requirements for grants must be set out in this by-law, with the amounts to be determined each year in an expenditure by-law. The following are examples of possible grants.

Annual Grants

8.(1) Council may provide for a grant to a holder of taxable property:

(a) where the holder is a charitable, philanthropic or other not-for-profit corporation, and Council considers that the taxable property is used for a purpose that is directly related to the purposes of the corporation; and

(b) [set out qualifying criteria for other grant programs].

(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 VII LEVY OF TAX

Tax Levy

9.(1) On or before May 15 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 thousand dollars (\$1,000) 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 property.

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

Tax Payments

10.(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 the _____ First Nation.

PART VIII TAX ROLL AND TAX NOTICE

Tax Roll

11.(1) On or before May 15 in each taxation year, the tax administrator must create a tax roll for that taxation year.

(2) The tax roll must be in paper or electronic form and must contain the following information:

(a) a description of the property as it appears on the assessment roll;

(b) the name and address of the holder entered on the assessment roll with respect to the property;

(c) the name and address of every person entered on the assessment roll with respect to the property;

(d) the assessed value 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

12.(1) On or before May 31 in 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) The tax administrator must enter on the tax roll the date of mailing a Tax Notice.

(3) The mailing of the Tax Notice by the tax administrator constitutes a statement of and demand for payment of the taxes.

(4) If a number of properties are assessed in the name of the same holder, any number of those properties may be included in one Tax Notice.

(5) Where the holder of a charge on taxable property gives notice to the assessor of the charge under the Assessment By-law and the assessor enters the holder's name on the assessment roll, the tax administrator must mail a copy of all Tax Notices issued in respect of the property to the holder of the charge during the duration of the charge.

(6) The Tax Notice and the Assessment Notice required under the Assessment By-law relating to the same property may be mailed together or may be combined into one notice.

(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

13.(1) Where the assessment roll has been amended in accordance with the Assessment By-law, 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 12(1).

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

- (a) the tax administrator may correct the tax roll for the current taxation year only; and
- (b) on correcting the tax roll, the tax administrator must mail an amended Tax Notice to every person to whom a Tax Notice must be sent under subsection 12(1).

(3) If it is discovered that no tax has been imposed on a taxable property, the First Nation may impose the tax for the current year only and the tax administrator must prepare and send a Tax Notice to every person to whom a Tax Notice must be sent under subsection 12(1).

(4) If property that was exempt from taxation becomes taxable or taxable property becomes exempt from taxation, the tax administrator must correct the tax roll and mail an amended Tax Notice to every person to whom a Tax Notice must be sent under subsection 12(1).

(5) Where the taxable status of a property changes, the tax imposed in respect of it must be prorated so that the tax is payable only for the part of the year in which the property, or part of it, is not exempt.

(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 6.

(8) Where an amended Tax Notice indicates an increase in the amount of taxes owing, the taxes are due and payable on the date of mailing of the amended Tax Notice; however, the taxpayer must be given thirty (30) days to pay those taxes, and a penalty and interest must not be added in that period.

Supplementary Taxes

14.(1) Where a supplementary assessment roll is prepared under the Assessment By-law, the tax administrator must prepare a supplementary tax roll, which may be a continuation of the supplementary assessment roll or may be separate from that roll.

(2) A supplementary tax roll must show

(a) the same information that is required to be shown on the tax roll; and

(b) the date for determining the tax that may be imposed on the improvements.

(3) The tax administrator must, no later than December 31 in the taxation year in which a supplementary tax roll is prepared,

(a) prepare supplementary Tax Notices for all taxable property shown on the supplementary tax roll; and

(b) send the supplementary Tax Notices to every person to whom a Tax Notice must be sent under subsection 12(1).

(4) The duties imposed on the tax administrator with respect to the tax roll and the provisions of this By-law relating to tax rolls, so far as they are applicable, apply to supplementary tax rolls.

Subdivision

15.(1) If a taxable property is subdivided, by lease or other legal instrument, before a Tax Notice is mailed in respect of that property, 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 the Assessment By-law; and

(b) on making an apportionment under paragraph (a), record the apportionment on the tax roll in the manner that the tax administrator considers necessary.

(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).

Requests for Information

16.(1) The tax administrator may, for any purpose related to the administration of this By-law, deliver a Request for Information containing the information set out in Schedule I, to a holder or a person who has disposed of an interest in land, and that person must provide the requested information to the tax administrator within fourteen (14) days or a longer period as specified in the notice.

- (2) The tax administrator is not bound by the information provided under subsection (1).

PART IX

PAYMENT RECEIPTS AND TAX CERTIFICATES

Receipts for Payments

17. 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

18.(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 ___ dollars (\$___) for each tax roll folio searched.

PART IX

PENALTIES AND INTEREST

[**Note to First Nations: First Nations can levy both penalties and interest on unpaid taxes. Under FNTC policy, a penalty cannot exceed 10% of the unpaid taxes, and interest cannot exceed 15% per year, compounded yearly. Current practice for Alberta First Nations is to charge one percent (1%) interest per month, compounded monthly. This option is reflected in the section below, but may be changed.**]

Penalties

19. If all or any portion of taxes remains unpaid after June 30 of the year in which they are levied, a penalty of ___ percent (___%) [**Note to First Nation: maximum total penalty permitted is ten percent (10%)**] of the portion of the current year's taxes that remains unpaid will be added to the amount of the unpaid taxes and the amount so added is, for all purposes, deemed to be part of the current year's taxes.

Interest

20. If all or any portion of taxes remains unpaid after June 30 of the year in which they are levied, the unpaid portion accrues interest at one percent (1%) per month or portion of month, compounded monthly, until paid or recovered, and the accrued interest is, for all purposes, deemed to be part of the taxes

Application of Payments

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

PART X

REVENUES AND EXPENDITURES

Revenues and Expenditures

22.(1) All revenues raised under this By-law must be placed into a separate account, separate from other moneys of the First Nation.

- (2) Revenues raised include:

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

(3) An expenditure of revenue raised under this By-law must be made under authority of an expenditure by-law.

