

INDIAN GOVERNMENT TAXES AND SERVICES IN BRITISH COLUMBIA

Alternatives Under Bill C-115 and Bill 64

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April 1991

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Preface

This booklet has been prepared for British Columbia Indian bands who are considering introducing taxes on their reserves in accordance with Bill C-115, the 1988 Section 83 amendments to Canada's *Indian Act*, and Bill 64 (1990), British Columbia's *Indian Self Government Enabling Act*. It will also be of interest to officials in British Columbia governments, especially municipalities and regional districts, which currently levy property taxes on Indian reserve leaseholders. Bands which do not have leasehold lands may also find the information useful in deciding whether or not to create leaseholds in the future.

The objective of the booklet is to provide a framework for Indian governments to analyze their taxation and service delivery options within the context of Bills 64 and C-115. Its contents are based on the legislation and on information developed in two reports prepared for Indian and Northern Affairs Canada (INAC) by the University of Victoria Centre for Public Sector Studies:

- *Property Taxation and the Provision of Government Services on Indian Reserves in British Columbia* (Bish 1987); and
- *Study of the Tax and Service Implications of Bill C-115* (Bish, Clemens and Topham 1991, forthcoming).

The booklet is sponsored by Canada's Indian Taxation Advisory Board, whose mandate includes:

- advising the Minister of Indian and Northern Affairs on policy issues and on individual band by-law proposals;
- providing advice and guidelines for bands on taxation by-law development; and
- ensuring that the interests of taxpayers and others affected by band taxation are taken into account.

The board consists of seven native and three non-native members. It is chaired by Chief Clarence (Manny) Jules of the Kamloops Indian Band in British Columbia.

Direction and assistance for this booklet were provided by an advisory group consisting of Chief Manny Jules, Hugh Ryan (INAC), Julian Greenwood (Government of British Columbia), and John Taylor (British Columbia Assessment Authority). Geoff Burrett of INAC and Richard Taylor of the Union of British Columbia Municipalities also provided valuable comments. The authors gratefully acknowledge the patience and competence of Debbie Needley and Sherri Macdonald, who typed numerous drafts of the text; Neil Hansen, who prepared drafts of the exhibits and forms; and Arifin Graham of Alaris Design, who designed the final format and cover.

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for Public Sector Studies. It is intended for use as a general guideline and information resource only. While the contents are accurate and factual to the best of the authors' knowledge, the booklet should not be used as a substitute for expert advice and assistance from properly qualified people.

The opinions expressed in this booklet are those of the authors. They do not necessarily represent the views of the federal or provincial governments. The University of Victoria assumes no responsibility for the correctness of the contents.

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1 Introduction

The *Indian Act* amendments contained in Bill C-115 (1988) give Indian bands wide discretion in drafting reserve property taxation by-laws. Each by-law must, however, cover all the major functions of property taxation, including:

- property assessment;
- an assessment appeal process;
- tax rate determination;
- tax collection; and
- enforcement.

A band can obtain assistance and advice on the by-law process from the Indian Taxation Advisory Board, which must also review the by-law before the Minister of Indian and Northern Affairs for Canada will consider approving it.

Indian band taxation under Bill C-115 did not affect taxation by other governments, including the province, municipalities and regional districts, unless the band worked out agreements with those governments. This meant that there was considerable uncertainty for taxpayers. British Columbia's Bill 64 (1990), the *Indian Self Government Enabling Act*, dispelled much of the uncertainty by prescribing several possible ways in which new Indian band taxation and service arrangements can be harmonized with those of the existing taxing authorities in the province. Under the independent taxation option, British Columbia, following other provinces, has also offered to vacate the property tax field on reserves.

Given the provisions of Bills C-115 and 64, the process of implementing a band taxation by-law involves several basic steps:

- First, the band must do the analyses needed to ensure that it would make sense to introduce reserve property taxes on leaseholders. This analysis should include consultation with members, leaseholders, and officials in other governments, as well as technical analyses.
- Next, the band must prepare a taxation by-law for review by the Indian Taxation Advisory Board.
- At the same time, where possible and appropriate, the band government enters into conditional agreements with other governments for cooperative property taxation and service arrangements.
- Where appropriate, the band government notifies the British Columbia Minister of Native Affairs that the band intends to enact a taxation by-law in accordance with the *Indian Self Government Enabling Act* (Bill 64).
- Finally, once the Minister of Indian and Northern Affairs has approved the by-law, the band implements its property tax administration processes and begins to deliver some or all of the services to leaseholders that were previously provided by other governments.

The focus of this booklet is on the analyses that should be done before a taxation by-law is prepared. It is important that a band fully appreciate the fact that, if it assumes the authority to levy taxes on the reserve, it may also have to assume the responsibility for delivering and paying for services that had been previously delivered and paid for by one or more other governments. The analyses therefore focus on questions about the property taxes paid by leaseholders, the services involved, and the options available for both taxation and service delivery under Bills C-115 and 64. While the focus is on leasehold lands, band governments should also take into account services provided to non-leasehold reserve lands.

For ease of reference, the booklet starts with a review of the key questions. It then goes into more detailed discussions of property taxation, leaseholder concerns, taxation and service analysis, service delivery options, the options under Bill 64, the implications of the options, and procedural considerations. Throughout the booklet are worksheet forms which band analysts can photocopy for their own use. At the end is a list of information sources.

2 Key Questions

Answers to the following questions are necessary in order for a band government to select its best taxation-service delivery option.

Does your reserve contain leaseholds?

Not all leaseholds are used for residential or business purposes. Many are used for rights of way or utility easements which may be taxable. Band and INAC land records should be checked carefully.

How are the leasehold lands used?

One must know the kinds of land uses in order to predict how the leaseholders will respond to changes in taxation. The responses could have implications for future leasehold revenues.

What is the assessed value of the leaseholds?

Assessed value is the tax base upon which property taxes are levied. It must be known in order to calculate how much revenue will be generated by different tax rates.

How much property tax revenue is currently collected from leaseholders?

The band needs to know how much revenue is currently being collected from leaseholders so that it can (1) understand the band's revenue potential, and (2) compare the amount of revenue generated with the costs of providing services to leasehold lands.

What services do other governments provide to leaseholders?

Services include such things as fire protection, police protection, water supply, sewage disposal, garbage collection and disposal, roads, street lighting, parks, and recreation. In municipalities, all or most of these services are provided by the municipality. In rural areas, the services are usually provided by several authorities, including the provincial government, the regional district and one or more improvement districts.

How much does it cost other governments to provide services to leaseholders?

It is necessary to know just what services are provided to leaseholders and how much each costs in order to determine whether the tax revenues from leasehold lands are greater or less than the average expenditure on services funded by property taxation.

How are the services paid for?

Not all services are paid for from property tax revenues. Municipalities, regional districts and the provincial government all utilize many revenue sources. It is important that band governments understand all aspects of current financing so that, where appropriate, they may take advantage of other revenue sources to help pay for services to leaseholders.

Would it be feasible for the band to deliver the services?

For each service, the band should consider whether it is both physically and economically feasible to take it over. For example, if the sewage system, on the reserve is closely integrated with the off-reserve sewage system, it might not be feasible to physically separate the two systems except at considerable cost. Similarly, it may be much more economical for the band to have its roads maintained by a contractor than to purchase, operate and maintain its own equipment. On the other hand, the band might find that its garbage could be collected more effectively and efficiently if the band were to do it itself.

Analyzing service delivery options can be a complicated process, so a detailed discussion is included in this booklet. The band should keep in mind that the cost of service replacement and another government's existing service delivery costs are not the same thing.

What are the leaseholders' concerns?

Leaseholders expect to pay property taxes. Their key concern is that they receive good service for the taxes they pay. If changes in taxation and service responsibility were to result in significantly poorer service or higher taxes, the leaseholders would be dissatisfied. It is likely that some would eventually move. The band and its locatees could find themselves with less income from leasehold properties than they were getting before the changes.

The leaseholders would also be concerned if there was considerable uncertainty about their taxes, their services, or both. In the face of such uncertainty, the values of the leasehold properties would probably decline and, once again, the band and locatees could eventually find that their rental incomes were also declining.

Leaseholders with substantial investments in buildings on reserve land would be very concerned that they are treated fairly. The Indian Taxation Advisory Board has a mandate to ensure that the interests of taxpaying leaseholders are taken into account. The Board would not recommend approval of a taxation by-law which it found to be unfair.

What are the options under Bill 64?

Bill 64 (1990), the *Indian Self Government Enabling Act*, provides for three options when an Indian band imposes taxes in accordance with Bill C-115, as follows:

- concurrent taxation, wherein the band negotiates with each of the appropriate B.C. taxing authorities a contract for the band to assume responsibility for delivering some or all services to leaseholders, while the taxing authority in turn reduces or eliminates the taxes it levies on the reserve leaseholders;
- independent band taxation, wherein the reserve leaseholders automatically become exempt from all property taxes imposed by all B.C. taxing authorities, and the band assumes responsibility for the provision of all services to the leaseholds either directly or through contracts negotiated with other governments or private firms; and
- Indian District organization, wherein a band may be recognized as an Indian district under provincial law, may be entitled to some or all of the benefits to which B.C. municipalities are entitled, and may implement either a concurrent or an independent band taxation regime and service delivery system.

