

## **SHXW'ŌWHÁMEL FIRST NATION ASSESSMENT LAW, 2015**

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### **WHEREAS:**

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

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

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

NOW THEREFORE the Council of the Shxw'ōwhámel First Nation duly enacts as follows:

## **PART I CITATION**

### **Citation**

1. This Law may be cited as the *Shxw'ōwhámel First Nation Property Assessment Law, 2015*.

## **PART II DEFINITIONS AND REFERENCES**

### **Definitions and References**

2.(1) In this Law:

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

“assessable property” means property that is liable to assessment under this Law;

“assessed value” means the market value of land or improvements, or both, as if the land or improvements were held in fee simple off the reserve, as determined under this Law;

“assessment” means a valuation and classification of an interest in land;

“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 Part IX;

“assessment roll” means a roll prepared pursuant to this Law, and includes a supplementary assessment roll, a revised assessment roll and an assessment roll referenced in subsection 10(3);

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

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

“Commission” means the First Nations Tax Commission established under the Act;

“complainant” means a person who commences an appeal of an assessment under this Law;

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

“First Nation” means the Shxw'ōwhámel First Nation, being a band named in the schedule to the Act;

“FMB” means the First Nations Financial Management Board established under the Act;

“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 any building, fixture, structure or similar thing constructed, placed or affixed on, in or to land, or water over land, or on, in or to another improvement and includes a

manufactured home;

“interest in 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;

“manufactured home” means a structure, whether or not ordinarily equipped with wheels, that is designed, constructed or manufactured to

(a) be moved from one place to another by being towed or carried, and

(b) provide

(i) a dwelling house or premises,

(ii) a business office or premises,

(iii) accommodation for any other purpose,

(iv) shelter for machinery or other equipment, or

(v) storage, workshop, repair, construction or manufacturing facilities;

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

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

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

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

“Order to Attend Hearing/Produce Documents” means an order containing the information set out in Schedule X;

“party”, in respect of an appeal of an assessment under this Law, means the parties to an assessment appeal under section 32;

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

“property class” means those categories of property established in subsection 6(10) for the purposes of assessment and taxation;

“Province” means the province of British Columbia;

“reserve” means any land set apart for the use and benefit 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;

“revised assessment roll” means an assessment roll amended in accordance with section 12 of this Law;

“secretary” means the secretary of the Assessment Review Board appointed under section 25;

“supplementary assessment roll” means an assessment roll under section 19;

“tax administrator” means the person appointed by Council to that position under the Taxation Law;

“Taxation Law” means the *Shxw’ōwhámel First Nation Property Taxation Law, 2015*;

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

“taxes” includes

(a) all taxes imposed, levied, assessed or assessable under the Taxation Law, and all penalties,

interest and costs added to taxes under the Taxation Law, and

(b) for the purposes of collection and enforcement, all taxes imposed, levied, assessed or assessable under any other local revenue law of the First Nation, and all penalties, interest and costs added to taxes under such a law.

(2) In this Law, references to a Part (e.g. Part I), section (e.g. section 1), subsection (e.g. subsection 2(1)), paragraph (e.g. paragraph 6(3)(a)) or Schedule (e.g. Schedule I) is a reference to the specified Part, section, subsection, paragraph or Schedule of this Law, except where otherwise stated.

### **PART III ADMINISTRATION**

#### **Assessor**

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

(2) An assessor appointed by Council must be qualified to conduct assessments of real property in the Province.

#### **Authorization of Financial Management Board**

4. Notwithstanding any other provision of this Law, if the FMB gives notice to Council pursuant to the Act that third-party management of the revenues raised under this Law is required, Council authorizes the FMB to act as agent of the First Nation to fulfill any of the powers and obligations of the Council under this Law and the Act.

#### **Application of Law**

5. This Law applies to all interests in land.

### **PART IV ASSESSED VALUE**

#### **Assessment and Valuation**

6.(1) The assessor must assess all interests in land that are subject to taxation under the Taxation Law and all interests in land for which payments-in-lieu may be accepted by Council.

(2) For the purpose of determining the assessed value of an interest in land for an assessment roll, the valuation date is July 1 of the year before the taxation year for which the assessment applies.

(3) The assessed value of an interest in land for an assessment roll is to be determined as if on the valuation date

(a) the interest in land was in the physical condition that it is in on October 31 following the valuation date; and

(b) the permitted use of the interest in land was the same as on October 31 following the valuation date.

(4) Paragraph (3)(a) does not apply to property referred to in paragraphs 18(3)(b) and (d) and the assessed value of property referred to in that section for an assessment roll must be determined as if on the valuation date the property was in the physical condition that it is in on December 31 following the valuation date.

(5) Except where otherwise provided, the assessor must assess interests in land at their market value as if held in fee simple off the reserve.

(6) The assessor must determine the assessed value of an interest in land and must enter the

assessed value of the interest in land in the assessment roll.

(7) In determining assessed value, the assessor may, except where this Law has a different requirement, give consideration to the following:

- (a) present use;
- (b) location;
- (c) original cost;
- (d) replacement cost;
- (e) revenue or rental value;
- (f) selling price of the interest in land and comparable interests in land;
- (g) economic and functional obsolescence; and
- (h) any other circumstances affecting the value of the interest in land.

(8) Without limiting the application of subsections (5) and (6), an interest in land used for an industrial or commercial undertaking, a business or a public utility enterprise must be valued as the property of a going concern.

(9) Where a lease or other instrument granting an interest in land places a restriction on the use of the property, other than a right of termination or a restriction on the duration of the interest in land, the assessor must consider the restriction.

(10) Council hereby establishes those property classes established by the Province for provincial property assessment purposes that are set out in Schedule 1, for the purposes of assessment under this Law and imposing taxes under the Taxation Law.

(11) The assessor must

- (a) assess interests in land according to the property classes established under subsection (10); and
- (b) use the provincial classification rules for each property class.

(12) Where a property falls into two (2) or more property classes, the assessor must determine the share of the assessed value of the property attributable to each class and assess the property according to the proportion each share constitutes of the total assessed value.

(13) Where two (2) or more persons are holders of assessable property, the assessor may choose to assess the property in the name of any of those persons or in the names of two (2) or more of those persons jointly.

(14) If a building or other improvement extends over more than one (1) property, those properties, if contiguous, may be treated by the assessor as one property and assessed accordingly.

(15) Where an improvement extends over, under or through land and is owned, occupied, maintained, operated or used by a person other than the holder of the land, that improvement may be separately assessed to the person owning, occupying, maintaining, operating or using it, even though some other person holds an interest in the land.

(16) Except as otherwise provided in this Law, for the purposes of assessing interests in land the assessor must use

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

### **Exemption from Assessment**

7. Notwithstanding any other provision in this Law, improvements designed, constructed or installed to provide emergency protection for persons or domestic animals in the event of a disaster or emergency within the meaning of the *Emergency Program Act* (BC) are exempt from assessment under this Law.

## **PART V**

### **REQUESTS FOR INFORMATION AND INSPECTIONS**

#### **Requests for Information**

8.(1) The assessor may deliver a Request for Information containing the information set out in Schedule II, to a holder or a person who has disposed of assessable property, and that person must provide to the assessor, within fourteen (14) days from the date of delivery or a longer period as specified in the notice, information for any purpose related to the administration of this Law.

(2) The assessor may in all cases assess the assessable property based on the information available to him or her and is not bound by the information provided under subsection (1).

#### **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 if

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

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

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

(d) 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) On or before

- (a) January 31 for taxation years in which the assessor is a person other than British Columbia Assessment Authority, or
- (b) December 31 of the preceding year for taxation years in which the assessor is British Columbia Assessment Authority,

the assessor must complete a new assessment roll containing a list of every interest in land that is liable to assessment under this 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 of the interest in land;
- (b) a short 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 total assessed value of the interest in land;
- (f) the net assessed value of the interest in land subject to taxation under the Taxation Law; and
- (g) any other information the assessor considers necessary or desirable.