Reserve Funds

23.(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, money in a reserve fund must be deposited in a separate account and the money and interest earned on it must be used only for the purpose for which the reserve fund was established.

(3) Council may, by 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 XII

COLLECTION AND ENFORCEMENT

Recovery of Unpaid Taxes

24.(1) The liability referred to in subsection 5(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) Costs incurred by the First Nation in the collection and enforcement of unpaid taxes

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

(4) Where the tax administrator has reasonable grounds to believe that a debtor intends to remove his or her personal property from 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.

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

Tax Arrears Certificate

25.(1) Before taking any enforcement measures or commencing any enforcement proceedings under Parts XIII, XIV, XV, XVI or XVII and, subject to subsection (2), the tax administrator must issue a Tax Arrears Certificate and deliver it to every person named on the tax roll in respect of that property.

(2) A Tax Arrears Certificate must not be issued for at least six (6) months after the day on which the taxes became due.

Creation of Lien

26.(1) Unpaid taxes are a lien on the interest in land to which they pertain that attaches to the interest in land and binds subsequent holders of the interest in land.

(2) The tax administrator must maintain a list of all liens created under this By-law.

(3) A lien listed under subsection (2) has priority over any unregistered or registered charge, claim, privilege, lien or security interest in respect of the interest in land.

(4) The tax administrator may apply to a court of competent jurisdiction to protect or enforce a lien under subsection (1) where the tax administrator determines such action is necessary or advisable.

(5) On receiving payment in full of the taxes owing in respect of which a lien was created, the tax administrator must register a discharge of the lien without delay.

(6) Discharge of a lien by the tax administrator is evidence of payment of the taxes with respect to the interest in land.

(7) A lien is not lost or impaired by reason of any technical error or omission in its creation or recording in the list of liens.

Delivery of Documents in Enforcement Proceedings

27.(1) This section applies to this Part and Parts XIII, XIV, XV, XVI and XVII.

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

(3) Personal delivery of a document is made

(a) in the case of an individual, by leaving the document with that individual or with an individual at least eighteen (18) years of age residing at that individual's place of residence;

(b) in the case of a first nation, by leaving the document with the individual apparently in charge, at the time of delivery, of the main administrative office of the first nation, or with the first nation's legal counsel; and

(c) in the case of a corporation, by leaving the document with the individual apparently in charge, at the time of delivery, of the head office or one of its branch offices, or with an officer or director of the corporation or the corporation's legal counsel.

(4) A document is considered to have been delivered

(a) if delivered personally, on the day that personal delivery is made; and

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

(5) Copies of notices must be delivered

- (a) where the notice is in respect of taxable property, to all persons named on the tax roll in respect of that taxable property; and
- (b) where the notice is in respect of personal property, to all holders of security interests in the personal property registered under the laws of the Province.

PART XIII

SEIZURE AND SALE OF PERSONAL PROPERTY

Seizure and Sale of Personal Property

28.(1) If taxes remain unpaid more than thirty (30) days after a Tax Arrears Certificate is issued to a debtor, the tax administrator may recover the amount of unpaid taxes, with costs, by seizure and sale of personal property of the debtor that is located on the reserve.

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

Notice of Seizure and Sale

29.(1) Before proceeding under subsection 28(1), the tax administrator must deliver to the debtor a Notice of Seizure and Sale.

(2) If the taxes remain unpaid more than seven (7) days after delivery of a Notice of Seizure and Sale, the tax administrator may request a sheriff, bailiff or by-law enforcement officer to seize any personal property described in the Notice of Seizure and Sale that is in the possession of the debtor and is located on the reserve.

(3) The person who seizes personal property must deliver to the debtor a receipt for the personal property seized.

Notice of Sale of Seized Personal Property

30.(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

31.(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 30(1).

(4) If at any time before the seized property is sold a challenge to the seizure is made to a court of competent jurisdiction, the sale must be postponed until after the court rules on the challenge.

Registered Security Interests

32. The application of this Part to the seizure and sale of personal property subject to a registered security interest is subject to any laws of the Province regarding the seizure and sale of such property.

Proceeds of Sale

33.(1) The proceeds from the sale of seized personal property must be paid to any holders of registered security interests in the property and to the First Nation in order of their priority under the laws applicable in the Province, and any remaining proceeds must be paid to the debtor.

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

PART XIV

SEIZURE AND ASSIGNMENT OF TAXABLE PROPERTY

Seizure and Assignment of Taxable Property

34.(1) Where taxes remain unpaid for more than nine (9) months after a Tax Arrears Certificate is issued, the tax administrator may levy the amount of unpaid taxes by way of the seizure and assignment of the taxable property.

(2) Before proceeding under subsection (1), the tax administrator must

(a) deliver a Notice of Seizure and Assignment of Taxable Property to the debtor;

(b) deliver a copy of the Notice of Seizure and Assignment of Taxable Property to any locatee with an interest in the taxable property;

(c) deliver a copy of the Notice of Seizure and Assignment of Taxable Property to any holder of a charge registered in the registry against the taxable property that may be extinguished under paragraph 40(3)(b); and

(d) deliver to the Minister of Indian Affairs and Northern Development a copy of the Notice of Seizure and Assignment of Taxable Property, and a request for consent from the Minister to the seizure and assignment of taxable property, if required.

(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, with the consent of the Minister of Indian Affairs and Northern Development if required, 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

35.(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 39(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

36.(1) A Notice of Sale of a Right to Assignment of Taxable Property must be

(a) published in the local newspaper with the largest circulation at least once in each of the four (4) weeks preceding the date of the public tender or auction; and

(b) posted in a prominent place on the reserve not less than ten (10) days before the date of the public tender or auction.

(2) The tax administrator must conduct a public auction or tender at the time and place set out in the Notice of Sale of a Right to Assignment of Taxable Property, unless it is necessary to adjourn the public tender or auction, in which case a further notice must be published in the manner set out in subsection (1).

(3) If no bid is equal to or greater than the upset price, the First Nation is deemed to have purchased the right to an assignment of the taxable property for the amount of the upset price.