Strictly speaking, only the first two are taxation options, while the Indian district option is a political or governmental option. All of the options, however, involve relationships with other governments.

How will existing agreements be affected?

In considering its options, the band must take into account existing contractual arrangements, including its leases and any agreements it may have with other governments regarding services or capital works such as roads, waterworks, sewers, dykes, etc. It can be argued that the independent band taxation option in Bill 64 effectively nullifies existing agreements. However, a court might find that an existing agreement must be respected or compensation paid as a matter of natural justice.

It must also be remembered that governments do the best job for their citizens when they cooperate with each other. Thus every attempt should be made by Indian band governments to maintain good relationships with other governments as the band assumes increased responsibility.

Answering the questions.

This booklet has been designed to help band governments answer each of these key questions. The approach taken includes the following steps:

- Obtain a good understanding of property taxation (Section 3).
- Identify the concerns of the leaseholders (Section 4).

- Identify the leasehold properties, their classifications and assessed values, including tax-exempt properties (Section 5).
- From tax folios, determine the leasehold property taxes levied, collected and uncollected for each of the relevant taxing authorities (Section 5).
- From the tax collector, determine grants paid in lieu of taxes and Home Owner Grant adjustments (Section 5).
- Determine the nature and overall cost of the services provided by each of the relevant governments to the leaseholders (Section 6).
- Determine the estimated cost to each government of delivering to the leaseholders those services that were financed by property taxes (Section 6).
- For each government, determine the share of the cost that was covered by property taxes (Section 7).
- Calculate the tax revenue-service cost balance to determine whether leaseholders were contributing more or less than the average property taxpayer to the cost of their services (Section 7).
- For each of the services delivered to the reserve by other governments, analyze the physical and financial feasibility of other service delivery options (Section 8).
- Compare the costs of the service delivery options with potential property tax revenues (Section 8).
- Analyze the options available under Bill 64, including the analysis and potential negotiation of provincial Home Owner Grant provisions for reserve residential leaseholders (Section 9).
- Understand the steps involved in implementing the selected option (Section 10).

In reviewing its options, the band should also take advantage of the advice and assistance available from the Indian Taxation Advisory Board, the B.C. Ministry of Native Affairs and, possibly, other bands who have already gone through the process. While the information from this booklet and from other sources is necessary for a band government to select its best option, the band must ultimately learn about and make its own decisions on taxation options.

Because effective communications is of crucial importance in the decision-making process, a suggested communications strategy is contained in Appendix A. Leaseholders should be notified and given opportunities to provide the band with their views and concerns. Wherever possible, the situation should be discussed cooperatively with the relevant local governments, particularly those that are likely to be significantly affected by changes in the taxation and service situation. Effective communications is essential to the process of establishing and maintaining an atmosphere of trust, confidence, and cooperation.

3 Property Taxation

Property taxes are the oldest and largest kind of local government taxation. The property tax system in British Columbia is well designed, well run, and accepted by citizens. Band government officials should understand it when designing their own systems.

Property taxes are taxes levied on the owner of real property (land, buildings, permanent fixtures) or the holder of a Crown lease. Legally, the tax on a reserve leaseholder is defined as a tax on the person who occupies the land and not against the land itself.

The amount of the tax is based on the value of the property or, in some cases, the property's street frontage. Tax rates are expressed in terms of the amount of the tax per \$1000 of assessed value. For example, a tax rate of \$5.00 on a property assessed at \$80,000 would result in a tax of \$400 ($\$5.00 \times 80 = \400.00).

USE OF THE PROPERTY TAX

Property taxes are levied by many governments in British Columbia, including the provincial government, municipalities, regional districts, improvement districts, school districts and hospital districts. Other sources of revenue for local governments include grants from the provincial government and a variety of special assessments and user charges. In 1988, local government revenues from property taxes were, on average, 54 percent of total revenues for municipalities, 83 percent for regional districts, and 70 percent for improvement districts.

Local government services

A local government's general revenues, including revenues from property taxes, are used to finance a variety of services, as follows:

- in municipalities, to finance such functions as police protection (if their population is over 5000), fire protection, waterworks, sewerage, garbage collection and disposal, roads, parks, recreation, building inspection, planning and zoning;
- in regional districts, to finance planning, zoning, building inspection and specific functions that have been decided upon for each electoral area, municipality or service area within the regional district; and
- in improvement districts, to finance the specific functions they are authorized to provide, the most common of which are waterworks, fire protection, irrigation, street lighting, drainage, garbage, dyking, sewerage, parks and playgrounds.

Details on the organization, functions and financing of these local governments are contained in the book *Local Government in British Columbia* by R.L. Bish (Union of B.C. Municipalities, 2nd edition, 1991).

Provincial government services

The provincial government collects property taxes throughout the province to help finance schools. Schools are financed under a complex formula. On average, residential property taxes cover approximately 15 percent of total costs and non-residential property taxes cover approximately 25 percent.

In rural areas, the provincial government also collects property taxes to help finance police protection, roads, subdivision control administration and tax collection. The major costs are police protection and roads. Overall, provincial rural property tax revenues are estimated to recover approximately 22 percent of police and road costs, but there are extreme variations in cost recovery between the various rural localities in the province.

Services to Indian reserves

While property taxes are collected from leaseholders on Indian reserves, associated services are not always provided to those leaseholding taxpayers. In general, local governments do not have the authority to provide some services to reserves, such as planning, zoning or bylaw enforcement. In other cases, however, services are simply not provided. On the other hand, there are cases where local governments provide some services which benefit all residents of a reserve, including Indians who do not pay property taxes.

PROPERTY ASSESSMENTS: THE TAX BASE

Property assessment includes the listing and valuation of every piece of real property. The listing includes the registered owner, or in the case of crown leaseholds, the registered leaseholder. All assessments are made by the B.C. Assessment Authority, a crown corporation, which classifies each property into one (or more) of nine use classifications. The use classifications are shown in Exhibit 3.1.

Assessment criteria

Assessments are done every two years. The value of a given property is defined to be the "actual value" of land and improvements as of July 1 in each even numbered year. In

evaluating the property, Section 26(3) of the *Assessment Act* provides that the assessor may consider "...present use, location, original cost, replacement cost, revenue or rental value, market value of the land and improvements and comparable land and improvements, economic and functional obsolescence and any other circumstances affecting the value of the land and improvements".

The *actual* assessed value of a property is not necessarily the same as its *taxable* value. For example, the taxable value of an improvement to a business property is usually \$10,000 less than its actual value. The taxable value may also vary depending on whether the tax is to be levied for school, general or hospital purposes.

The market value criterion is generally used for all properties except those classified as utility or major industry. Major industry property values are generally calculated as the depreciated cost of replacing the improvements. Utilities are generally listed in physical units, such as kilometres of power lines, to which special designated values are applied.

Appeal procedures

Each property owner and leaseholder receives an assessment notice. If the owner, the leaseholder or the local government disagrees with the assessment, it may be appealed to a Court of Revision. If dissatisfied with the Court of Revision decision, the appellant can appeal to the B.C. Assessment Appeals Board. Both the Court of Revision and the Assessment Appeals Board hold hearings where evidence is heard. Further appeals may be made to the B.C. Supreme Court on matters of law only. Bands should note that the first and second appeal processes are part of the taxation system where the timing of appeal processing can fit into the tax administration schedule. Court appeals of assessments are impractical because of the lack of control over timing.

The tax roll

The final listing of all properties and their values is the tax roll. A tax roll is prepared for each separate government so that it knows the total assessed value for taxation purposes of each class of property within its jurisdiction.

TAX RATES

After it knows the total assessed value for each class of property, each local government sets tax rates for each class. The general practice in B.C. is to impose higher tax rates on business and industrial properties and to use the resulting tax revenues to partially subsidize services to residents. Rates set by municipalities, regional districts and improvement districts vary across the province, as do the rates set for the residential portion of school taxes.

Municipal rates

Most municipal residential rates are between \$5.00 and \$10.00 per \$1000 of assessed value. Thus a person with a house worth \$80,000 would pay municipal taxes of between \$400 and \$800. Municipal rates on industry and business properties tend to be two or three times the residential rate.

Regional and improvement districts

Regional districts and improvement districts set their own tax rates on residential properties but the provincial government establishes the ratios between the residential rate and the rates on other classes. Currently, tax rates on utility, unmanaged forest, major industry, light industry, and business properties are twice as high as they are on residential properties. The rates on recreation/non-profit properties are the same as those on residential properties. On managed forest and farm properties, the rates are only 22 percent of the residential rate. It is rare for regional district or improvement district tax rates on residential property to exceed \$2.00 per \$1000.

Provincial tax rates

The provincial government sets uniform rates across the province for the rural property tax and the non-residential school tax. It also sets a residential rate for each school district. A school district can, however, impose a higher rate upon approval of the voters in a referendum. The 1990 provincial rates are shown in Exhibit 3.1.