(3) For greater certainty, an assessment roll prepared under the enactment repealed by section 57 is and continues to be an assessment roll under this Law and must be used until such time as the next assessment roll is prepared and certified in accordance with this Law.

**Certification by Assessor**

11. On completion of an assessment roll, the assessor must

- (a) certify in writing in substantially the form set out in Schedule XI that the assessment roll was completed in accordance with the requirements of this Law; and
- (b) deliver a copy of the certified assessment roll to Council.

**Assessor to Prepare and Certify Revised Assessment Roll**

12.(1) No later than March 31 after the certification of the assessment roll under section 11, the assessor must

- (a) modify the assessment roll to reflect all reconsideration decisions, corrections of errors and omissions, and decisions received by the assessor from the Assessment Review Board;
- (b) date and initial amendments made to the assessment roll under this section; and
- (c) prepare a revised assessment roll.

(2) On completion of the revised assessment roll, the assessor must

- (a) certify in writing in substantially the form set out in Schedule XI that the revised assessment roll was completed in accordance with the requirements of this Law; and
- (b) deliver a copy of the certified revised assessment roll to Council and to the chair.

(3) On certification under this section, the revised assessment roll becomes the assessment roll for the taxation year and it is deemed to be effective as of the date the assessment roll was certified under section 11.

### **Validity of Assessment Roll**

**13.** An assessment roll is effective on certification and, unless amended in accordance with this 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 any
  - (i) omission, defect or error committed in, or with respect to, the assessment roll,
  - (ii) defect, error or misstatement in any notice required, or
  - (iii) 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 office 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 names, addresses or telephone numbers for solicitation purposes, whether the solicitations are made by telephone, mail or any other means; or
- (b) harass an individual.

(3) 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, the assessor may omit or obscure the holder's name, address or other information about the holder that would ordinarily be included in an assessment roll if, in the assessor's opinion, the inclusion of the name, address or other information could reasonably be expected to threaten the safety or mental or physical health of the holder or a member of the holder's household.

(2) Where the assessor 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.

### **Chargeholders**

**16.(1)** Any person holding a charge on assessable property may, at any time, give notice, with full particulars of the nature, extent and duration of the charge, to the assessor and request that his or her name be added to the assessment roll in respect of that assessable property, for the duration of the charge.

(2) On receipt of a notice and request under this section, the assessor must enter the person's name and address on the assessment roll and provide copies of all assessment notices issued in respect of the assessable property.

### **Assessment Notice**

**17.(1)** The assessor must, on or before December 31 of each year where the assessor is British Columbia Assessment Authority, or on or before January 31 of each year where the assessor is a person other than British Columbia Assessment Authority, mail an Assessment Notice to every



person named in the assessment roll in respect of each assessable property, at the person's address on the assessment roll.

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

(5) If several interests in land are assessed in the name of the same holder at the same value, the Assessment Notice may clearly identify the property assessed, without giving the full description of each property as it appears in the assessment roll.

(6) Subject to subsection 14(2) and subsection (7), the assessor must provide, to any person who requests it and pays to the assessor the fee of six dollars (\$6), the information contained in the current Assessment Notice sent by the assessor.

(7) Where information has been omitted or obscured under subsection 15(1), the assessor must omit that information from a notice provided under subsection (6).

## **PART VII**

### **ERRORS AND OMISSIONS IN ASSESSMENT ROLL**

#### **Amendments by Assessor**

**18.(1)** Before March 16 in each year after the certification of an assessment roll under section 11, the assessor must notify and recommend correction to the Assessment Review Board of all errors or omissions in the assessment roll, except those errors or omissions corrected under subsection (2) or section 20.

(2) Before March 16 in each year after the certification of an assessment roll under section 11, the assessor may amend an individual entry in the assessment roll to correct an error or omission, with the consent of the

- (a) holder of the interest in land; and
- (b) the complainant, if the complainant is not the holder.

(3) Without limiting subsection (1), the assessor must give notice to the Assessment Review Board and recommend correction of the assessment roll in any of the following circumstances:

- (a) because of a change in a holder that occurs before January 1 in a taxation year that is not reflected in the certified assessment roll and that results in
  - (i) land or improvements, or both, that were not previously subject to taxation becoming subject to taxation, or
  - (ii) land or improvements, or both, that were previously subject to taxation ceasing to be subject to taxation;
- (b) after October 31 and before the following January 1, a manufactured home is moved to a new location or destroyed;
- (c) after October 31 and before the following January 1, a manufactured home is placed on land that has been assessed or the manufactured home is purchased by the holder of land that has been assessed; and
- (d) improvements, other than a manufactured home, that
  - (i) are substantially damaged or destroyed after October 31 and before the following

January 1, and

(ii) cannot reasonably be repaired or replaced before the following January 1.

(4) Except as provided in section 19, or pursuant to an order of a court of competent jurisdiction, the assessor must not make any amendments to the assessment roll after March 31 of the current taxation year.

(5) Where the assessment roll is amended under subsection (1), the assessor must mail an amended Assessment Notice to every person named in the assessment roll in respect of the interest in land affected.

### **Supplementary Assessment Roll**

**19.(1)** If, after the certification of the revised assessment roll or where there is no revised assessment roll, after March 31, the assessor finds that any interest in land

(a) was liable to assessment for the current taxation year, but has not been assessed on the current assessment roll, or

(b) has been assessed for less than the amount for which it was liable to assessment,

the assessor must assess the interest in land on a supplementary assessment roll, or further supplementary assessment roll, in the same manner that it should have been assessed on the current assessment roll, provided that a supplementary assessment roll under this section must not be prepared after December 31 of the taxation year in which the assessment roll certified under section 11 applies.

(2) If, after the certification of the revised assessment roll or where there is no revised assessment roll, after March 31, the assessor finds that an interest in land

(a) was liable to assessment for a previous taxation year, but has not been assessed on the assessment roll for that taxation year, or

(b) has been assessed in a previous taxation year for less than the amount for which it was liable to assessment,

the assessor must assess the interest in land on a supplementary assessment roll, or further supplementary assessment roll, in the same manner that it should have been assessed, but only if the failure to assess the interest in land, or the assessment for less than it was liable to be assessed, is attributable to

(c) a holder's failure to disclose,

(d) a holder's concealment of particulars relating to assessable property,

(e) a person's failure to respond to a request for information under subsection 8(1), or

(f) a person's making of an incorrect response to a request for information under subsection 8(1),

as required under this Law.

(3) In addition to supplementary assessments under subsections (1) and (2), the assessor may, at any time before December 31 of the taxation year in which the assessment roll certified under section 11 applies, correct errors and omissions in the assessment roll by means of entries in a supplementary assessment roll.

(4) The duties imposed on the assessor with respect to the assessment roll and the provisions of this Law relating to assessment rolls, so far as they are applicable, apply to supplementary assessment rolls.

(5) Where the assessor receives a decision of the Assessment Review Board after March 31 in a taxation year, the assessor must create a supplementary assessment roll reflecting the decision of

the Assessment Review Board and this section applies.

(6) Nothing in this section authorizes the assessor to prepare a supplementary assessment roll that would be contrary to an amendment ordered or directed by the Assessment Review Board or by a court of competent jurisdiction.

(7) A supplementary assessment roll that implements an amendment ordered or directed by the Assessment Review Board or by a court of competent jurisdiction may not be appealed to the Assessment Review Board.

(8) The assessor must, as soon as practicable, after issuing a supplementary assessment roll

(a) deliver a certified copy of the supplementary assessment roll to the Council;

(b) where the supplementary assessment roll reflects a decision of the Assessment Review Board, deliver a certified copy of the supplementary assessment roll to the chair; and

(c) mail an amended Assessment Notice to every person named on the assessment roll in respect of the interest in land affected.

(9) Where a supplementary assessment roll is issued under this Law, the supplementary assessment roll is deemed to be effective as of the date the assessment roll was certified under section 11 in respect of the assessable property affected.