Notice to Minister

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

Subsisting Rights

38. 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 39(1);
- (b) the right to possession of the taxable property is not affected during the time allowed for redemption, subject, however, to
 - (i) impeachment for waste, and
 - (ii) the right of the highest bidder to enter on the taxable property to maintain it in a proper condition and to prevent waste;
- (c) an easement, restrictive covenant, building scheme or right of way registered against the interest in land subsists; and
- (d) during the period allowed for redemption, an action may be brought in a court of competent jurisdiction to have the sale of the right to an assignment of the taxable property set aside and declared invalid.

Redemption Period

39.(1) At any time within three (3) months after the holding of a public tender or auction in respect of taxable property, the debtor may redeem the taxable property by paying to the First Nation the amount of the upset price plus three percent (3%).

- (2) On redemption of the taxable property under subsection (1),
 - (a) if the right to an assignment was sold to a bidder, the First Nation must, without delay, repay to that bidder the amount of the bid; and
 - (b) the tax administrator must notify the Minister of Indian Affairs and Northern Development in writing of the redemption.

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

(4) Subject to a redemption under subsection (2), at the end of the redemption period, the First Nation must assign the taxable property to the highest bidder in the public tender or auction, or to itself as the deemed purchaser, in accordance with subsection 36(3).

Assignment of Taxable Property

40.(1) Taxable property must not be assigned to any person or entity who would not have been entitled under the *Indian Act* or the *First Nations Land Management Act*, as the case may be, to obtain the interest or right constituting the taxable property.

(2) The tax administrator must register an assignment of any taxable property assigned in accordance with this By-law in every registry in which the taxable property is registered at the time of the assignment.

(3) An assignment under subsection 39(4) operates

(a) as a transfer of the taxable property to the bidder from the debtor, without an attestation or proof of execution; and

(b) to extinguish all the right, title and interest of every previous holder of the taxable property, or those claiming under a previous holder, and all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type, and whether or not registered, subsisting at the time the assignment is registered under subsection (2), except an easement, restrictive covenant, building scheme or right of way registered against the interest in land.

(4) Upon an assignment under subsection 39(4), any remaining debt of the debtor with respect to the taxable property is extinguished.

Proceeds of Sale

41.(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, and

(b) second, to any other holders of registered interests in the property in order of their priority at law, and any remaining proceeds must be paid to the debtor.

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

Resale by the First Nation

42.(1) If the right to assignment of the taxable property is purchased by the First Nation under subsection 36(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 XV

CANCELLATION OF INTEREST IN LAND

Cancellation of Interest in Land

43. Where taxes remain unpaid more than thirty (30) days after a Tax Arrears Certificate is issued, the tax administrator may, in accordance with this Part, cancel the interest in land held by the debtor in respect of which the taxes are due.

Notice of Cancellation of Interest in Land

44. Before proceeding under section 43, the tax administrator must deliver a Notice of Cancellation of Interest in Land to the debtor, and deliver a copy of the Notice to any locatee with an interest in the taxable property and to any holder of a charge registered in the registry against the taxable property that may be extinguished under paragraph 45(2)(c).

Cancellation of Interest

45.(1) If the debtor does not pay all taxes owing, including interest and costs, within six (6) months after the Notice of Cancellation of Interest in Land is delivered to the debtor, the tax administrator must

- (a) obtain the consent of the Minister of Indian Affairs and Northern Development to the cancellation, if required;
- (b) register a Certificate of Cancellation of Interest in Land in the registry in which the taxable property is registered at the time the Certificate is issued; and
- (c) deliver the Certificate of Cancellation of Interest in Land to the debtor, and deliver a copy of the Certificate to any locatee with an interest in the taxable property and to any holder of a charge registered in the registry against the taxable property that may be extinguished under paragraph (2)(c).

(2) Once the tax administrator has fulfilled the requirements under subsection (1), and without further notice,

- (a) the interest in land held by the debtor is cancelled;
- (b) the right, title and interest of every previous holder of the taxable property, or those claiming under a previous holder, is extinguished; and
- (c) all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type, and whether or not registered, are extinguished, except an easement, restrictive covenant, building scheme or right of way registered against the interest in land.

(3) On cancellation under subsection (2), any remaining debt of the debtor with respect to the taxable property is cancelled.

PART XVI FORFEITURE

Forfeiture of Interest in Land

46. Where taxes remain unpaid for more than twenty-four (24) months after a Tax Arrears Certificate is issued, the tax administrator may, in accordance with this Part, levy the amount of unpaid taxes by way of the forfeiture of the interest in land in respect of which taxes are due.

Notice of Forfeiture

47. Before proceeding under section 46, the tax administrator must deliver a Notice of Forfeiture to the debtor, and deliver a copy of the Notice to any locatee with an interest in the taxable property and to any holder of a charge registered in the registry against the taxable property that may be extinguished under paragraph 48(3)(b).

Forfeiture

48.(1) If the debtor does not pay all taxes owing, including interest and costs, on or before the later of December 1 of the year in which the Notice of Forfeiture is delivered, and forty (40) days after the Notice is delivered, the tax administrator must

- (a) obtain the consent of the Minister of Indian Affairs and Northern Development to the forfeiture, if required;
- (b) register a Certificate of Forfeiture in the registry in which the taxable property is registered at the time the Certificate is issued; and

(c) deliver the Certificate of Forfeiture to the debtor, and deliver a copy of the Certificate to any locatee with an interest in the taxable property and to any holder of a charge registered in the registry against the taxable property that may be extinguished under paragraph (3)(b).

(2) Once the tax administrator has fulfilled the requirements under subsection (1), the interest in land is absolutely forfeited to, and vested in, the First Nation.

(3) A forfeiture and vesting under subsection (2) operates

(a) as a transfer of the taxable property to the First Nation from the debtor, without an attestation or proof of execution; and

(b) to extinguish all the right, title and interest of the debtor, 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 of forfeiture under subsection (2), except an easement, restrictive covenant, building scheme or right of way registered against the interest in land.