EXHIBIT 3.1
1990 PROVINCIAL TAX RATES
IN BRITISH COLUMBIA

Class	Rural rate	School rate
1. Residential	\$2.30	\$ 3.4274 - 19.4340*
2. Utility	4.60	16.00
3. Unmanaged forest	4.60	12.00
4. Major industry	4.60	13.40
5. Light industry	4.60	13.40
6. Business and other	4.60	13.40
7. Managed forest	0.50	6.00
8. Recreation/non-profit	2.30	6.70
9. Farm	0.50	6.70

*varies among school districts

Total taxes levied

All properties are taxed by more than one government or agency. The total taxes levied on most residential properties are between \$10 and \$20 per \$1000. In most other cases they are between \$20 and \$30 per \$1000. The total taxes levied on most industrial and business properties are between \$20 and \$40 per \$1000. A few municipalities set their business and industry tax rates above \$40, so that the total of all property taxes on these classes exceeds \$60 per \$1000.

TAX COLLECTION AND ENFORCEMENT

The actual collection of property taxes is undertaken within municipalities by a municipal tax collector and, in unincorporated areas, by the provincial Surveyor of Taxes. On a single bill for each property, the tax collector lists the tax rates, the amount of tax levied for each government or agency, and the total amount of tax due. The property owner pays the tax collector, who then remits the proper amount of money to each of the governments or agencies involved. The tax collector must pay to each of the taxing governments the full amount of its tax levy, whether or not that amount has actually been collected.

The Home Owner Grant

Taxes on residential property taxpayers are reduced through a system of provincial Home Owner Grants. For 1990, the basic Home Owner Grant for a resident was \$430, with a required minimum tax payment of \$350. Grants for the elderly, handicapped, veterans and spouses of deceased veterans were \$700, with a minimum tax payable of \$100. Supplementary Home Owner Grants are also provided where school taxes are very high. Municipal tax collectors add up the amount of Home Owner Grants claimed and the provincial government pays that amount to the municipality. It is very important that bands selecting independent taxation understand the provincial Home Owner Grant, its importance for residential taxpayers, and its historical relationship to school taxes. See Section 9 for a fuller discussion.

Penalties for delinquency

Property taxes are due early in July of each year. Late payments are subject to an interest penalty. If property taxes are not paid after three years, the tax collector may attach the property and sell it at auction. From the proceeds, the collector retains the taxes and penalties due and refunds the balance to the previous owner. Such sales are very unusual.

Delinquencies on Indian reserves

The tax collector cannot attach and sell leasehold properties on Indian reserves. Instead, the tax collector must use court action to attach other assets of a delinquent leaseholder. Such efforts often cost more than the amount of the delinquent taxes, so delinquencies persist. In 1986, for example, delinquent leaseholder taxes in rural areas for the previous three years were 59.8 percent of the total 1986 leaseholder tax levy in those areas, whereas delinquencies were only 8 percent of the total levy in the province as a whole. The costs of delinquency are borne entirely by the tax collector's government because the taxes levied by other authorities must still be paid out even if they are not collected. This could be an important consideration for bands who plan to collect property taxes.

SUMMARY

This brief description covers the basic use and nature of property taxation in British Columbia. Bands drafting their own taxation bylaws should also examine the more detailed legislation, including the *Assessment Act*, *Taxation (Rural Area) Act*, *Municipal Act*, *Home Owner Grant Act*, other Indian government taxation bylaws, and guidelines from the Indian Taxation Advisory Board.

4 Leaseholder Concerns

The concerns of existing leaseholders, as well as its own locatees, are an important consideration for a band which is thinking about introducing property taxes. The leaseholders would probably prefer that there be no changes at all unless it included lower taxes, better services, or both. Similarly, locatees would not want to see their rental incomes reduced or jeopardized because of tax increases.

"TAXATION WITHOUT REPRESENTATION"

With the implementation of Bill C-115, Indian governments are now in the position of governing others in a most critical area of government authority – taxation. While there is no question that the authority lies with the band council, the band will find that it is important to maintain good communications with its leaseholders. Effective communication is essential in ensuring that the band provides the leaseholders with the services they want and that band funds are used efficiently. No matter how "good" the service may be, if it is not what is wanted, the leaseholders will resent being taxed to pay for it. Additional resentments could arise because of the fact that the leaseholders have no vote in the election of the band council and are therefore subject to "taxation without representation".

Different bands will find different ways to communicate with their leaseholders. Suggested communications strategies are discussed in Appendix A.

UNCERTAINTY

The band should keep in mind that its leaseholders will want to be treated fairly and that they dislike uncertainty. Where there are protracted discussions about possible new taxes, or where the tax rates change frequently, the uncertainty could have an adverse effect on property values. The leaseholders would be losing money, at least on paper.

The band and its locatees might also lose money, at least in the longer term, because the reserve would be perceived to be a less desirable location for a residence or a business. The land rents would have to be lowered to make them more attractive, to the point where the band's additional tax revenues could be entirely offset, or even exceeded, by losses in rental revenue.

IMPLICATIONS OF A TAX INCREASE WITH SERVICES UNCHANGED

One of the options available to a band is to simply impose its own taxes, without any other changes being made in the existing situation. It is important to understand the implications of this option with respect to two key questions:

- Who would actually bear the cost of a tax increase?
- What would be likely to happen in the long run?

Tax incidence: who really pays?

If band property taxation raises the total level of property taxes, who would really bear the costs? Would the leaseholder just have to pay the additional cost out of his or her own pocket, or would it be possible to pass it on to customers in the form of higher prices for the goods or services the leaseholder sells? Perhaps the leaseholder would have to offset the increase in taxes with a lower lease payment to the band or locatee in order to stay in business. In short, depending on the type of leasehold, the cost of any increase in taxes would end up being

- borne by the leaseholder,
- shifted forward to the leaseholder's customers, or
- shifted backward to the lessor.

The cost burden could, of course, be distributed among these three parties.

Residential leaseholders who own and occupy their own houses would have to pay the higher taxes from their incomes. There is no way that they could shift the tax forward. In addition, each house would probably be less valuable on the real estate market than it was before the tax was increased. In other words, the price of the house would drop to offset the tax increase. By the same token, if the band were to develop new lots for residential leasehold, the new lots would rent for lower prices. It is, however, possible that the price depressing effects of higher taxes could be offset, at least partly, by increasing services or service quality to make the residences more desirable.

For businesses, the direction of shifting would generally depend on how competitive markets were. A retailer with nearby competition could not raise prices, nor could a large industry which sells on world markets, such as a pulp mill. In contrast, if the leaseholder were operating a garbage dump and there were no other dumps around, the dump fees could be raised to cover the higher tax costs.

If additional taxes could not be passed forward to customers they would have to either be borne by the leaseholder or passed backward to the lessor. A business with a high net

income would be able to pay the taxes from income. However, if the business has many competitors or is just covering its costs, it may be able to stay in business at the leasehold location only if the land rent is reduced. If the lease is with a locatee, the band might gain additional tax income at the expense of the locatee, who would receive a lower rent. If the band is the lessor, it would not make sense for the band to introduce new taxes because the additional income from taxes could be offset by reductions in rental income. Again, the negative effects of higher taxes could be offset, at least partly, by improved services.

Where there are existing long-term leases, it may be that the land rent is below current market prices. In those cases where the original leaseholder still occupies the property, it would probably be fair to impose higher taxes on the property until the total of rent plus taxes is equal to the market price plus taxes on equivalent off-reserve land. On the other hand, where the lease and building have been purchased from a previous leaseholder, the new leaseholder may have paid a high price for the lease and would therefore lose out.

Tax effects: long term consequences

Taxpayers can be expected to try to shift the burden of any increased taxes to someone else. In some cases these "adjustments" to higher taxes could have some significant consequences.

In the short run, the party with the least flexibility would simply have to pay. Very few leaseholders would close down or move away. In the long run, however, where taxes on the reserve are higher than on nearby off-reserve properties, the higher taxes would have to be offset by lower lease rentals, better services, or both. Otherwise, some leaseholders would look for alternative locations.

It would be easier for some leaseholders to move than for others. Large industrial plants would not be able to move, nor would those for whom other locations are not readily available. The leaseholders most likely to move would be small businesses whose fixed investments are relatively low. Consequently, before raising property taxes above those of surrounding jurisdictions, it would be very useful for the band to consult with a business realtor about the likely effect on its commercial leaseholders.

IMPROVING SERVICES

While tax increases can depress leasehold values and make the reserve a less desirable place to locate, improved services, even with increased taxes, can make leasehold lands more attractive as a location for businesses and other leaseholders. The greater attractiveness would translate into higher lease

rentals, more business activity and other benefits for band members. The opportunity to realize these greater benefits should set the framework for thinking about band taxation and service delivery in the long run.

In its initial analyses, the band government will need to compare potential tax revenues with the costs of maintaining services to leaseholds, as discussed in this booklet. In the long run, the band government will need to analyze the benefits that can result from improving services to leasehold lands. Within this framework, tax revenues would be spent to provide services and would not be viewed as an independent source of band revenue to be used for other expenditures.

Taxes are usually used to pay for services. This is how taxes are used by local governments and it is an approach with which leaseholders will be very comfortable, even if it results in taxes on leaseholds that are higher than those on nearby lands.

TAX CONCESSIONS

Tax concessions in the form of lower tax rates, or even no taxes for several years, have been suggested as a way to attract businesses which would provide band members with employment opportunities. There are two fundamental problems with such concessions.