## **PART VIII**

### **RECONSIDERATION OF ASSESSMENT**

#### **Reconsideration by Assessor**

**20.(1)** A person named on the assessment roll in respect of an assessable property may request that the assessor reconsider the assessment of that assessable property.

(2) A request for reconsideration may be made on one or more of the grounds on which an assessment appeal may be made under this Law.

(3) A request for reconsideration of an assessment must

(a) be delivered to the assessor within thirty (30) days after the day that the Assessment Notice is mailed or e-mailed to the person named on the assessment roll in respect of an assessable property;

(b) be made in writing and include the information set out in Schedule VI; and

(c) include any reasons in support of the request.

(4) The assessor must consider the request for reconsideration and, within fourteen (14) days after receiving the request for reconsideration, either

(a) advise the person who requested the reconsideration that the assessor confirms the assessment; or

(b) where the assessor determines that the assessable property should have been assessed differently, offer to the person who requested the reconsideration to modify the assessment.

(5) Where the person who requested the reconsideration agrees with the modification proposed by the assessor, the assessor must

(a) amend the assessment roll as necessary to reflect the modified assessment;

(b) give notice of the amended assessment to the tax administrator and to all other persons who received the Assessment Notice in respect of the assessable property; and

(c) where a Notice of Appeal has been delivered in respect of the assessable property, advise the Assessment Review Board of the modification.

(6) Where the person who requested the reconsideration accepts an offer to modify an

assessment, that person must not appeal the modified assessment and must withdraw any Notice of Appeal filed in respect of the assessable property.

## **PART IX**

### **ASSESSMENT REVIEW BOARD**

#### **Council to Establish Assessment Review Board**

**21.(1)** Council must, by resolution, establish an Assessment Review Board to

- (a) consider and determine all recommendations from the assessor under subsection 18(1); and
- (b) hear and determine assessment appeals under this Law.

(2) The Assessment Review Board must consist of not less than three (3) members, including at least one (1) member who is a member of the law society of the Province, at least one (1) member who has experience in assessment appeals in the Province, and at least one (1) member who is a member of the First Nation but not a member of Council.

(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 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**

**22.(1)** The First Nation must remunerate

- (a) the chair (or acting chair) at the maximum rate established from time to time by the Province for a part-time chair of a provincial administrative tribunal categorized as Group 1,
- (b) a member (or replacement member appointed to act), other than the chair, who meets the criteria set out in subsection 21(2), at the maximum rate established from time to time by the Province for a part-time vice-chair of a provincial administrative tribunal categorized as Group 1, and
- (c) any member (or replacement member appointed to act), other than those referenced in paragraphs (a) and (b), at the maximum rate established from time to time by the Province for a part-time member of a provincial administrative tribunal categorized as Group 1,

for time spent on activities of the Assessment Review Board required under this Law or expressly authorized by Council.

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

#### **Conflicts of Interest**

**23.(1)** A person must not serve as a member of the Assessment Review Board if the person

- (a) has a personal or financial interest in the assessable property that is the subject of an appeal;
- (b) is the Chief of the First Nation or a member of Council;
- (c) is an employee of the First Nation; or
- (d) 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 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**

24.(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 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**

25.(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.

#### **Removal of Member**

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

- (a) is convicted of an offence under the *Criminal Code*;
- (b) fails to attend three (3) consecutive hearings of the Assessment Review Board; or
- (c) fails to perform any of his or her duties under this Law in good faith and in accordance with the terms of this Law.

#### **Duty of Member**

27. In performing their duties under this 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.

## **PART X**

### **APPEAL TO ASSESSMENT REVIEW BOARD**

#### **Appeals and Assessor Recommendations**

28. The Assessment Review Board must

- (a) consider and determine assessor recommendations made under subsection 18(1) for changes to the assessment roll; and
- (b) hear and determine appeals made under this Part.

#### **Notice of Appeal**

29.(1) Any person, including without limitation the First Nation and the assessor, may appeal an assessment or a reconsideration of an assessment of assessable property to the Assessment

Review Board by delivering

- (a) a completed Notice of Appeal,
- (b) a copy of the Assessment Notice, or extract of the information provided therein, and
- (c) an administration fee of thirty dollars (\$30),

to the assessor within sixty (60) days after the date on which the Assessment Notice was mailed or e-mailed to the persons named on the assessment roll in respect of the assessable property.

(2) The address for delivery of a Notice of Appeal to the assessor is c/o the Shxw'ōwhámel First Nation \_\_\_\_\_

- (3) The grounds for an appeal may be in respect of one or more of the following:
  - (a) the assessed value of the property;
  - (b) the assessment classification of the property;
  - (c) the applicability of an exemption to the property;
  - (d) any alleged error or omission in an assessment or Assessment Notice; and
  - (e) the liability of the holder to taxation under the Taxation Law.

(4) Where an appeal is commenced with respect to a supplementary assessment, the appeal must be confined to the supplementary assessment.

#### **Agents and Solicitors**

**30.** 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**

**31.(1)** On delivery of a Notice of Appeal to the assessor, or on receipt of a recommendation from the assessor under subsection 18(1), the chair must, in consultation with the assessor, schedule a hearing of the appeal or the assessor recommendation.

(2) The chair must, at least thirty (30) days before the hearing, deliver a Notice of Hearing setting out the date, time and place of the hearing, to the parties and to each person named on the assessment roll in respect of the assessable property.

(3) Notwithstanding subsection (2), the chair is not required to deliver a Notice of Hearing to a holder of a property affected by an assessor recommendation under subsection 18(1) where the recommendation

- (a) results in a decrease in the assessed value of the property;
- (b) does not change the classification of the property; and
- (c) does not result in the removal of an exemption.

#### **Parties**

**32.** The parties in a hearing, except as provided in subsection 31(3), 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 or assessor recommendation, upon request by that person.

#### **Delivery of Documentation**

**33.** 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**

34. Subject to section 47, the Assessment Review Board must commence a hearing within ninety (90) days after delivery of the Notice of Appeal to the assessor or receipt of an assessor recommendation under subsection 18(1), unless all parties consent to a delay.

### **Daily Schedule**

35.(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 and assessor recommendations 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**

36.(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 facts, law and jurisdiction.

(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 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 further 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 camera*.

### **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.

### **Quorum**

**39.(1)** A majority of the members of the Assessment Review Board constitutes a quorum, provided that there must 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.

### **Decisions**

**40.** 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.

### **Combining Hearings**

**41.** The Assessment Review Board may conduct a single hearing of two (2) or more appeals or assessor recommendations related to the same assessment if the matters in each hearing are addressing the same assessable property or substantially the same issues.

### **Power to Determine Procedures**

**42.(1)** Subject to this Law, the Assessment Review Board has the 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.

(2) Without limiting subsection (1), the Assessment Review Board may make rules respecting the holding of pre-hearing conferences and requiring the parties to attend a pre-hearing conference.

### **Orders to Attend or Produce Documents**

**43.(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 person's attendance or the requested document is required at the hearing, as the case may be.

(2) Where an order is made under paragraph (1)(a), the Assessment Review Board must pay to the person a twenty dollar (\$20) witness fee plus reasonable travel 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 person's attendance or the requested document is required at the hearing, as the case may be; 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 this section.

### **Adjournments**

**44.** The Assessment Review Board may

(a) hear all appeals or assessor recommendations 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**

**45.** The Assessment Review Board may make orders requiring a party

(a) to pay all or part of the costs of another party in respect of the appeal,

(b) to pay all or part of the costs of the Assessment Review Board in respect of the appeal,

where the Assessment Review Board considers the conduct of a party has been improper, vexatious, frivolous or abusive.

### **Reference on Question of Law**

**46.(1)** At any stage of a proceeding before it, the Assessment Review Board, on its own initiative or at the request of one or more of the parties, may refer a question of law in the proceeding to a court of competent jurisdiction in the form of a stated case.