(4) If any taxes remain unpaid on the deadline referenced in subsection (1), the payment of those taxes does not prevent forfeiture unless the payment

(a) includes all taxes then due and payable, including interest and costs; and

(b) is made before forfeiture occurs under subsection (2).

(5) Upon forfeiture under subsection 48(2), any remaining debt of the debtor with respect to the taxable property is extinguished.

PART XVII

DISCONTINUANCE OF SERVICES

Discontinuance of Services

49.(1) Subject to this section, the First Nation may discontinue any service it provides to the taxable property of a debtor if

(a) revenues from this By-law or any 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 Tax Arrears Certificate was delivered to the debtor.

(2) At least thirty (30) days before discontinuing any service, the tax administrator must deliver to the debtor and to any locatee with an interest in the taxable property a Notice of Discontinuance of Services.

(3) The First Nation must not discontinue

(a) fire protection or police services to the taxable property of a debtor;

(b) water or garbage collection services to taxable property that is a residential dwelling; or

(c) electrical or natural gas services to taxable property that is a residential dwelling during the period from November 1 in any year to March 31 in the following year.

PART XVIII

GENERAL PROVISIONS

Disclosure of Information

50.(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 not disclose the 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 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

51. Notwithstanding section 50,

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

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

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

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

Validity

52. Nothing under this By-law must be rendered void or invalid, nor must the liability of any person to pay tax or any other amount 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 a 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

53.(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 or proceeding within the time limit prescribed in this section, then money paid to the First Nation must be deemed to have been voluntarily paid.

Notices

54.(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 the tax roll;

(b) where the recipient's address is unknown, by posting a copy of the notice in a conspicuous place on the recipient's property; or

(c) by personal delivery or courier to the recipient or to the recipient's ordinary mailing address or the address for the recipient shown on the tax roll.

(2) Except where otherwise provided in this 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.

Interpretation

55.(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 must be severed from the remainder of this By-law and the decision that it is invalid must not affect the validity of the remaining portions of this By-law.

(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) 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.

(5) 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.

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

[Note to First Nation: Include this repeal provision only if this by-law is repealing and replacing an existing property taxation by-law.]

Repeal

56. The _____ *First Nation Property Taxation By-law, 20__*, as amended, is hereby repealed in its entirety.]

Force and Effect

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

THIS BY-LAW IS HEREBY DULY ENACTED by Council on the ___ day of _____, 20___, at _____ in the Province of Alberta.

A quorum of Council consists of _____ () members of Council.

[Name] _____

Chief [please spell out the name]

[Name] _____

Councillor [please spell out the name]

[Name] _____

Councillor [please spell out the name]

[Name] _____

Councillor [please spell out the name]