First, concessions of this kind are regarded as unfair to older businesses which must compete with new businesses. If the concessions were extended to all businesses, however, the lost revenue would probably be greater than the financial benefits. Studies of new business locations show that businesses expect to pay taxes but that they want good services. It is better to collect taxes and provide good services than to give tax concessions.

Second, the introduction of tax concessions on Indian reserves in B.C. would be politically dangerous. Although leasehold residents will continue to attend public schools, the British Columbia government has given band governments tax room by foregoing the collection of school taxes. Since school taxes are usually the highest of all property taxes, this provincial government policy is of significant benefit to bands. If bands were to grant tax concessions to leasehold businesses, competing off-reserve businesses would complain to the provincial government, which could in turn reimpose school property taxes. The best strategy for a band government is to either:

- set taxes specifically to cover service costs, or
- maintain property taxes at levels comparable to the taxes in surrounding communities, and spend tax revenues in ways that improve the Indian community.

This would avoid any complaints of unfair tax competition.

5 Leasehold Uses, Assessments and Taxes

Property taxes are one of the three main types of payment that a leaseholder makes for the use and enjoyment of a leasehold property. The other two types of payment are fees for services and the land rents paid to the band or a locatee. Most fees paid for specific services, such as electricity or water bills, would probably not change with the introduction of band taxation.

The analysis of leasehold property uses, assessments and taxes is done in three main steps. First, the relevant information is collected. Then, it is tabulated for analysis in a systematic format. Finally, it is analyzed with reference to the key questions about leasehold property uses, assessment and taxes.

DATA COLLECTION

Information about leasehold property uses, assessments and taxes can be obtained from the following sources:

- the band's own land management records;
- the British Columbia Assessment Authority (BCAA); and
- the appropriate municipal tax collector or, in a rural area, the British Columbia Surveyor of Taxes.

It may be necessary to get a list from the BCAA of all properties in the area which have tenure code 41 (Indian reserve - lease, locatee or occupier). Because coding errors can be made, a careful check should be made with the band's own records to see that the list is complete.

The information available from the tax collector will be either a copy of the actual tax statement for each property or a tax folio extract. Exhibit 5.1 shows a typical tax folio. One part of the folio provides a description of the property, including the folio number, name and address of record, legal description, lot size, location, and tenure code 41, as noted above.

The other part of the folio shows the taxes that were levied in 1989 on a residential leaseholder in Electoral Area 'G' of the Central Okanagan Regional District. As shown in the illustration:

- The taxable assessed value of the property, including land and improvements, was \$153,900.
- The school tax rate was 7.0205, so that the school tax was $(153.9 \times 7.0205) = \$1,080.45$.
- The provincial rural tax rate was 2.30, so that the rural tax was $(153.9 \times 2.30) = \$353.97$.
- Nine other specific taxes were levied, all but one of which were based on the assessed value of \$153,900.
- One regional district tax (23G Centr Okan Imp) was based on the assessed value of improvements only, which was \$79,150.
- The total taxes levied for 1989 were $(\$1,080.45 + \$353.97 + \$515.49) = \$1,949.91$.
- The taxpayer could be eligible for a Home Owner Grant of either \$430 or \$700.
- Taxes in arrears or delinquent were \$1,888.19.
- Total taxes due were \$3838.10 (net taxes due would be this less the amount of any Home Owner Grant).

Because the leaseholder's eligibility for the Home Owner Grant is not known, it would be necessary to get that information separately, either from the tax collector or from the leaseholder. Similarly, for a tax-exempt property, information about grants in lieu of taxes would have to be obtained separately from the tax collector.

TABULATION OF DATA (FORM 5.1)

When the information for each and every property has been collected, it can then be tabulated. If there are not too many properties, a worksheet of the kind shown in Form 5.1 can be

EXHIBIT 5.1									
TAX FOLIO EXTRACT FROM THE BRITISH COLUMBIA SURVEYOR OF TAXES									
FOLIO NO. C20-723-26300.022 8	ROLL FR. 89	LAND DISTRICT OSOYOOS	01	SCHOOL TAX RES 01	ACTUAL VALUE 153900	TAX RATE 7.0205	ACTUAL VALUE 1,080.45	LOCAL SERVICE LEVIES	TAX AMOUNT
REF. NO. 104937				TOTAL SCHOOL TAX PAYABLE		1,080.45	CENTR OKANAGAN HSP 01 03789 58.00		
000 ACTUAL USE				TAX ACT TAX RES 01		153900	23000	353.97	BC ASSESS. AUTH. 01 01728 26.59
592 RURAL DISTRICT				TOTAL TAXATION RURAL AREA ACT TAX PAYABLE		353.97	MUNI. FIN. AUTH. 01 00013 .20		
41/15 TENURE/QUALITY				TAX CODES		00	1	79150	OKANAGAN LIBRARY 01 03758 57.80
NARRATIVE LEGAL DESCRIPTION LOT SIZE: 0.210				IMPROVEMENT VALUE BY CLASS		1988	1,888.19	WEED CONTROL 01 00213 3.28	REC COM & SEN CIT 01 09933 152.87
LOT: FF-2 PL: 67 890 IR 10				DELINQUENT TAXES BY YEAR		URBAN TRANSIT 01 01468 22.59			
PROPERTY LOCATION: 2149 CAMPBELL RD				TOTAL LOCAL SERVICES		515.49	Total Current Taxes	1,949.91	23G CENTR OKAN IMP 01 05789 45.82
				GRANT STATUS		430.00	LESS - PREPAYMENT	1,888.19	
				TOTAL PAYMENT DUE		3,838.10			

used. The general information recorded on the worksheet would include:

- the year that the taxes were levied;
- the name and number of the reserve;
- the names of the regional district, the municipality or, in a rural area, the regional district's electoral area;
- the name of the person who prepared the worksheet; and
- the date the worksheet was prepared.

Separate tabulations should be done for each location, since taxation categories and rates may vary from one location to another. The names of any improvement districts within which the property is located should also be noted on the worksheet.

For each property, the tabulated information would include:

- one or more reference numbers;
- the name and address of record;
- the land use classification number (1 = residential, 2 = utility, etc.);
- the *actual* assessed value;
- the *taxable* assessed value;
- the taxes levied for each purpose (school, municipal, rural, regional district, etc.);
- if it is a tax-exempt property, any grants in lieu of taxes paid by the owner;
- the total taxes levied or grants in lieu paid;
- the Home Owner Grant (residential only);
- net taxes; and
- taxes in arrears or delinquent.

Form 5.1 has space for tabulating information on four properties. A band with twenty properties would need five copies. Where there are many properties, it may be advisable to use a computerized spreadsheet. An alternative to filling out Form 5.1 would be to obtain photocopies of each property tax bill and carefully summarize the data directly from the bills to Form 5.2.

The taxation categories listed on the worksheet are those which are commonly found on property tax statements in British Columbia. These include the taxes levied for schools, the municipality (or, in a rural area, the provincial government), the regional district, the regional hospital district, the B.C. Assessment Authority, and the Municipal Finance Authority. As indicated in the tax folio extract, there are often additional taxes levied for other purposes unique to the particular situation. These may include local improvement or frontage taxes, improvement district taxes and regional district service area taxes. Space is available on the form to write in this additional information.

ANALYSIS (FORM 5.2)

When all the taxation information has been tabulated, the next step is to calculate for each and all of the property classes in each location:

- the total number of properties;
- total assessed values;
- total taxes levied for each purpose (school, municipal, etc.), including grants in lieu of taxes;
- gross current taxes due;
- total Home Owner Grants;
- net current taxes due; and
- total in arrears or delinquent.

The results of the calculation can be summarized and displayed in Form 5.2, which has space for tabulating information on up to four property classes, plus the total values. If there are more than four classes of leasehold property, the band analyst will need two copies of Form 5.2.

When this calculation has been completed, the band will have an overall picture of how much money is involved in property taxes, grants in lieu of taxes, Home Owner Grants and delinquencies. It will also have compiled the leaseholder property tax information needed to analyze the tax revenue - service cost relationship.

While past delinquent taxes are a provincial or municipal responsibility, a high level of delinquencies should alert bands to their potential importance. If they continue under band taxation, the band will not receive the full amount of its tax levy in the early years of taxation. Later on, however, the collection of past delinquencies will offset new delinquencies. Where there is a high level of delinquencies, the band could offer to collect them for the provincial or municipal government, possibly in return for a percentage share of the revenue.

Taxation year

Property reference number(s) _____

Property name and/or address

Assessment use classification _____

Actual assessed value \$ _____ \$ _____ \$ _____ \$ _____

Taxable assessed value \$ _____ \$ _____ \$ _____ \$ _____

School \$..... \$..... \$..... \$.....

Municipal or rural

Regional district

Regional hospital district

BC Assessment Authority

Mun. Finance Authority _____

Total (gross) taxes levied \$..... \$..... \$..... \$.....

Less Home Owner Grant _____

Net current taxes due \$ _____ \$ _____ \$ _____ \$ _____

Taxes in arrears or delinquent \$ _____ \$ _____ \$ _____ \$ _____

Completed by on
(name) (date)

FORM 5.2 Property taxation summary

Taxation year

Location
(name and number of reserve; regional district; municipality or electoral area)

Assessment class _____ Total _____

No. of taxable properties _____

No. of exempt properties _____

Actual assessed value \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

Taxable assessed value \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

Taxes levied

School \$..... \$..... \$..... \$..... \$.....