(2) The stated case must be in writing and filed with the court registry and must include a statement of the facts and all evidence material to the stated case.

(3) The Assessment Review Board must

(a) suspend the proceeding as it relates to the stated case and reserve its decision until the opinion of the court has been given; and

(b) decide the appeal in accordance with the court's opinion.

### **Matters before the Courts**

**47.** 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**

**48.(1)** A complainant may withdraw an appeal under this Part 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.

### **Delivery of Decisions**

**49.**(1) The Assessment Review Board must, at the earliest opportunity after the completion of a hearing, deliver a written decision on the appeal or assessor recommendation to all parties.

(2) 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 six dollars (\$6.00).

(3) The tax administrator may obscure or omit personal information (other than name and address) and financial business information from decisions provided under subsection (2), provided that assessment and property tax information must not be obscured or omitted.

### **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 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 person apparently in charge, at the time of delivery, of the administrative office of the first nation; and

(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.

(3) Subject to subsection (4), a document is considered delivered if

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

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

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

(d) 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 delivered at 09:00 on the next business day.

### **Appeals**

**51.**(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 49(1).

## **PART XI**

### **GENERAL PROVISIONS**

#### **Disclosure of Information**

**52.**(1) The tax administrator, the assessor, a member of the Assessment Review Board, the secretary or any other person who has custody or control of information or records obtained or created under this Law must not disclose the information or records except

(a) in the course of administering this Law or performing functions under it;

(b) in proceedings before the Assessment Review Board, a court of law or pursuant to a court order;

(c) in accordance with subsection (2).

(2) 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**

**53.** Notwithstanding section 52, Council may disclose information and records to a third party for research purposes, including statistical research, provided

(a) the information and records do not contain information in an individually identifiable form or business information in an identifiable form; or

(b) 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**

**54.** Nothing under this Law must be rendered void or invalid, nor must the liability of any person to pay taxes or amounts levied under the Taxation 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, Assessment Notice, or any notice given under this Law; or

(c) a failure of the First Nation, tax administrator or the assessor to do something within the required time.

### **Notices**

**55.(1)** Where in this Law a notice is required to be given by mail or where the method of giving the notice is not otherwise specified, it must be given

(a) by mail to the recipient's ordinary mailing address or the address for the recipient shown on the assessment 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 assessment roll.

(2) Except where otherwise provided in this Law, a notice

(a) given by mail is deemed received on the fifth day after it is posted;

(b) posted on property is deemed received on the second day after it is posted; and

(c) given by personal delivery is deemed received upon delivery.

### **Interpretation**

**56.(1)** The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

(2) Where a provision in this Law is expressed in the present tense, the provision applies to

the circumstances as they arise.

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

(4) This Law must be construed as being remedial and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

(5) Reference in this Law to an enactment is a reference to the enactment as it exists from time to time and includes any regulations made under the enactment.

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

**Repeal**

57. The *Shxw'ōwhámel First Nation Assessment By-law* is hereby repealed in its entirety.

**Force and Effect**

58. This Law comes into force and effect on the later of July 1, 2015 or the day after it is approved by the First Nations Tax Commission.

THIS LAW IS HEREBY DULY ENACTED by Council on the \_\_\_\_ day of \_\_\_\_\_, 2015, at Shxw'ōwhámel First Nation, in the Province of British Columbia.

A quorum of Council consists of four (4) members of Council.

\_\_\_\_\_  
(Signature of Councillor)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature of Councillor)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature of Councillor)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature of Councillor)

\_\_\_\_\_  
(Print Name)

**SCHEDULE I**  
**PROPERTY CLASSES**

- Class 1 - Residential
- Class 2 - Utilities
- Class 4 - Major Industry
- Class 5 - Light Industry
- Class 6 - Business and Other
- Class 8 - Recreational Property/Non-Profit Organization
- Class 9 - Farm

**SCHEDULE II**  
REQUEST FOR INFORMATION BY ASSESSOR  
FOR THE SHXW'ŌWHÁMEL FIRST NATION

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_

\_\_\_\_\_

DATE OF REQUEST: \_\_\_\_\_

PURSUANT to section 17 of the *Shxw'ōwhámel First Nation Property Assessment Law, 2015*, 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 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.

\_\_\_\_\_  
Assessor for the Shxw'ōwhámel First Nation

Dated: \_\_\_\_\_, 20\_\_ .

**SCHEDULE III**  
**NOTICE OF ASSESSMENT INSPECTION**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

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

DATE: \_\_\_\_\_

TAKE NOTICE that, pursuant to section 9 of the *Shxw'ōwhámel First Nation Property Assessment Law, 2015*, the assessor for the Shxw'ōwhámel First Nation 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 the Shxw'ōwhámel First Nation

Dated: \_\_\_\_\_, 20\_\_ .

**SCHEDULE IV**

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

I, \_\_\_\_\_ [name], of \_\_\_\_\_ [address], \_\_\_\_\_  
[city], \_\_\_\_\_ [province], \_\_\_\_\_ [postal code], declare and certify that I will not use  
the assessment roll or information contained in the assessment roll to obtain names, addresses or  
telephone numbers for solicitation purposes, whether the solicitations are made by telephone, mail  
or any other means, or to harass an individual.

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

- (1) a complaint or appeal under the *Shxw'ōwhámel First Nation Property Assessment Law, 2015*;
- (2) a review of an assessment to determine whether to seek a reconsideration or appeal of the assessment; or
- (3) other: \_\_\_\_\_

Signed: \_\_\_\_\_  
[please print name]

Dated: \_\_\_\_\_, 20\_\_ .



**SCHEDULE V**  
**ASSESSMENT NOTICE**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_

TAKE NOTICE that the assessment roll has been certified by the assessor for the Shxw'ōwhámel First Nation and delivered to the First Nation Council.

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

The interest in land is classified as: \_\_\_\_\_

The assessed value by classification of the interest in land is: \_\_\_\_\_

TOTAL ASSESSED VALUE: \_\_\_\_\_

TOTAL ASSESSED VALUE LIABLE TO TAXATION: \_\_\_\_\_

AND TAKE NOTICE that you may, within thirty (30) days of the date of mailing of this notice, request a reconsideration of this assessment by delivering a written request for reconsideration in the form specified in the *Shxw'ōwhámel First Nation Property Assessment Law, 2015*. Within fourteen (14) days of receipt by the assessor of your request for reconsideration, the assessor will review the assessment and provide you with the results of the reconsideration. If the assessor determines that the property should have been assessed differently, the assessor will offer to modify the assessment.

AND TAKE NOTICE that you may, within sixty (60) days of the date of mailing of this notice, appeal this assessment to the Assessment Review Board. The Notice of Appeal must be in writing in the form and accompanied by the fee specified in the *Shxw'ōwhámel First Nation Property Assessment Law, 2015*.

\_\_\_\_\_  
Tax Administrator for the Shxw'ōwhámel First Nation

Dated: \_\_\_\_\_, 20\_\_ .

**SCHEDULE VI**

**REQUEST FOR RECONSIDERATION OF ASSESSMENT**

TO: Assessor for the Shxw'ōwhámel First Nation  
c/o Shxw'ōwhámel First Nation

PURSUANT to the provisions of the *Shxw'ōwhámel First Nation Property Assessment Law, 2015*,  
I hereby request a reconsideration of the assessment of the following interest in land:

[*description of the interest in land as described in the Assessment Notice*]

I am: \_\_\_ a holder of the interest in land  
\_\_\_ named on the assessment roll in respect of this interest in land

This request for a reconsideration of the assessment is based on the following reasons:

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

(*describe the reasons in support of the request in as much detail as possible*)

Address and telephone number at which applicant can be contacted:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Name of Applicant (*please print*)                      Signature of Applicant

Dated: \_\_\_\_\_, 20\_\_ .