SCHEDULE I
REQUEST FOR INFORMATION BY TAX ADMINISTRATOR
FOR THE _____ FIRST NATION

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

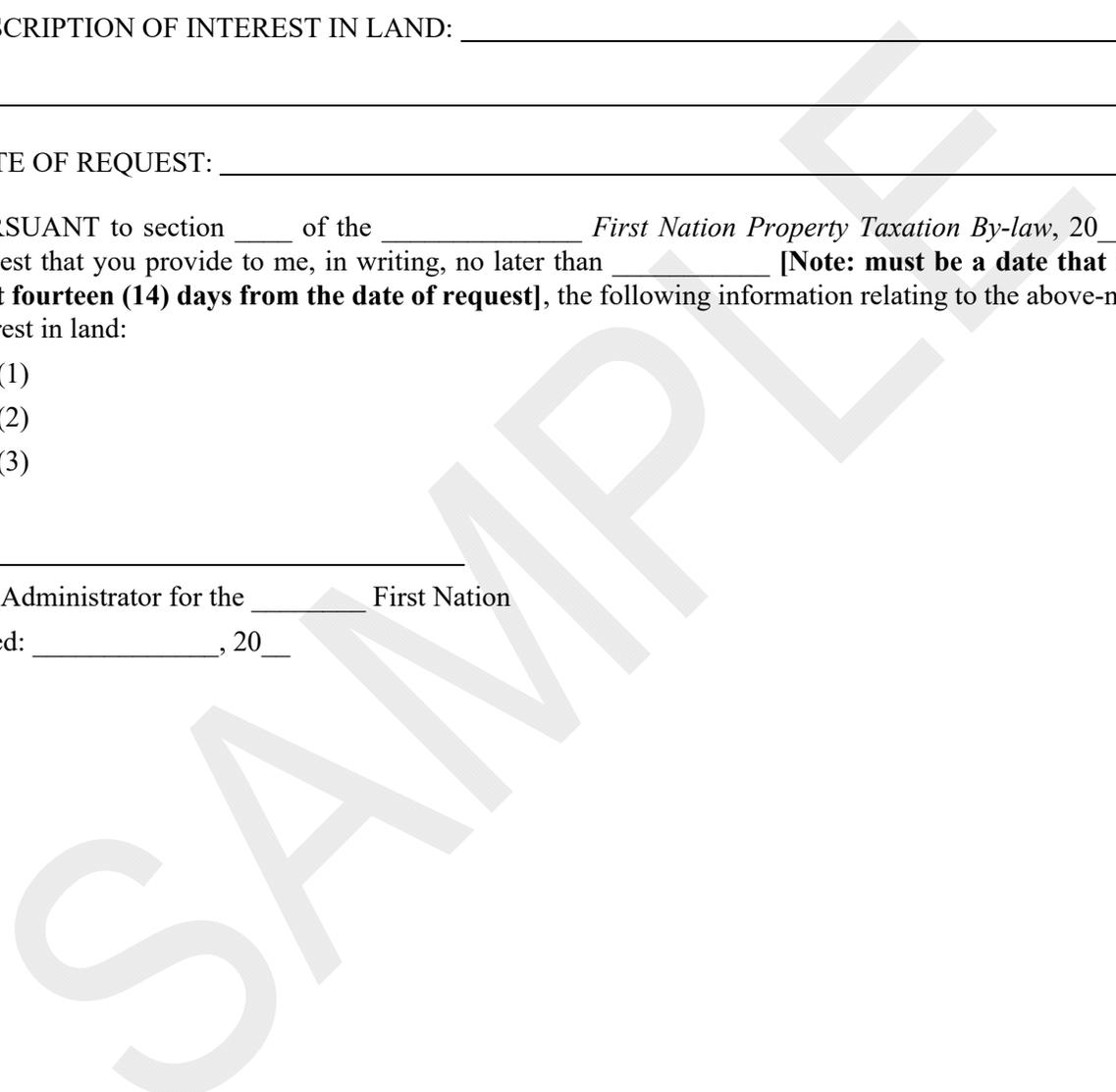
DATE OF REQUEST: _____

PURSUANT to section ____ of the _____ *First Nation Property Taxation By-law*, 20____, I request that you provide to me, in writing, no later than _____ **[Note: must be a date that is at least fourteen (14) days from the date of request]**, the following information relating to the above-noted interest in land:

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

Tax Administrator for the _____ First Nation

Dated: _____, 20____



SCHEDULE II
TAX NOTICE

TO: _____

ADDRESS: _____

RE: _____

(description of interest in land)

PURSUANT to the provisions of the _____ *First Nation Property Taxation By-law, 20__*, taxes in the amount of _____ dollars (\$ _____) are hereby levied with respect to the above-noted interest in land.

All taxes are due and payable on or before _____. Payments for unpaid taxes, penalties and interest are past due and must be paid immediately.

Payments must be made at the offices of the _____ First Nation, 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 _____ *First Nation Property Taxation By-law 20__*.

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

Assessed value	\$ _____
Taxes (current year)	\$ _____
Unpaid taxes (previous years)	\$ _____
Penalties:	\$ _____
Interest:	\$ _____
Costs: [insert details]	\$ _____
Total Payable	\$ _____

Tax Administrator for the _____ First Nation

Dated: _____, 20__

SCHEDULE III
TAX CERTIFICATE

In respect of the interest in land described as: _____ and pursuant to the _____ *First Nation Property Taxation By-law, 20__*, 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.

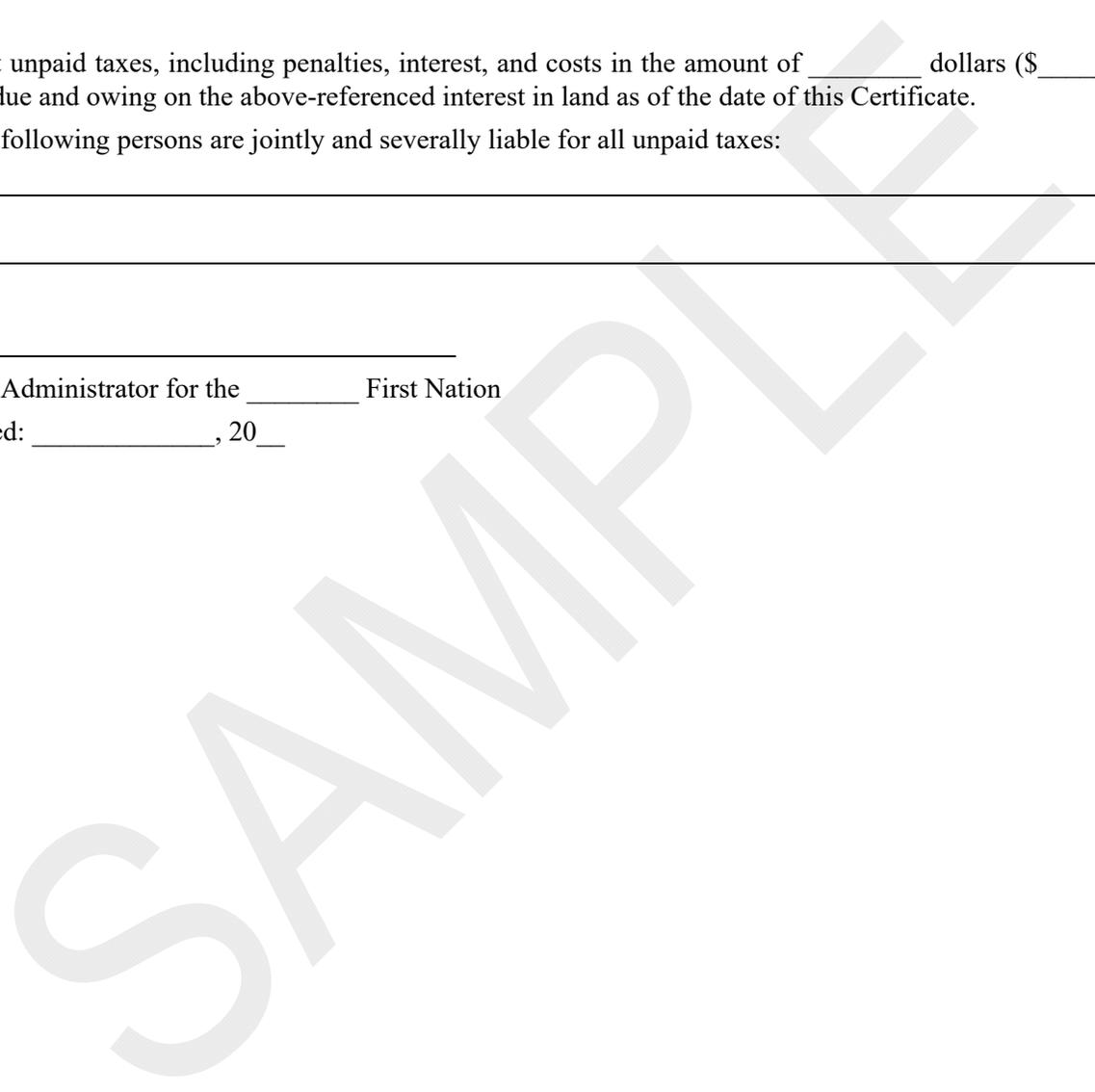
OR

That unpaid taxes, including penalties, interest, and costs in the amount of _____ dollars (\$_____) are due and owing on the above-referenced interest in land as of the date of this Certificate.