Municipal or rural

Regional district

..... ..

..... ..

..... ..

..... ..

..... ..

..... ..

..... ..

..... ..

..... ..

..... ..

..... ..

Reg hosp district

BCAA

MFA

Total (gross) tax levy \$..... \$..... \$..... \$..... \$.....

Less Home Owner Grant _____

Net current taxes due \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

In arrears or delinquent \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

Completed by on
(name) (date)

6 Current Services and Costs

A key objective in analyzing services and costs is to identify the leaseholders' fair share of the property taxes and other general revenue used by local governments to finance their expenditures on services. Services which are completely funded by user fees are normally not important for this analysis. However, if the leaseholders have been receiving such services from other governments, the services may have to be considered within the context of the options discussed in Section 8. Also, as discussed in Section 8, school, police, and public road services will continue to be provided regardless of the band's choice of taxation options.

In this analysis, school services are not considered because (1) there is no relationship between local school taxes and school spending, and (2) it is unlikely that a band would wish to provide an alternative to regular public schools for leasehold residents. A band may, however, wish to know how much is currently being spent on police protection and public roads, so directions for those calculations are included in the analysis.

A number of methods, varying in complexity, can be used to analyze services and their costs. For example, service costs can be expressed in terms of dollars per person, dollars per metre, or dollars per \$1000 of assessed value. Because the purpose of the overall analysis is to give the band a general picture of the relationship between service costs and tax revenues, it is usually sufficient to use the kind of one-step method described in this Section. This approach uses only actual assessed values as a basis for estimating and allocating service costs. A more complex two-step approach, which uses assessed values, population, and physical measurements, is also described in this Section and in Appendix B.

DATA ON ASSESSED VALUES (FORM 6.1)

Actual assessed value data must be compiled for the relevant locality as a whole and for the leasehold lands only. As explained in Section 5, the data can be obtained from the government of the locality or from the BCAA. The data for a municipality should be relatively easy to obtain. It may be more difficult to assemble data for an electoral area or a service area within a regional district.

Form 6.1 provides a format for displaying actual assessed value information. The necessary calculation for the one-step method yields the proportion (X) which the total leasehold assessment (B) is of the locality's total assessment (A). For the more complex two-step method, two other calculations are needed. One yields the proportion (Y) which the locality's total residential assessment (C) is of the locality's total

assessment (A). The other yields the proportion (Z) which the total non-residential leasehold assessment (D) is of the locality's total assessment (A). Note that a separate form is needed for each relevant locality (municipality, regional district, electoral area, service area, improvement district, etc.)

SERVICE DATA

Specific information on local government services is of several kinds. First, it must be established just which services are provided to leaseholders. Second, government expenditure data is needed for each separate service. Third, physical measurement data may be required for some services.

Checklist of services to leaseholders (Form 6.2)

Surveys of municipalities indicate that not all services provided in a municipality are provided to leasehold lands. There are also some services, notably land use planning and zoning, from which leaseholders receive no benefit because such authority cannot be exercised on a reserve by a non-Indian government. Thus, band analysts must compile a list of services that are provided to leaseholds, such as roads or garbage collection, or are available for leaseholders to use, such as libraries, parks, and recreation facilities. This information can be obtained by (1) analysing the expenditures on services listed in the local government's annual financial statement, then (2) determining exactly which services are delivered to the leaseholds, or are available for leaseholder use, through discussions with appropriate leaseholders, band officials, municipal officials, and regional district officials.

Form 6.2 contains a check list of commonly provided services. It is critical to the analysis of service costs to identify which government provides which services to the leaseholds. Because there is evidence indicating that the government which services leaseholds also often services the rest of the reserve, it is useful to know if the band is also receiving services from a government that could discontinue those services if the band introduced independent taxation.

FORM 6.1 Actual assessed values

Taxation year

 Location
 (name and number of reserve; regional district; municipality or electoral area)

 Locality to which assessed values apply.....
 (name of municipality, or electoral area, or service area, or improvement district, etc.)

Assessment class	(1) Total actual assessed values in locality (from local government or BCAA)	(2) Total actual assessed values on leasehold lands (from Form 5.2, line 3)
Class 1 - Residential	(C) \$.....	\$.....
Class 2 - Utility	.....	.....
Class 3 - Unmanaged forest	.....	.....
Class 4 - Major industry	.....	.....
Class 5 - Light industry	.....	.....
Class 6 - Business and other	.....	.....
Class 7 - Managed forest	.....	.....
Class 8 - Recreation / non-profit	.....	.....
Class 9 - Farm	.....	.....
Total assessed value (add 1 to 9)	(A) \$.....	(B) \$.....
Less Class 1 - Residential	(C) —.....	—.....
Total non-residential assessed value	\$.....	(D) \$.....

(X) Leasehold total assessment as
 a proportion of locality total assessment = $(B) + (A) = \frac{(B)}{(A)} = (X)$

(Y) Residential total assessment as
 a proportion of locality total assessment = $(C) + (A) = \frac{(C)}{(A)} = (Y)$

(Z) Leasehold non-residential assessment as
 a proportion of locality total assessment = $(D) + (A) = \frac{(D)}{(A)} = (Z)$

 Completed by on
 (name) (date)

Taxation year

If the service is provided or is available for use, indicate the name of the government that provides the service.

Completed by on
(name) (date)

Service costs (Forms 6.3 and 6.4)

Service cost data must be derived from the local government's financial statements for the same year as the tax data. There are several ways cost data can be analysed. The approach taken here yields *the average cost of leasehold services financed from general revenues*. Unusual expenses are smoothed out over time so that a calculation made for one year will closely approximate future years. It is felt that this measure is a fair estimate of the share of general expenditures that can be allocated to leaseholders.

Different governments keep fiscal records differently. What must be identified are the revenues and expenditures related to each separate service. The services worksheet on Form 6.3 provides a format for calculating the total cost of a service and the share of that cost funded from general revenues. One form is used for each service, so that other relevant information about the service can also be recorded in one place. This other information would include the type of agreement involved. It could also include additional explanations, remarks about capital works, remarks about service quality, etc.

Operating costs are an obvious current expense. A transfer to a reserve fund for equipment that will be purchased later is also treated as a current expense because taxes must be raised now and because it smooths out some expenditures over time. Debt service is likewise treated as a current expense because it smooths out large capital expenditures over time. Debt service is included only if the expenditure financed by the borrowing also benefited leasehold lands.

Analysts must check to see that the operating costs are complete. If the government's budget does not assign personnel benefits to specific services, then an addition must be made to the operating cost figure to include these costs (contribution to retirement funds, medical plan premiums, U.I.C. and C.P.P. contributions, etc.). It would be appropriate to discuss how much should be added with the local government treasurer. A useful rule of thumb is that 20 percent should be added for labor-intensive services, where the expenditures are primarily for personnel, while 5 to 10 percent would suffice for more capital-intensive services, where a larger share of the expenditure is devoted to materials and equipment. Other potential additions to operating costs include building use, utilities and vehicle fuel. The band analyst should check with the treasurer for any unusual items of this type that may not be included in the recorded amounts spent on specific services. If specific data is not available, an additional overhead charge of 10 percent would not be unreasonable.

The amount shown as expenditures in local government financial statements does not necessarily equal the amount of general government revenues used to finance the service.

This is because some services also generate such offsetting revenues as:

- user charges, such as municipal pool entrance fees;
- license fees, such as dog licenses for animal control;
- fines, such as those levied for bylaw infractions;
- contract fees, such as a fee for providing fire services to an adjacent area; and
- conditional grants from other governments.

A transfer from a reserve is also treated as offsetting revenue because it was counted as an expenditure when the transfer to the reserve was made.

For each service, the net expenditure financed from general revenues is determined by subtracting from the gross expenditure all of the offsetting revenue generated by the service. Band analysts must be very careful in identifying these offsetting revenues as they may be listed in separate sections of a financial statement, may not even be detailed in the financial statement, and may not always be easy to allocate to specific services. Consultation with the local government treasurer may be necessary.

Form 6.3 must be completed for each service. The net expenditures financed by general revenue for all services can then be summarized on Form 6.4. A separate form is needed for each of the relevant local governments.

Taxation year

Name of service.....

Name of service provider

Type of agreement (A)

Expenditures on services to leasehold lands are relevant where there is (1) no special agreement or payment.

<u>Expenditure</u>	<u>Offsetting revenue</u>
--------------------	---------------------------

Gross expenditure \$..... Total offsetting revenue (B) \$.....

Less offsetting revenue (B) — _____

Net general expenditure (C) \$_____ (negative if offsetting revenue exceeds gross expenditure)

Remarks.....

Completed by on
(name) (date)

FORM 6.4 Service expenditure summary

Taxation year

Location
(name and number of reserve; regional district; municipality or electoral area)

Name of local government service provider.....