**SCHEDULE VII**

**NOTICE OF APPEAL TO ASSESSMENT REVIEW BOARD**

TO: Assessor for the Shxw'ōwhámel First Nation

c/o Shxwowhamel First Nation

\_\_\_\_\_  
PURSUANT to the provisions of the *Shxw'ōwhámel First Nation Property Assessment Law, 2015*, I hereby appeal the assessment/reconsideration of the assessment of the following interest in land:

*[description of the assessable property, including assessment roll number, as described in the Assessment Notice]*

The grounds for the appeal are:

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

*(describe the grounds for the appeal in as much detail as possible)*

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 thirty dollars (\$30) is enclosed with this Notice of Appeal.

\_\_\_\_\_  
Name of Complainant (please print)

\_\_\_\_\_  
Signature of Complainant (or representative)

Dated: \_\_\_\_\_, 20\_\_.

NOTE: A copy of the Assessment Notice must be enclosed with this Notice of Appeal, or extract of the information found therein

**SCHEDULE VIII**

**NOTICE OF WITHDRAWAL**

TO: Chair, Assessment Review Board for the Shxw'ōwhámel First Nation

[address]

PURSUANT to the provisions of the *Shxw'ōwhámel First Nation Property Assessment Law, 2015*

I hereby withdraw my appeal of the assessment of the following interest in land:

Description of interest in land:

Date of Notice of Appeal:

\_\_\_\_\_  
Name of Complainant (please print)

\_\_\_\_\_  
Signature of Complainant (or  
representative)

Dated: \_\_\_\_\_, 20\_\_ .

**SCHEDULE IX**  
**NOTICE OF HEARING**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_

\_\_\_\_\_  
Complainant in respect of this appeal: \_\_\_\_\_

TAKE NOTICE that the Assessment Review Board will hear an appeal/assessor recommendation from the assessment/reconsideration of 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 [*insert # copies*] copies of all relevant documents in your possession respecting this appeal.

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

\_\_\_\_\_  
\_\_\_\_\_

(all submissions and documents received in respect of the appeal will be forwarded to all parties)

\_\_\_\_\_  
Chair, Shxw'ōwhámel First Nation Assessment Review Board

Dated: \_\_\_\_\_, 20\_\_ .

**SCHEDULE X**

**ORDER TO ATTEND HEARING/PRODUCE DOCUMENTS**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TAKE NOTICE that an appeal has been made to the Assessment Review Board for the Shxw'ōwhámel First Nation 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 [*indicate the applicable provisions 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 twenty dollar (\$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.

\_\_\_\_\_  
Chair, Shxw'ōwhámel First Nation Assessment Review Board

Dated: \_\_\_\_\_, 20\_\_.

**SCHEDULE XI**

**CERTIFICATION OF ASSESSMENT ROLL BY ASSESSOR**

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

I, \_\_\_\_\_, being the assessor for the Shxw'ōwhámel First Nation, hereby certify that this is the Shxw'ōwhámel First Nation [revised/supplementary] 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 *Shxw'ōwhámel First Nation Property Assessment Law, 2015*.

\_\_\_\_\_  
(Signature of Assessor)

Dated \_\_\_\_\_, 20\_\_ at \_\_\_\_\_, \_\_\_\_\_.  
(City) (Province)

## **SHXW'ŌWHÁMEL FIRST NATION PROPERTY TAXATION LAW, 2015**

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WHEREAS:

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

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

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

NOW THEREFORE the Council of the Shxw'ōwhámel First Nation duly enacts as follows:

## PART I

### CITATION

#### Citation

1. This Law may be cited as the *Shxw'ōwhámel First Nation Property Taxation Law, 2015*.

## PART II

### DEFINITIONS AND REFERENCES

#### Definitions and References

2.(1) In this Law:

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

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

“Assessment Law” means the *Shxw'ōwhámel First Nation Property Assessment Law, 2015*;

“Assessment Review Board” means the assessment review board established under the Assessment Law;

“assessment roll” has the meaning given to that term in the Assessment Law;

“assessor” means a person appointed to that position under the Assessment Law;

“Commission” means the First Nations Tax Commission established under the Act;

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

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

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

“First Nation” means the Shxw'ōwhámel First Nation, being a band named in the schedule to the Act;

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

“FMB” means the First Nations Financial Management Board established under the Act;

“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 any building, fixture, structure or similar thing constructed, placed or affixed on, in or to land, or water over land, or on, in or to another improvement and includes a manufactured home;

“interest in 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;

“local revenue account” means the local revenue account referred to in section 13 of the Act;

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

“manufactured home” has the meaning given to that term in the Assessment Law;

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

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

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

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

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

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

“property class” has the meaning given to that term in the Assessment Law;

“Province” means the province of British Columbia;

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

“reserve” means any land set apart for the use and benefit 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;

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

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

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

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

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

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

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

“taxes” include

- (a) all taxes imposed, levied, assessed or assessable under this Law, and all penalties, interest and costs added to taxes under this Law, and
- (b) for the purposes of collection and enforcement, all taxes imposed, levied, assessed or assessable under any other local revenue law of the First Nation, and all penalties, interest and costs added to taxes under such a law; and

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

(2) In this Law, references to a Part (e.g. Part I), section (e.g. section 1), subsection (e.g. subsection 2(1)), paragraph (e.g. paragraph 3(4)(a)) or Schedule (e.g. Schedule I) is a reference to the specified Part, section, subsection, paragraph or Schedule of this Law, except where otherwise stated.

### **PART III ADMINISTRATION**

#### **Tax Administrator**

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

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

(3) The tax administrator may, with the consent of the Shxw’ōwhámel Band Administrator, assign the performance of any duties of the tax administrator to any officer, employee, contractor or agent of the First Nation.

(4) The tax administrator’s responsibilities include

- (a) the collection of taxes and the enforcement of payment under this Law; and
- (b) the day to day management of the First Nation’s local revenue account.

#### **Authorization of Financial Management Board**

4. Notwithstanding any other provision of this Law, if the FMB gives notice to Council pursuant to the Act that third-party management of the revenues raised under this Law is required, Council authorizes the FMB to act as agent of the First Nation to fulfill any of the powers and obligations of the Council under this Law and the Act.

### **PART IV LIABILITY FOR TAXATION**

#### **Application of Law**

5. This Law applies to all interests in land.

#### **Tax Liability**

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

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

#### **Tax Refunds**

7.(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 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**

8.(1) The following interests in land are exempt from taxation under this 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) a building used for public school purposes or for a purpose ancillary to the operation of a public school, and the land on which the building stands; and
- (d) that land of a cemetery actually used for burial purposes.

(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.

(3) An exemption from taxation applies only to that portion of a building occupied or used for the purpose for which the exemption is granted, and a proportionate part of the land on which the building stands.

#### **Revitalization Tax Exemption**

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

- (a) economic revitalization;
- (b) environmental revitalization; and
- (c) social or cultural revitalization,

of land within the reserve.

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

- (a) a proponent taxpayer and the Council enter into a revitalization agreement regarding the interest in land; and

(b) subject to subsection (5), the revitalization agreement obligates the proponent taxpayer to invest in the rehabilitation or development of the interest in land to the following minimum amounts:

- (i) \$1,000,000, if the objective provided for in the revitalization agreement is economic revitalization;
- (ii) \$250,000, if the objective provided for in the revitalization agreement is environmental revitalization; and
- (iii) \$125,000, if the objective provided for in the revitalization agreement is cultural or social revitalization.

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

- (a) describe the interest in land, or proposed interest in land, which is the subject of the revitalization agreement by reference to an assessment roll folio number, or by reference to lot number and survey plan, or by other sufficient and reliable form of description;
- (b) provide the details of the nature and time-table of the investment to be made by the proponent in the reserve lands which are the subject of the revitalization agreement;
- (c) detail the taxation year that the exemption will go into effect, any conditions precedent to the agreement going into force, the duration of the revitalization agreement, and the percentage of exemption provided in regard to the interest in land which is the subject of the revitalization agreement;
- (d) include a provision that the exemption from taxation will end if the proponent does not actually carry out the investment described in the revitalization agreement, or otherwise breaches the revitalization agreement or fails to continue to meet the criteria in subsection (5); and
- (e) provide that the tax administrator shall be responsible for the implementation of the revitalization agreement on behalf of the First Nation, and provide the name of the individual responsible for the implementation of the revitalization agreement on behalf of the proponent taxpayer.