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

Tax Administrator for the _____ First Nation

Dated: _____, 20__



SCHEDULE IV
TAX ARREARS CERTIFICATE

In respect of the interest in land described as: _____ and pursuant to the _____ First Nation Property Taxation By-law, 20____, I hereby certify as follows:

As of the date set out below, that taxes, penalties and interest 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.

The unpaid tax debt accrues interest each day that it remains unpaid, at a rate of _____ percent (____%) per month, compounded monthly.

Payments must be made at the offices of the _____ First Nation, 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:

Tax Administrator for the _____ First Nation

Dated: _____, 20____

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

For costs arising from enforcement proceedings under Parts XIII, XIV, XV, XVI and XVII:

1. For preparation of notices \$ _____
2. For service of notices on each person or place by the First Nation \$ _____
3. For service of a notice on each person or place by a process server, bailiff or delivery service, if required Actual Cost
4. Advertising in newspaper, if required Actual Cost
5. For staff time spent in conducting a seizure and sale of personal property, not including costs otherwise recovered under this Schedule: \$ ___ per person per hour
6. Actual costs incurred by the First Nation for enforcement measures will be charged based on receipts.

SAMPLE

SCHEDULE VI
NOTICE OF SEIZURE AND SALE OF PERSONAL PROPERTY

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____

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

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

AND TAKE NOTICE that:

1. Failure to pay the full amount of the unpaid tax debt within SEVEN (7) days after delivery of this Notice may result in the tax administrator, pursuant to section _____ of the *First Nation Property Taxation By-law, 20__*, seizing the personal property described as follows:

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

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

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

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

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

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

Tax Administrator for the _____ First Nation

Dated: _____, 20__

SCHEDULE VII

NOTICE OF SALE OF SEIZED PERSONAL PROPERTY

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

The following personal property, seized pursuant to section _ of the _____ *First Nation Property Taxation By-law, 20__*, will be sold at the public auction:

[general description of the goods]

The proceeds of sale of the seized property shall be paid to any holders of registered security interests in the property and to the First Nation in order of their priority under the laws applicable in the Province of Alberta and any remaining proceeds shall be paid to the debtor.

Tax Administrator for the _____ First Nation

Dated: _____, 20__

SAMPLE

SCHEDULE VIII

NOTICE OF SEIZURE AND ASSIGNMENT OF TAXABLE PROPERTY

TO: _____
(the “debtor”)

ADDRESS: _____

DESCRIPTION OF TAXABLE PROPERTY: _____
(the “taxable property”)

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

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

AND TAKE NOTICE that failure to pay the full amount of the unpaid tax debt within six (6) months after service of this Notice may result in the tax administrator, pursuant to section ___ of the _____ *First Nation Property Taxation By-law, 20__* and with the consent of the Minister of Indian Affairs and Northern Development, if required, seizing and selling a right to an assignment of the taxable property by public tender [auction] as follows:

1. The public tender [auction], including the conditions that are attached to the acceptance of an offer to purchase the taxable property, shall be conducted in accordance with the procedures prescribed by the Council of the _____ First Nation, a copy of which may be obtained from the tax administrator.
2. The tax administrator will
 - (a) publish a Notice of Sale of a Right to Assignment of Taxable Property in the _____ newspaper at least once in each of the four (4) weeks preceding the date of the sale; and
 - (b) post the Notice of Sale of a Right to Assignment of Taxable Property in a prominent place on the reserve not less than ten (10) days preceding the date of the sale.
3. The Notice of Sale of a Right to Assignment of Taxable Property will set out the upset price for the right to assignment of the taxable property and any conditions attached to the acceptance of a bid.
4. The upset price will be not less than the total amount of the taxes, penalties and interest payable, calculated to the end of the redemption period, plus five percent (5%) of that total. The upset price is the lowest price for which the right to assignment of the taxable property will be sold.
5. The tax administrator will conduct the public tender [auction] at the time and place set out in the Notice of Sale of a Right to Assignment of Taxable Property unless it is necessary to adjourn in which case a further notice will be published.
6. If at the public tender [auction] there is no bid that is equal to or greater than the upset price, the First Nation will be deemed to have purchased the right to an assignment of the taxable property for the amount of the upset price.
7. The debtor may redeem the right to an assignment of the taxable property after the sale by paying to the First Nation the amount of the upset price plus three percent (3%) any time within three (3) months after the holding of the public tender [auction] in respect of the taxable property (hereinafter referred to as the “redemption period”). Where the right to an assignment is redeemed, the First Nation will, without delay, repay to the bidder the amount of the bid.
8. A sale of a right to an assignment of taxable property by public tender [auction] is not complete, and no transfer of the taxable property will be made, until the expiration of the redemption period. If the right

to an assignment of the taxable property is not redeemed within the redemption period, then on the expiration of the redemption period, the First Nation will assign the taxable property to the highest bidder or to itself as the deemed purchaser, as applicable. The taxable property will not be assigned to any person or entity who would not have been capable under the *Indian Act* or the *First Nations Land Management Act* of obtaining the interest or right constituting the taxable property.

9. Council of the _____ First Nation will, without delay, notify the Minister of Indian Affairs and Northern Development in writing of the sale of a right to an assignment of the taxable property and of any redemption of the right to an assignment of the taxable property.

10. The tax administrator will register the assignment of the taxable property in every registry in which the taxable property is registered at the time of assignment.

11. An assignment of the taxable property operates

(a) as a transfer to the bidder or the First Nation, as the case may be, from the debtor of the taxable property, without an attestation or proof of execution, and

(b) to extinguish all the right, title and interest of every previous holder of the taxable property, or those claiming under a previous holder, and all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type, and whether or not registered, subsisting at the time the assignment is registered, except an easement, restrictive covenant, building scheme or right-of-way registered against the taxable property.

12. Upon assignment 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 the First Nation, and then to any other holders of registered interests in the taxable property in order of their priority at law. Any moneys in excess of these amounts will be paid to the debtor in accordance with the _____ *First Nation Property Taxation By-law, 20__*.