[illegible]

..... \$.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Total net expenditure (E)\$ _____

Completed by on
(name) (date)

COST ALLOCATION TO LEASEHOLDS (FORM 6.5)

The objective of the next part of the analysis is to estimate the leaseholders' fair share of the net expenditure financed from general revenues. As previously noted, and as discussed further below, this can involve a rather complex set of considerations and calculations. However, where there are few residential leaseholders, or where the per capita value of residential leaseholds is about the same as the per capita value of residential properties in the rest of the locality, a simpler one-step method can be used.

The one-step method

All methods of analysis discussed in this booklet calculate the cost of delivering services to leaseholders as a proportion of the overall net costs. For the purposes of this booklet, the proportion is also called a *cost factor*. In the one-step method, the cost factor for all services is based on the assessed values analyzed in Form 6.1. Thus, each government's total estimated cost of providing services to the leaseholds is calculated by multiplying the total net expenditure (E) from Form 6.4 by proportion (X) from Form 6.1. The calculation can be recorded on Form 6.5 as follows:

- total net expenditure (E) in column (2);
- proportion (or cost factor) in column (3); and
- leasehold allocation in column (4).

The totals for all governments can also be displayed in Form 6.5. It must be remembered that these are not necessarily full cost figures but, rather, only those costs related to expenditures funded from general revenues.

The two-step method

The two-step method treats the cost calculation as a more difficult task because it is difficult to measure precisely the output of most government services, let alone allocate the costs of their provision to a sub-area within a larger service area. For example, fire protection may be available even if not called, and it is very difficult to measure the output of policing services. Each service has its unique characteristics.

A number of conventional approaches have been developed for allocating service costs to sub-areas. These conventions explicitly recognize that services benefit both "property" and "people". Property owners benefit from higher property values when policing, fire protection, roads, transit, and other services are available. Higher property values also result from the availability nearby of parks, recreation centers, libraries, schools, and other "people" services. Thus, even for services like schools, some costs must be allocated to "property".

People also benefit from services. Some services, like fire protection, will primarily benefit local residents, but others,

like roads and parks, will benefit non-residents who come into the locality to work, shop, or spend leisure time. Thus, costs must be allocated among property owners, residents, and non-residents. This is done in two steps:

1. Costs are first allocated to different property classes in relation to their assessed value. There are two reasons for this. First, it is assumed that when non-residential property such as business or industry is highly valued, its owners are benefiting from government services and should share costs. Second, highly valued non-residential properties, especially business and industrial properties, are directly related to attracting non-residents into the locality. Large commercial properties attract non-resident shoppers and employees; large industrial properties attract employees. These non-residents also utilize local government services. In general, the greater the non-residential assessed value is in proportion to the total assessed value, the greater the non-residential population attracted into the locality. It is therefore fair to allocate costs to those non-residential properties in relation to their assessed value. While this is not a perfect allocation for every service, it is the best general approach that can be used at reasonable cost.
2. The second step in the cost allocation process is an allocation among residential properties. Residential properties may have very different assessed values but many government services benefit people regardless of the value of their residence. Thus, after a share of costs is allocated to all of the locality's residential properties in proportion to their share of the locality's total assessment, cost allocations among sub-areas are based on a per capita allocation of the residential share.

It should be noted that, if the per capita residential assessment on leaseholds were the same as the per capita residential assessment in the rest of the locality, the residential share of the leasehold cost allocation would be equal to the leasehold share of the locality's residential assessment. The total cost allocation to leaseholds would thus be based on the non-residential leasehold proportion, plus the residential leasehold proportion, of the locality's total assessment. This is exactly equivalent to the total leasehold proportion of the locality's total assessment - a figure already calculated as proportion (X) in Form 6.1. This figure is the cost factor that is used in the one-step calculation discussed above.

In most cases, the one-step cost factor will result in a good estimate for allocating costs to leaseholds. There are two exceptions. One is where a service can be easily measured, such as number of street lights or kilometres of sidewalks. Where large expenditures from general revenues are spent on such physical services, a cost factor can be calculated directly from physical measures. This process is described in Appendix B.

FORM 6.5 Summary of cost allocations to leaseholds

Taxation year

Location
(name and number of reserve; regional district; municipality or electoral area)

(1)	(2)	(3)	(4)	(5)
Name of locality & services	Net costs	x	Cost factor	= Leasehold allocation
				Totals

Municipality (or rural area)

General services	\$.....			\$.....
Sidewalks	\$.....			
Street lights	\$.....			
Sewer lines	\$.....			
Water lines	\$.....			
Total.....				\$.....

Regional district.....

General services	\$.....			\$.....
.....	\$.....			
.....	\$.....			
.....	\$.....			
.....	\$.....			
Total.....				\$.....

General services	\$.....			\$.....
.....	\$.....			
.....	\$.....			
.....	\$.....			
.....	\$.....			
Total.....				\$.....

Provincial roads \$..... Total provincial roads \$.....

RCMP \$..... Total RCMP \$.....

- (1) Only some localities or services will be relevant to the band. For example, where the reserve is within a municipality, the band will not receive provincial road services. There may be several relevant localities in a rural area, such as an electoral area, a regional district service area, or an improvement district. If there are more than three relevant localities, use two of these summary sheets.
- (2) Net expenditure (E) from Form 6.4; or from provincial government or RCMP.
- (3) From Form 6.1 (figure X), Form B.2, or Form B.3. Not applicable to provincial roads or RCMP.
- (4) Equals column (2) x column (3).

Completed by on
(name) (date)

The second situation is where the per capita residential values of leasehold properties are significantly different from those in the rest of the locality, especially if residential values are a very high proportion of the locality's total assessment. If leasehold per capita residential values are very low, the cost factor will be too low and too small a cost will be allocated to leaseholds. If leasehold per capita residential values are very high, the cost factor will be too high and too large a cost will be allocated to leaseholds. Where either of these situations exists, band analysts may want to develop a cost factor that allocates residential assessed values on a per capita basis. The procedure and forms are presented in Appendix B. This more complicated two-step procedure would then be used instead of the simpler one-step procedure.

The cost factor is the same for all of the general services received from a government. Thus, once it is calculated, it may be multiplied by the net expenditure on any specific service to determine the leasehold cost allocation for that service, or it can be multiplied by the total net expenditure to determine the leasehold cost allocation for all general services.

Separate calculations for each case

When calculating a cost factor, it should be noted that a separate set of calculations is needed for each locality. For example, if a band is located within a municipality, it will need one for the municipality and one for the regional district. It will also have to make a separate calculation for policing if policing is provided by the RCMP and for roads if roads are provided by the provincial Ministry of Transportation and Highways.

The easiest way to estimate RCMP costs is to (1) determine the pro-rated allocation of police to the leasehold population from the local detachment (the number could be less than one), and (2) multiply this number by the average cost for a policeman that the provincial or municipal government pays to the federal government. The average cost figure will be available from the municipality or from the B.C. Solicitor General's office. Similarly, if a band desires to make a provincial road cost calculation, cost information is best obtained directly from the Ministry of Transportation and Highways.

As previously discussed, the total for all governments can be displayed in Form 6.5. It should be remembered that the net cost figure is the share of service costs funded by general revenues, of which property taxes are a major component, that can be allocated to leasehold lands. The net cost is not necessarily the full cost.

7 The Tax Revenue–Service Cost Balance

When property taxes and service costs have been determined, as discussed in Sections 5 and 6, the Band will want to know how they are related to each other. The calculation of the revenue–cost balance is done in the three steps shown in Form 7.1:

- First, the proportion of the general revenue that is covered by property taxes is determined.
- Second, the net cost allocated to leaseholds is multiplied by this proportion to arrive at the adjusted net cost covered by property taxes only.
- Third, the difference between the property taxes levied and the adjusted net cost is calculated for comparison.

In municipalities, the proportion of the net cost covered by property taxes is usually in the neighbourhood of 70 percent. In regional districts and improvement districts, the proportion is usually either 100 percent or very close to 100 percent.

The property tax proportion of general revenue

There are two ways to estimate the property tax proportion of general revenue. The approach used in Form 7.1 is less precise than the other but should provide a very close estimate. It involves first identifying, perhaps in consultation with the local government treasurer, a breakdown of the government's total general revenues. These are revenues that are not tied to or result from any specific expenditure. They will generally include property tax revenues, grants in lieu of taxes, unconditional provincial revenue sharing grants, interest payments and penalties for late taxes, and earnings on investments. Other general revenue sources, such as business license fees, tend to be very small, but the treasurer would know if they exist. When this breakdown has been determined, the proportion comprised of property taxes and grants in lieu of taxes can be readily calculated.

The second approach involves an examination of each expenditure that is partly covered by a directly offsetting source of revenue, such as garbage collection fees to finance garbage collection. These situations will have been identified in the analysis of services (Form 6.3), but such offsets may also exist for services not provided to leaseholds and thus not previously analyzed. This poses a problem if the leaseholds receive only a few services because all other services provided by the government would have to be examined. This could require considerable effort, but if done correctly, a precise answer of total expenditure from general revenue can be obtained. The property tax proportion can then be readily calculated.

The only cases where the two alternative approaches do not yield the same answer is when a user charge or receipt related to a specific service is greater than the cost of the service. This surplus revenue is added to general revenues for expenditure

purposes but its amount will not appear in a list of general revenues. Such cases are quite rare, but if a service is generating revenues greater than its costs, the surplus can be added to the general revenue figure and both approaches to calculating general revenues will yield the same answer.