(4) Council may sign more than one revitalization agreement with a proponent taxpayer for the same interest in land in subsequent years provided that a new investment meeting the criteria in subparagraph (2)(b)(i), (ii) or (iii) is made.

(5) A proponent for an exemption under this section further to the category of economic revitalization will be deemed to have made the qualified level of investment prescribed under subparagraph (2)(b)(i) if it is a corporation, of which one hundred percent (100%) of its shares are owned by a member or members of the First Nation, and is a holder of an interest in land used for business purposes.

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

(7) The tax administrator will provide a copy of any revitalization agreement to the assessor within ten (10) days of its final approval and signing by Council and the proponent taxpayer.

(8) Where a revitalization agreement has gone into effect, the Council may only terminate the agreement by resolution:

- (a) at the request of the holder; or
- (b) if the holder ceases to meet the criteria for the exemption under subsection (5), or fails to make the investment described in the revitalization agreement, or otherwise breaches the

revitalization agreement.

(9) Upon termination of the revitalization agreement by Council under subsection (8):

(a) the tax administrator must, within 10 days, notify the holder of the cancellation and of the date on which it took effect or will take effect;

(b) where terminated under paragraph (8)(b), the holder is liable for all taxes that would have been payable in respect of the interest in the land from the date of the breach or the date that the holder ceased to meet the subsection (5) criteria; and

(c) the tax administrator must give written notice to the holder of:

(i) any taxes due from the date of cancellation; or

(ii) any taxes due from the date that the holder breached the agreement or ceased to meet the subsection (5) criteria;

(d) the holder is liable and must, within thirty (30) days, pay the First Nation all amounts owing as set out in paragraph (c); and

(e) penalties are assessable and payable under Part X for any outstanding taxes or monies owing under paragraph (c) that are not paid within thirty (30) days in accordance with paragraph (d).

(10) In this section “proponent taxpayer” includes a person who is not a holder at the time of signing the revitalization agreement but who makes a commitment in the revitalization agreement to acquire an identified interest in land in the reserve subsequent to the execution of the revitalization agreement.

(11) In this section “holder” means a person holding an interest in land which is subject to a revitalization agreement which has gone into effect.

## PART VI

### GRANTS AND TAX ABATEMENT

#### Grants for Surrounding Land

10. Where a building is exempted from taxation under this Law, Council may provide to the holder a grant equivalent to the taxes payable on that area of land surrounding the building determined by Council to be reasonably necessary in connection with it.

#### Annual Grants

11.(1) Council may provide for a grant to a holder:

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

(b) where the holder would be entitled to a grant under the provisions of the *Home Owner Grant Act* (BC) if the holder’s property was subject to taxation by a local government;

(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) A grant under paragraph (1)(b) must be in an amount that is not more than the amount to which a person would be entitled under the *Home Owner Grant Act* (BC) if the holder’s property

was subject to taxation by a local government.

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

## **PART VII LEVY OF TAX**

### **Tax Levy**

**12.(1)** On or before May 28 in each taxation year, Council must adopt a law setting the rate of tax to be applied to each property class.

(2) A law setting the rate of tax may establish different tax rates for each property class.

(3) Taxes must be levied by applying the rate of tax against each one thousand dollars (\$1,000) of assessed value of the interest in land.

(4) Taxes levied under this Law are deemed to be imposed on January 1 of the taxation year in which the levy is first made.

(5) Notwithstanding subsection (3), Council may establish, in its annual law setting the rate of tax, a minimum tax payable in respect of a taxable 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**

**13.(1)** Taxes are due and payable on or before July 2 of the taxation year in which they are levied.

(2) Taxes must be paid at the office of 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 Shxw'ōwhámél First Nation.

## **PART VIII TAX ROLL AND TAX NOTICE**

### **Tax Roll**

**14.(1)** On or before June 1st 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 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 Law; and
- (b) the amount of any unpaid taxes from previous taxation years.

**Annual Tax Notices**

15.(1) On or before June 1st in each taxation year, the tax administrator must mail a Tax Notice to

- (a) each holder of taxable property under this Law, and
- (b) each person whose name appears on the tax roll in respect of the 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 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) Where applicable, a Tax Notice must state that taxes are payable in conjunction with periodic lease payments under Part IX.

**Amendments to Tax Roll and Tax Notices**

16.(1) Where the assessment roll has been revised in accordance with the Assessment Law, or where a supplementary assessment roll is issued in accordance with the Assessment Law, the tax administrator must amend the tax roll or create a supplementary tax roll, as necessary, and mail an amended Tax Notice to every person affected by the amendment.

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

(3) Where an amended Tax Notice indicates a reduction in the amount of taxes owing, the tax administrator must forthwith refund any excess taxes that have been paid, in accordance with section 7.

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

**Subdivision**

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

- (a) apportion the taxes payable in that year among the 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 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**

18.(1) The tax administrator may deliver a Request for Information containing the information set out in Schedule I, to a holder or a person who has disposed of 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 Law.

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

**PART IX**

**PAYMENT RECEIPTS AND TAX CERTIFICATES**

**Receipts for Payments**

19. On receipt of a payment of taxes, the tax administrator must issue a receipt to the taxpayer and must enter the receipt number on the tax roll opposite the interest in land for which the taxes are paid.

**Tax Certificate**

20.(1) On receipt of a written request and payment of the fee set out in subsection (2), the tax administrator must issue a Tax Certificate showing whether taxes have been paid in respect of an interest in land, and if not, the amount of taxes outstanding.

(2) The fee for a Tax Certificate is six dollars (\$6.00) for each tax roll folio searched.

**PART X**

**PENALTIES AND INTEREST**

**Penalty**

21.(1) If all or part of the taxes remain unpaid after July 2 of the year in which they are levied, a penalty of five percent (5%) 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 part of the taxes remain unpaid after October 1st of the year in which they are levied, a further penalty of five percent (5%) 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.

**Interest**

22. If all or any portion of taxes remains unpaid after July 2 of the year levied, the unpaid portion accrues interest at twelve percent (12%) per year and shall be compounded annually.

**Application of Payments**

23. Payments for taxes must be credited by the tax administrator first, to taxes, including interest, from previous taxation years, second, to a penalty added in the current taxation year, and third, to unpaid taxes for the current taxation year.

**PART XI**

**REVENUES AND EXPENDITURES**

**Revenues and Expenditures**

24.(1) All revenues raised under this Law must be placed into a local revenue account, separate from other moneys of the First Nation.

(2) Revenues raised include

(a) taxes, including, for clarity, interest, penalties and costs, as set out in this Law; and

(b) payments-in-lieu of taxes.

(3) An expenditure of revenue raised under this Law must be made under the authority of an expenditure law.

### **Reserve Funds**

**25.**(1) Reserve funds established by Council must

(a) be established in an expenditure law; and

(b) comply with this section.

(2) Except as provided in this section, moneys in a reserve fund must be deposited in a separate account and the moneys and interest earned on it must be used only for the purpose for which the reserve fund was established.

(3) Council may, by expenditure law,

(a) transfer moneys in a capital purpose reserve fund to another reserve fund or account, provided that all projects for which the reserve fund was established have been completed;

(b) transfer moneys in a non-capital purpose reserve fund to another reserve fund or account; and

(c) borrow moneys from a reserve fund where not immediately required, on condition that 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) As an exception to paragraph (3)(c), where the FMB has

(a) assumed third-party management of the First Nation's local revenue account, and

(b) determined that moneys must be borrowed from a reserve fund to meet the financial obligations of the First Nation,

the FMB may, acting in the place of Council, borrow moneys from a reserve fund by expenditure law.