Tax Administrator for the _____ First Nation

Dated: _____, 20__

SCHEDULE IX

NOTICE OF SALE OF A RIGHT TO ASSIGNMENT OF TAXABLE PROPERTY

TO: _____
(the “debtor”)

ADDRESS: _____

DESCRIPTION OF TAXABLE PROPERTY: _____
(the “taxable property”)

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

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

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

The public tender [auction] will take place on:

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

The tax administrator will conduct the public tender [auction] at the above time and place unless it is necessary to adjourn in which case a further notice will be published.

AND TAKE NOTICE that:

1. The upset price for the taxable property is: _____ dollars (\$ _____). The upset price is the lowest price for which the taxable property will be sold.
2. The public tender [auction], including the conditions that are attached to the acceptance of an offer, shall be conducted in accordance with the procedures prescribed by the Council of the _____ First Nation as set out in this Notice.
3. If at the public tender [auction] there is no bid that is equal to or greater than the upset price, the First Nation will be deemed to have purchased the right to assignment of the taxable property for the amount of the upset price.
4. The debtor may redeem the right to an assignment of the taxable property by paying to the First Nation the amount of the upset price plus three percent (3%), any time within three (3) months after the holding of the public tender [auction] in respect of the taxable property (referred to as the “redemption period”). Where the right to an assignment is redeemed, the First Nation will, without delay, repay to the bidder the amount of the bid.
5. A sale of a right to an assignment of taxable property by public tender [auction] is not complete, and no assignment of the taxable property will be made, until the expiration of the redemption period. If the right to an assignment of the taxable property is not redeemed within the redemption period, then on the expiration of the redemption period, the First Nation will assign the taxable property to the highest bidder or to itself as the deemed purchaser, as applicable. The taxable property will not be assigned to any person or entity who would not have been capable under the *Indian Act* or the *First Nations Land Management Act*, as the case may be, of obtaining the interest constituting the taxable property.
6. Council of the _____ First Nation will, without delay, notify the Minister of Indian Affairs and Northern Development in writing of the sale of a right to an assignment of the taxable property and of any redemption of the right to assignment of the taxable property.

7. The tax administrator will register the assignment of the taxable property in every registry in which the taxable property is registered at the time of the assignment.
8. A sale of the taxable property operates
 - (a) as a transfer to the bidder or the First Nation, as the case may be, from the debtor of the taxable property, without an attestation or proof of execution, and
 - (b) to extinguish all the right, title and interest of every previous holder of the taxable property, or those claiming under a previous holder, and all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type, and whether or not registered, subsisting at the time the assignment is registered, except an easement, restrictive covenant, building scheme or right-of-way registered against the 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 the First Nation, and then to any other holders of registered interests in the taxable property in order of their priority at law. Any moneys in excess of these amounts will be paid to the debtor in accordance with the _____ *First Nation Property Taxation By-law, 20__*.

Tax Administrator for the _____ First Nation

Dated: _____, 20__

SCHEDULE X

NOTICE OF CANCELLATION OF INTEREST IN LAND

TO: _____

(insert 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 _____ dollars (\$_____) remain unpaid and are due and owing in respect of the taxable property as of the date of this Notice.

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

AND TAKE NOTICE that:

1. Unless the above-noted outstanding taxes, penalties, interest and costs, and all subsequent taxes levied on the taxable property, are paid in full on or before _____, 20__, the interest you hold in the taxable property will be absolutely and unconditionally cancelled in accordance with section __ of the _____ *First Nation Property Taxation By-law, 20__*.
2. Upon the cancellation of your interest in the taxable property, you will be required to immediately vacate the taxable property.
3. Upon cancellation of your interest in the taxable property, all rights, title and interests which you have in respect of the taxable property, or which are claimed by a previous holder of the taxable property and those claiming under a previous holder, will be extinguished.
4. Upon cancellation of your interest in the taxable property, all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type subsisting at the time of the cancellation, whether or not registered, will be extinguished.

AND TAKE NOTICE that you may prevent cancellation by paying all taxes due and payable, including interest and costs, to the _____ First Nation on or before _____, 20__.