Adjusted net cost calculation

The second step involves calculating the *adjusted net cost* of services to leaseholds by multiplying the property tax proportion determined in step one by the total net expenditure on services provided to leaseholds (Form 6.4, figure E). The adjusted net cost is the amount, on average, that property taxes provide for financing these services. This is a good benchmark for a fair payment by leaseholders for the services they receive.

Revenue–cost balance calculation

In the third and final step, a comparison is made between (1) the adjusted net cost of services provided by a government to the leaseholds and (2) the property tax revenues actually collected by that government from the leaseholders (Form 5.2). This comparison indicates whether the leaseholders paid property taxes relative to the cost of their services that were more or less than the average paid in the locality. Because the service costs are estimates, it would be reasonable to allow for a margin of error on the order of plus or minus 15 percent for the net balance calculation.

As discussed elsewhere in this booklet, school taxes and provincial rural taxes finance services which will be provided regardless of the band's taxation decision. It is therefore unnecessary to analyze these tax–service relationships, although a benchmark for comparison of provincial rural tax revenue is that these revenues, on average, pay for approximately 22% of police and rural road maintenance services. It can also be assumed that the taxes levied by regional hospital districts, the BCAA and the MFA are equal to their service costs and do not require separate analysis.

FORM 7.1 Adjusted cost - property taxation balance

Taxation year

 Location
 (name and number of reserve; regional district; municipality or electoral area)

Name of government service provider

Step 1 Calculate property taxes and grants in lieu of taxes as a proportion of the general revenue shown in the government's financial statements for the relevant taxation year.

Property tax revenue.....	\$.....
Provincial grants in lieu of taxes.....	.....
Federal grants in lieu of taxes.....	.....
Total property taxes and grants in lieu of taxes.....	(A) \$.....
Provincial unconditional grants (revenue sharing).....	.....
Interest and penalties on taxes.....	.....
Earnings on investments.....	.....
.....
.....
Total general revenues.....	(B) \$.....

(C) Property taxes and grants in lieu as a
 proportion of general revenue = (A) + (B) = (A) \$..... = (C)
 (B) \$.....

Step 2 Calculate adjusted net cost (N) = (C) x (E: total net expenditure from Form 6.4) =
 (C)..... x (E) \$..... = (N) \$.....

Step 3 Calculate the net balance in relation to the average contribution of property taxes for financing services.
 A positive balance implies a surplus for the government. A negative balance implies a deficit.

Total property tax revenues from leaseholds =	
total net current taxes from Form 5.2	\$.....
Less adjusted net cost.....	(N) —.....
Net balance	\$.....

Completed by on
 (name) (date)

8 Service Delivery Options

As part of the decision to levy taxes on a reserve, a band must also consider assuming responsibility for delivering and paying for services to leaseholders that were previously provided by other governments. To make these decisions, a band government needs to consider the nature of different services, alternative ways to have services provided, and the costs.

Different local services have very different physical characteristics. Some, like road maintenance or street lighting, can be provided on a very small scale, literally block by block. Others, like fire protection or a large recreation centre, can most efficiently serve a larger area.

There is considerable diversity in how services can be provided. A government may produce a service directly or it may contract to purchase the service from another party. For example, a band government may purchase fire protection from a neighbouring government because the neighbouring government's cost of including the reserve in its service area would be much less than the cost to the band of creating its own fire department. Similarly, a band government may contract with a private company for road paving or garbage collection. Arrangements of this kind are common among local governments.

The best way to understand differences among services is to briefly examine several different services for which band governments may assume new responsibilities, as follows:

- water supply and sewage disposal;
- fire protection;
- garbage collection and disposal;
- recreation facilities;
- road maintenance, and
- street lighting.

WATER SUPPLY AND SEWAGE DISPOSAL

Water supply and sewage disposal can be provided on any scale, from a single dwelling served by its own well and septic tank to a city served by large water, sewer, sewage treatment and disposal systems. In general, where users are located near one another, the cost per user will decrease as the number of users increases. Where a water system and a sewer system are already in place, they can usually be extended to serve additional users at a relatively low cost.

Where new water and sewer systems are required, it would usually be less expensive to add to an existing system. For all new investments, engineering cost estimates for alternative capital and operating costs would be needed.

It would appear that virtually all leaseholders currently receive water and sewer services and that the cheapest option would be to continue with the same systems. Thus, if independent taxation is the band's option, it should plan on negotiating with the present supplier for continued service. Where the services are provided under existing agreements with other governments that have been financing those services with property taxes, the contractual equivalent of a payment in lieu of taxes might be appropriate.

FIRE PROTECTION

Virtually all bands and leaseholders currently have access to fire protection, including both inspection and suppression. Protection for bands is usually provided by contract with local governments.

Where a band has its own fire department but the leaseholds have been protected by a local government, it may be most economical to shift the protection of leaseholds to the band department's service area. It is unlikely, however, that it would be efficient to start a new band department if service from a nearby department is already available, especially if that department was large enough to have some full-time firefighters. Departments with full-time firefighters tend to respond more quickly to fires than do all-volunteer departments.

The start-up costs of even a very small fire department, including truck, building, equipment, clothes and training, are quite high. Unless there is a relatively large area to be served, it would be cheaper to contract with an existing department if that department is close enough to provide timely service.

ROAD MAINTENANCE

Road maintenance, including grading, paving, ditch cleaning, patching, and shoulder maintenance, can be done on any scale. This is because private contractors are available to perform tasks ranging in scale from new road construction to pot hole repair.

Where road maintenance for leaseholders has been provided by another government, the band should carefully evaluate its options, since road maintenance can usually be contracted from a private business at lower cost than from a government. Even if it is possible to contract with a local government for continued road maintenance, it would be relatively easy for the band government to take over the responsibility, either with its own crews or by hiring small contractors. If business were sufficient, the contracts could be a good base for a new Indian-owned business.

SOLID WASTE COLLECTION AND DISPOSAL

Solid waste collection for businesses is usually done by private firms under direct contract to the business. Sometimes this is also the case for residential collection, but it is more common for a local government to undertake residential collection with its own crews or through a contract with a single private firm. All of these options for serving its leaseholders are available to a band. There is no particular reason to continue having another local government do it.

Solid waste disposal is quite different. There is usually only one dump in an area and it may be run by a regional district, an improvement district, a municipality, or a private firm. It would virtually always be less expensive to pay dumping fees, plus the contractual equivalent of a payment in lieu of taxes if that is how the disposal facility is financed, than it would be to develop a band facility. Where a band facility already exists, it would involve little additional cost to serve leaseholders and, with appropriate fees, other areas as well.

RECREATION FACILITIES

Recreation facilities, such as swimming pools, sports fields, and arenas, can be very expensive to operate and maintain. Where they are owned by a local government, their construction and operation are financed by property taxation and user charges. With independent band taxation, band members and leaseholders could continue to use the facilities and pay only the user charges. The band government could decline to provide the additional financial support that had previously come from leaseholder property taxes.

A band government's attitude toward payment for off-reserve services such as recreation may well be determined by its other relationships with the local government. Where the local government charges a band for on-reserve services an amount equivalent to the amount usually paid from property taxation, then that government is treating leaseholders as if they are part of its community. It would be appropriate for a band government to reciprocate by paying its fair share of costs for off-reserve services. On the other hand, if the local government insists on full-cost pricing, and in effect treats leaseholders as non-residents, then an appropriate band response would be to pay only for on-reserve services and use the locality's off-reserve services as any other non-resident would. The band should not expect, however, to receive on-reserve services at less than full cost if it is unwilling to help pay a share for off-reserve services.

The band government should be aware of the very high cost of recreation facilities and sensitive to the impact on the local government if the tax revenues that help finance the facilities

are substantially reduced. It should be kept in mind that the facilities were developed with the participation of leaseholders who were paying their share of the debt service costs through their property taxes. In some cases, the off-reserve citizens could be left with a very large tax burden if the band declined to help replace the lost taxation revenue. If band members are regular users of the recreation facilities, the band government should also anticipate that the local government will want to discuss a contribution to their cost which, in a municipality, would be over and above the provincial revenue-sharing funds that can be attributed to the reserve's population.

STREET LIGHTING

Street lights can be provided on a block by block basis but major cost savings can be realized by contracting with B.C. Hydro. To provide its own street lights, a band would have to purchase, install and maintain a small number of lights, and purchase metered electricity for them. B.C. Hydro then would have to read meters and send a bill. B.C. Hydro purchases lights in large quantities, already possesses appropriate installation equipment and does not have to install or read meters. It simply charges a fixed amount per year per light.

EDUCATION, POLICE PROTECTION AND ROADS

Education, police protection and roads are unique in that, under Bill 64, the provincial or federal governments will continue to provide them regardless of the band's choice of taxation options. It is not the purpose of this analysis to explore the rationale for this provincial decision, but its effect is to provide tax room for band governments analogous to the tax room provided for municipalities who receive "free" police services from the province because their populations are less than 5,000. If this tax room had not been provided, any band taxation would result in a direct reduction of local government revenues. Because the tax room provides an opportunity for a band to enter into mutually beneficial agreements with local governments, it should encourage cooperation between them.