(5) Council must authorize all payments into a reserve fund and all expenditures from a reserve fund in an expenditure law.

(6) Where moneys in a reserve fund are not immediately required, the tax administrator must invest those moneys in one or more of the following:

(a) securities of Canada or of a province;

(b) securities guaranteed for principal and interest by Canada or by a province;

(c) securities of a municipal finance authority or the First Nations Finance Authority;

(d) investments guaranteed by a bank, trust company or credit union; or

(e) deposits in a bank or trust company in Canada or non-equity or membership shares in a credit union.

## **PART XII**

### **COLLECTION AND ENFORCEMENT**

#### **Recovery of Unpaid Taxes**

**26.**(1) The liability referred to in subsection 6(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 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 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 commencing enforcement proceedings under Parts XIII, XIV and XV, the tax administrator must request authorization from Council by resolution.

### **Tax Arrears Certificate**

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

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

### **Creation of Lien**

28.(1) Unpaid taxes are a lien on the interest in 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 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**

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

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

(3) Personal delivery of a document is made

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

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

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

(4) A document is considered to have been delivered

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

- (b) if sent by registered mail, on the fifth day after it is mailed.
- (5) Copies of notices must be delivered
  - (a) where the notice is in respect of taxable property, to all persons named on the tax roll in respect of that taxable property; and
  - (b) where the notice is in respect of personal property, to all holders of security interests in the personal property registered under the laws of the Province.

### **PART XIII**

#### **SEIZURE AND SALE OF PERSONAL PROPERTY**

##### **Seizure and Sale of Personal Property**

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

(3) The costs payable by the debtor under this section are set out in Schedule III.

##### **Notice of Seizure and Sale**

**31.(1)** Before proceeding under subsection 30(1), the tax administrator must deliver to the debtor a Notice of Seizure and Sale.

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

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

(4) The person who seizes personal property must deliver it up immediately to the tax administrator.

(5) The tax administrator must ensure the seized personal property is safely secured and stored until it is redeemed by the debtor or sold further to this Part.

##### **Notice of Sale of Seized Personal Property**

**32.(1)** The tax administrator must publish a Notice of Sale of Seized Personal Property in two (2) consecutive issues of the local newspaper with the largest circulation.

(2) The first publication of the Notice of Sale of Seized Personal Property must not occur until at least sixty (60) days after the personal property was seized.

##### **Conduct of Sale**

**33.(1)** A sale of personal property must be conducted by public auction.

(2) Subject to subsection (4), at any time after the second publication of the Notice of Sale of Seized Personal Property, the seized property may be sold by auction.

(3) The tax administrator must conduct the public auction at the time and place set out in the Notice of Sale of Seized Personal Property, unless it is necessary to adjourn the public auction, in which case a further notice must be published in the manner set out in subsection 32(1).

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

### **Registered Security Interests**

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

### **Proceeds of Sale**

**35.(1)** The proceeds from the sale of seized personal property must be paid to any holders of registered security interests in the property and to 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 or, pursuant to any applicable rules of court, pay it into a court of competent jurisdiction.

## **PART XIV**

### **SEIZURE AND ASSIGNMENT OF TAXABLE PROPERTY**

#### **Seizure and Assignment of Taxable Property**

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

(2) Before proceeding under subsection (1), the tax administrator must serve a Notice of Seizure and Assignment of Taxable Property on the debtor and deliver a copy to any locatee with an interest in the taxable property.

(3) Not less than six (6) months after a Notice of Seizure and Assignment of Taxable Property is delivered to the debtor, the tax administrator may sell the right to an assignment of the taxable property by public tender or auction.

(4) Council must, by resolution, prescribe the method of public tender or auction, including the conditions that are attached to the acceptance of an offer.

#### **Upset Price**

**37.(1)** The tax administrator must set an upset price for the sale of the right to an assignment of the taxable property that is not less than the total amount of the taxes payable on the taxable property, calculated to the end of the redemption period set out in subsection 41(1), plus five percent (5%) of that total.

(2) The upset price is the lowest price for which the taxable property may be sold.

#### **Notice of Sale of a Right to Assignment of Taxable Property**

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

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

(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**

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

### **Subsisting Rights**

**40.** When taxable property is sold by public tender or auction, all rights in it held by the holder of the taxable property or a holder of a charge immediately cease to exist, except as follows:

- (a) the taxable property is subject to redemption as provided in subsection 41(1);
- (b) the right to possession of the taxable property is not affected during the time allowed for redemption, subject, however, to
  - (i) impeachment for waste, and
  - (ii) the right of the highest bidder to enter on the taxable property to maintain it in a proper condition and to prevent waste;
- (c) an easement, restrictive covenant, building scheme or right-of-way registered against the 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**

**41.(1)** At any time within three (3) months after the holding of a public tender or auction in respect of taxable property, the debtor may redeem the taxable property by paying to 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 38(3).

### **Assignment of Taxable Property**

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

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

(3) An assignment under subsection 41(4) operates

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

(b) to extinguish all the right, title and interest of every previous holder of the taxable property, or those claiming under a previous holder, and all claims, demands, payments, charges, liens,

judgments, mortgages and encumbrances of every type, and whether or not registered, subsisting at the time the assignment is registered under subsection (2), except an easement, restrictive covenant, building scheme or right-of-way registered against the interest in land.

(4) Upon assignment under subsection 41(4), any remaining debt of the debtor with respect to the taxable property is extinguished.

#### **Proceeds of Sale**

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

- (a) first, to 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 or, pursuant to any applicable rules of court, pay it into a court of competent jurisdiction.

#### **Resale by First Nation**

44.(1) If the right to assignment of taxable property is purchased by the First Nation under subsection 38(3), the tax administrator may, during the redemption period, sell the assignment of the taxable property to any person for not less than the upset price and the purchaser is thereafter considered the bidder under this Part.

(2) A sale under subsection (1) does not affect the period for or the right of redemption by the debtor as provided in this Law.

### **PART XV**

#### **DISCONTINUANCE OF SERVICES**

##### **Discontinuance of Services**

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

- (a) revenues from this Law or any property taxation law enacted by 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 XVI**

#### **GENERAL PROVISIONS**

##### **Disclosure of Information**

**46.(1)** The tax administrator or any other person who has custody or control of information or records obtained or created under this Law must not disclose the information or records except

- (a) in the course of administering this Law or performing functions under it;
- (b) in proceedings before the Assessment Review Board, 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**

**47.** Notwithstanding section 46, Council may disclose information and records to a third party for research purposes, including statistical research, provided

- (a) the information and records do not contain information in an individually identifiable form or business information in an identifiable form; or
- (b) 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**

**48.** Nothing under this Law must be rendered void or invalid, nor must the liability of any person to pay tax or any other amount under this Law be affected by

- (a) an error or omission in a valuation or a valuation based solely on information in the hands of an assessor or the tax administrator;
- (b) an error or omission in a tax roll, Tax Notice, or any notice given under this Law; or
- (c) a failure of the First Nation, tax administrator or the assessor to do something within the required time.

#### **Limitation on Proceedings**

**49.(1)** No person may commence an action or proceeding for the return of money paid to 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 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**

**50.(1)** Where in this Law a notice is required to be given by mail or where the method of giving the notice is not otherwise specified, it must be given

- (a) by mail to the recipient's ordinary mailing address or the address for the recipient shown on the tax roll;
- (b) where the recipient's address is unknown, by posting a copy of the notice in a conspicuous place on the recipient's property; or
- (c) by personal delivery or courier to the recipient or to the recipient's ordinary mailing address or the address for the recipient shown on the tax roll.

(2) Except where otherwise provided in this Law,



- (a) a notice given by mail is deemed received on the fifth day after it is posted;
- (b) a notice posted on property is deemed received on the second day after it is posted; and
- (c) a notice given by personal delivery is deemed received upon delivery.

**Interpretation**

51.(1) The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

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

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

(4) This Law must be construed as being remedial and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

(5) Reference in this Law to an enactment is a reference to the enactment as it exists from time to time and includes any regulations made under the enactment.