Tax Administrator for the _____ First Nation

Dated: _____, 20__

SCHEDULE XI

CERTIFICATE OF CANCELLATION OF INTEREST IN LAND

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

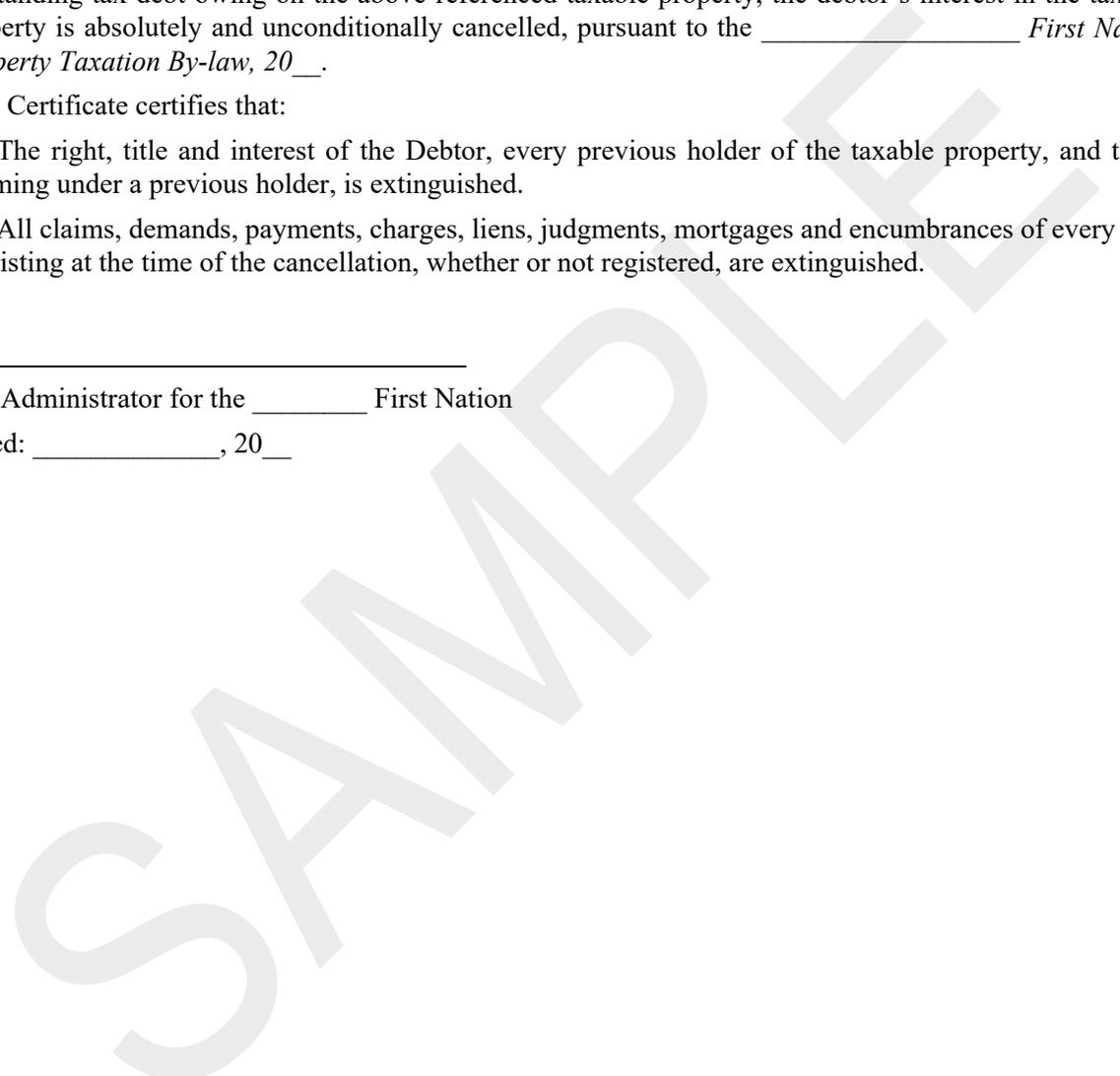
I, _____, tax administrator for the _____ First Nation, hereby certify that resulting from the failure of _____ [insert name of debtor] (the “Debtor”) to pay the outstanding tax debt owing on the above-referenced taxable property, the debtor’s interest in the taxable property is absolutely and unconditionally cancelled, pursuant to the _____ *First Nation Property Taxation By-law, 20*__.

This Certificate certifies that:

1. The right, title and interest of the Debtor, every previous holder of the taxable property, and those claiming under a previous holder, is extinguished.
2. All claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type subsisting at the time of the cancellation, whether or not registered, are extinguished.

Tax Administrator for the _____ First Nation

Dated: _____, 20__



SCHEDULE XII
NOTICE OF FORFEITURE

TO: _____
(insert 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 _____ dollars (\$_____) remain unpaid and are due and owing in respect of the taxable property as of the date of this Notice.

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

AND TAKE NOTICE that taxes imposed by the _____ First Nation for the above-noted taxable property have been outstanding for more than two (2) years, and pursuant to the _____ *First Nation Property Taxation By-law, 20__*, the taxable property is now subject to forfeiture.

AND TAKE NOTICE that:

1. Unless the above-noted outstanding taxes are **paid in full**, including all penalties, interest and costs, on or before [insert date], being the later of the 40th day after the date of this Notice and December 1, 20__, the interest you hold in the taxable property will be absolutely and unconditionally forfeited to, and vested in, the _____ First Nation, pursuant to the _____ *First Nation Property Taxation By-law, 20__*.
2. Upon the forfeiture of your interest in the taxable property, you will be required to immediately vacate the taxable property.
3. Upon the forfeiture of your interest in the taxable property, all rights, title and interests which you have in respect of the taxable property, or which are claimed by a previous holder of the taxable property and those claiming under a previous holder, will be extinguished.
4. Upon forfeiture of your interest in the taxable property, all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type subsisting at the time of the forfeiture, whether or not registered, will be extinguished, except an easement, restrictive covenant, building scheme or right of way registered against the taxable property.

AND TAKE NOTICE that you may prevent forfeiture by paying all taxes due and payable, including penalties, interest and costs, to the _____ First Nation on or before _____, 20__.

Tax Administrator for the _____ First Nation

Dated: _____, 20__

SCHEDULE XIII
CERTIFICATE OF FORFEITURE

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

I, _____, tax administrator for the _____ First Nation, hereby certify that resulting from the failure of _____ [insert name of debtor] (the “Debtor”) to pay the outstanding tax debt owing on the above-referenced taxable property, the Debtor’s interest in the taxable property has been absolutely and unconditionally forfeited to the _____ First Nation, pursuant to the _____ *First Nation Property Taxation By-law*, 20__.

This Certificate certifies that:

1. The right, title and interest of the Debtor, every previous holder of the taxable property, and those claiming under a previous holder, is extinguished.
2. All claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type subsisting at the time of the forfeiture, whether or not registered, are extinguished, except an easement, restrictive covenant, building scheme or right of way registered against the taxable property.

Tax Administrator for the _____ First Nation

Dated: _____, 20__

SCHEDULE XIV
NOTICE OF DISCONTINUANCE OF SERVICES

TO: _____

ADDRESS: _____

DESCRIPTION OF TAXABLE PROPERTY: _____

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

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

AND TAKE NOTICE that where a debtor fails to pay all unpaid taxes within thirty (30) days of the issuance of a Tax Arrears Certificate, the tax administrator may discontinue services that it provides to the taxable property of a debtor, pursuant to the *First Nation Property Taxation By-law, 20__*.

AND TAKE NOTICE that if the taxes are not paid in full on or before _____, being thirty (30) days from the date of issuance of this notice, the following services will be discontinued:

[list services to be discontinued]

Tax Administrator for the _____ First Nation

Dated: _____, 20__