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

**Repeal**

52. The *Shxw'ōwhámel First Nation Taxation By-law* (2003) is hereby repealed in its entirety.

**Force and Effect**

53. This Law comes into force and effect on the later of July 1, 2015, and the day after it is approved by the First Nations Tax Commission.

THIS LAW IS HEREBY DULY ENACTED by Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, at Shxw'ōwhámel First Nation, in the Province of British Columbia.

A quorum of Council consists of four (4) members of Council.

|                           |              |
|---------------------------|--------------|
| _____                     | _____        |
| (Signature of Councillor) | (Print Name) |
| _____                     | _____        |
| (Signature of Councillor) | (Print Name) |
| _____                     | _____        |
| (Signature of Councillor) | (Print Name) |
| _____                     | _____        |
| (Signature of Councillor) | (Print Name) |

**SCHEDULE I**  
REQUEST FOR INFORMATION BY TAX ADMINISTRATOR  
FOR THE SHXW'ŌWHÁMEL FIRST NATION

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_

\_\_\_\_\_

DATE OF REQUEST: \_\_\_\_\_

PURSUANT to section 18 of the *Shxw'ōwhámel First Nation Property Taxation Law, 2015*, 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 Shxw'ōwhámel First Nation

Dated: \_\_\_\_\_, 20\_\_.

**SCHEDULE II**  
**TAX NOTICE**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DESCRIPTION OF INTEREST IN LAND: \_\_\_\_\_

\_\_\_\_\_

PURSUANT to the provisions of the *Shxw'ōwhámel First Nation Property Taxation Law, 2015* 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 Shxw'ōwhámel 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 *Shxw'ōwhámel First Nation Property Taxation Law, 2015*.

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                 | \$ _____ |

\_\_\_\_\_  
Tax Administrator for the Shxw'ōwhámel First Nation

Dated: \_\_\_\_\_, 20\_\_\_\_.

**SCHEDULE III**  
**COSTS PAYABLE BY DEBTOR ARISING FROM**  
**SEIZURE AND SALE OF PERSONAL PROPERTY**

For costs arising from the seizure and sale of personal property:

1. For preparation of a notice \$ 250
2. For service of notice on each person or place  
by the First Nation \$ 250
3. For service of notice on each person or place by  
a process server, bailiff or delivery service actual cost
4. For advertising in newspaper actual cost
5. For staff time spent in conducting a seizure and sale  
of personal property, not including costs otherwise  
recovered under this Schedule \$ 50 per person  
per hour
6. Actual costs incurred by the First Nation for the seizure,  
storage and sale of personal property will be charged based  
on receipts.

**SCHEDULE IV**  
**TAX CERTIFICATE**

In respect of the interest in land described as: \_\_\_\_\_ and pursuant to the *Shxw'ōwhámel First Nation Property Taxation Law, 2015*, 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 \_\_\_\_\_ 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 Shxw'ōwhámel First Nation

Dated: \_\_\_\_\_, 20\_\_\_\_.

**SCHEDULE V**  
**TAX ARREARS CERTIFICATE**

In respect of the interest in land described as: \_\_\_\_\_ and pursuant to the *Shxw'ōwhámel First Nation Property Taxation Law, 2015*, 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.

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

Payments must be made at the offices of the Shxw'ōwhámel 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 Shxw'ōwhámel First Nation

Dated: \_\_\_\_\_, 20\_\_\_\_.

**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 30 of the *Shxw'ōwhámel First Nation Property Taxation Law, 2015*, 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 *Chilliwack Times* 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 Shxw'ōwhámel 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 Shxw'ōwhámel First Nation will take place on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock at \_\_\_\_\_ [location].

The following personal property, seized pursuant to section 30 of the *Shxw'ōwhámel First Nation Property Taxation Law, 2015*, 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 British Columbia and any remaining proceeds shall be paid to the debtor.

\_\_\_\_\_  
Tax Administrator for the Shxw'ōwhámel First Nation

Dated: \_\_\_\_\_, 20\_\_\_\_.



**SCHEDULE VIII**  
**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 \_\_\_\_\_ dollars (\$ \_\_\_\_\_) remain unpaid and are due and owing in respect of the taxable property.

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

AND TAKE NOTICE that failure to pay the full amount of the unpaid tax debt within six (6) months after service of this Notice may result in the tax administrator, pursuant to section 36 of the *Shxw’ōwhámel First Nation Property Taxation Law, 2015*, seizing and selling a right to an assignment of the taxable property by public tender [auction] as follows:

1. The public tender [auction], including the conditions that are attached to the acceptance of an offer, shall be conducted in accordance with the procedures prescribed by the Council of the Shxw’ōwhámel 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 *Chilliwack Times* 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, interest and penalties payable, calculated to the end of the redemption period, plus five percent (5%) of that total. The upset price is the lowest price for which the right to assignment of the taxable property will be sold.
5. The tax administrator will conduct the public tender [auction] at the time and place set out in the Notice of Sale of a Right to Assignment of Taxable Property, unless it is necessary to adjourn in which case a further notice will be published.
6. If at the public tender [auction] there is no bid that is equal to or greater than the upset price, 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 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* of obtaining the interest or right constituting the taxable property.
9. Council of the Shxw'ōwhámél 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 the 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 interest in land.
12. Upon assignment of the taxable property, the debtor will be required to immediately vacate the taxable property, and any rights or interests held by the debtor in the taxable property, including the improvements, will be transferred in full to the purchaser.
13. The proceeds of sale of the taxable property will be paid first to the First Nation, then to any other holders of registered interests in the taxable property in order of their priority at law. Any moneys in excess of these amounts will be paid to the debtor in accordance with the *Shxw'ōwhámél First Nation Property Taxation Law, 2015*.

---

Tax Administrator for the Shxw'ōwhámél First Nation

Dated: \_\_\_\_\_, 20\_\_ .

**SCHEDULE IX**  
**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 and Assignment of Taxable Property was given in respect of the taxable property on \_\_\_\_\_, 20\_\_ .

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

AND TAKE NOTICE that a sale of the right to assignment of the taxable property will be conducted by public tender [auction] for unpaid taxes, penalties and interest owed to the \_\_\_\_\_ First Nation.

The public tender [auction] will take place on:

\_\_\_\_\_, 20\_\_ at \_\_\_\_\_ o'clock at  
\_\_\_\_\_ [location].

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

AND TAKE NOTICE that:

1. The upset price for the taxable property is: \_\_\_\_\_ dollars (\$ \_\_\_\_\_). The upset price is the lowest price for which the taxable property will be sold.
2. The public tender [auction], including the conditions that are attached to the acceptance of an offer, shall be conducted in accordance with the procedures prescribed by the Council of 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 an assignment of the taxable property for the amount of the upset price.
4. The debtor may redeem the right to an assignment of the taxable property by paying to 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 or right constituting the taxable property.

6. Council of the Shxw'ōwhámel 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 an assignment of the taxable property in every registry in which the taxable property is registered at the time of the assignment.

8. An assignment of the taxable property operates

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

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

9. Upon assignment of the taxable property, the debtor will be required to immediately vacate the taxable property, and any rights or interests held by the debtor in the taxable property, including the improvements, will be transferred in full to the purchaser.

10. The proceeds of sale of the taxable property will be paid first to the First Nation, then to any other holders of registered interests in the taxable property in order of their priority at law. Any moneys in excess of these amounts will be paid to the debtor in accordance with the *Shxw'ōwhámel First Nation Property Taxation Law, 2015*.

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Tax Administrator for the Shxw'ōwhámel First Nation

Dated: \_\_\_\_\_, 20\_\_ .

**SCHEDULE X**  
**NOTICE OF DISCONTINUANCE OF SERVICES**

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 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 *Shxw'ōwhámel First Nation Property Taxation Law, 2015*.

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 Shxw'ōwhámel First Nation

Dated: \_\_\_\_\_, 20\_\_\_\_.