Education

Schools are open to all B.C. residents. Thus, leaseholders could continue to send their children to public schools whether or not school taxes were collected on leasehold lands. Educational services need to be considered only if the band wishes to look into alternative means of providing them for leasehold residents. Band analysts, however, need to consider the relationship between school taxes and Home Owner Grants.

The additional tax revenues available from the provincial vacation of school taxation will not equal the school tax levy but, as discussed in Section 9, will equal either the total of Home Owner Grants or the tax levy minus Home Owner Grants.

Police protection

Police protection for Indian reserves is a federal responsibility. The Federal government also pays part of the costs of the provincial RCMP, which in turn provides federal as well as provincial policing. Police protection would have to be provided to leaseholders whether or not the band government paid for it. Where bands wish to hire special constables or begin policing themselves, they will usually be more concerned with the main reserve than with leaseholds.

A question may arise where the leaseholds are located within one of the twelve municipalities in British Columbia that provide their own policing. While the B.C. Municipal Act requires that police protection be provided within municipalities, a municipal government would be reluctant to police leaseholds without taxation or payment from the band. It would appear that, if the municipality declined to police a reserve area, the federal government would have to arrange for the RCMP to do it. While this might not be easy to organize in some areas, it appears that it would entail no cost to the band. Good policing is very important, however, and it may be worth negotiating an agreement with a municipal department if it can provide superior service.

Roads

Provincial and municipal governments build and maintain roads that they own, whether or not the roads are on a reserve. They do not maintain roads that they do not own. Roads which have been dedicated to the Crown will be maintained by the appropriate non-Indian governments. Non-dedicated reserve roads will continue to be the band government's responsibility. Thus, whether or not leaseholders pay provincial or municipal taxes, the public roads that serve them will be maintained, and bands will continue to be responsible for reserve roads. Taxes on leaseholds can help the band discharge that responsibility.

OTHER SERVICES

There are many other services a band will need to consider when undertaking independent taxation and assuming responsibility for services to leasehold lands. These services will possess a variety of characteristics like those discussed in the foregoing examples. Some services will be best provided under contract from an adjacent government. Others will be candidates for band production or a contract to a small

business. Others, such as parks, recreation facilities or libraries, may involve payments in lieu of taxes on behalf of leaseholders because of previous commitments and fundamental fairness. For each service, however, each band will have to undertake its own analyses.

TOTAL COSTS AND REVENUES

Following an analysis of alternative ways to provide services to leaseholds, band analysts will want to compare the costs of service provision, under the best new arrangements, with the revenues that would accrue to the band if it collected leasehold property taxes at current tax rates. The costs involved will likely be more than the adjusted net costs calculated on Form 7.1.

Form 8.1 can be used for the comparison. The cost data will have to come from an independent analysis. The figure that should be inserted on Form 8.1 is the net cost after other revenues, such as user charges, have been subtracted from total cost. The property tax revenue figure is the same as the total net current taxes shown on Form 5.2.

The revenue balance calculated on Form 8.1 does not indicate what policy the band should take toward property taxation. What it does indicate is (1) the estimated cost of providing services to leaseholders and (2) how much property tax revenue is being collected by existing non-Indian governments at their current tax rates.

The usual practice for local governments is to determine net service costs after other revenues have been accounted for, and then set a property tax rate that would raise the revenue necessary to cover those net service costs. Band analysts can perform a similar calculation. By dividing the net costs by the taxable assessed value, and multiplying by 1000, one can approximate the total tax rate that would be necessary to cover net costs. The bottom part of Form 8.1 provides for this calculation. This estimate is only an approximation. It assumes receipt of Home Owner Grants and does not utilize different rates for different land use classes. It does, however, provide an indication of the rate that would have to be levied on leaseholds to provide services to them. The rate will be lower than existing rates where the revenue balance on Form 8.1 is positive. It will be higher than existing rates where additional funds must be raised. At some time in the future, this approach is likely to be used by all bands in setting their own property tax rates.

Taxation year

[illegible]

Balance \$ _____

Completed by on
(name) (date)

9 Bill 64 Options and Implications

Band officials will have the information they need to be able to select the best taxation option for their situation when they:

- understand the nature of property taxation;
- understand leaseholder concerns and long term implications;
- know the tax base and revenues associated with leasehold lands;
- understand the current tax revenue-service cost relationship;
- understand service delivery options; and
- understand the costs of new service responsibility in relation to potential total property tax revenues.

These have all been explained in the foregoing sections.

The taxation options available to the band include;

- taxation without Bill 64;
- concurrent taxation; and
- independent band taxation.

In addition, Bill 64 provides for an Indian district organization within which any of these three taxation options could be introduced.

In this Section, each option is described and evaluated. The evaluations fit average conditions. Only by doing its own thorough analysis can a band be sure that the conclusions apply in its own situation.

BAND TAXATION WITHOUT BILL 64

One of the options available to a band is to ignore Bill 64 and proceed with the taxation of leaseholders under the *Indian Act* amendments of Bill C-115. Under this option, all existing property taxes and services would be left in place and an additional property tax would be levied on the leaseholders. This option might be appropriate where leaseholders receive satisfactory services from the existing taxing authorities and the band does not wish to disturb that relationship, while still obtaining some tax revenue of its own.

The most important implications for the band to consider would be the tax incidence and tax effects of the property tax increase. Where the band government is the lessor, the only reason for higher taxes under this option would be to increase revenues when lease prices were fixed in a long term agreement, especially if those prices were significantly below the market price and the original leaseholders still occupied the properties. Where the lessor is a locatee, the band would have to consider whether the additional taxes might result in a reduction in the locatee's rental income, and whether this would be acceptable if it meant that the band government would then receive a share of the revenues.

Band taxation without Bill 64 will not normally be the

preferred option because the band would forego important opportunities. For example, under the independent taxation option, the band could use the tax room created by the provincial vacation of school and rural taxes without increasing taxes on leaseholders.

CONCURRENT TAXATION

The concurrent taxation provisions of Bill 64 authorize an existing government to reduce or eliminate its tax on reserve leaseholders in accordance with an agreement between the band and the government. The agreement would clarify what services the government would continue to provide, what services the band would provide, and what tax rate the government would continue to levy. If the agreement stipulated that total taxes would remain unchanged, it could also indicate what tax rate the band was going to levy.

For tax administration, the band's cheapest option would be to continue using the assessment and appeal services of the B.C. Assessment Authority and to contract for collection with the present tax collector. Since these agencies would have to continue these activities anyway, their additional costs of serving the band would be very low.

The concurrent taxation option would most likely be considered where leasehold tax revenues exceed the estimated service costs and there is a revenue surplus. In this case, the band would stand to gain additional revenues while non-Indian governments could cover their costs of service delivery. This would be especially true where the cost to the band of independent service provision would be higher than the cost to the existing government of serving the reserve as part of its larger service area.

Where there is a revenue deficit, the existing government would probably be quite willing to forego the taxes if this meant that, at the same time, its service delivery costs would be significantly reduced. Alternatively, if the existing government's costs would not be significantly reduced, it would still want the band to share in the overall deficit. In neither case would the band be likely to benefit financially from the concurrent taxation approach.

Concurrent taxation appears to be beneficial when a band wishes to assume responsibility for delivering some services which will be paid for by band taxation and to leave responsibility for most other services with other governments. The band could assume responsibility only for those services which another government cannot provide without band authorization, such as planning, zoning, and by-law enforcement, or it could assume responsibility for one or more major services, such as road maintenance.

The major disadvantage of concurrent taxation is that, where the band could take advantage of the tax room created by the vacation of provincial school and rural taxes under the independent band taxation option, it could not do so under the concurrent taxation option. Thus, concurrent taxation will usually be found to be inferior to independent band taxation.

INDEPENDENT BAND TAXATION

When a band notifies the B.C. Minister of Native Affairs that it intends to implement a system of independent band taxation under Bill 64, it is requesting a cessation of all property taxation on reserve leaseholders by other governments in British Columbia. At the same time, the band can ask that some or all of the other governments negotiate service contracts with the band. Following a transition period, however, the other governments may terminate most services provided to leaseholders.

Independent taxation will normally provide the largest net revenue without an increase in total tax rates, because the band can fill the tax room vacated by the provincial government without losing the services financed by provincial taxes. At the same time, the band may be able to contract with local governments for the continued provision of services at prices equal to, or slightly greater than, the revenue those governments would have obtained had they been able to continue to tax leaseholds.

The only situation where independent taxation might not be superior would be where the costs of local government services to the reserve exceed the local property tax revenues from leaseholds. In this case, the local governments could demand higher payments for continued service. It is possible, but unlikely, that the total amount of these higher payments could exceed the total leasehold tax revenue obtained by the band, thus leaving the band worse off than it would be if there were no band taxation at all.

There are several practical reasons why such an event is unlikely to occur. First, because fixed costs for many services are relatively high, it would be in the interests of the local government to obtain some level of higher payment from the band than to get no revenue at all. There is room for bargaining. Second, the band could finance the higher payment from some of its new tax revenues. In effect, the band and local governments can all improve their fiscal situations.

Independent taxation, while having the potential to be the best band option, still requires careful analysis of a number of issues, including relationships with non-Indian governments, the provincial Home Owner Grant and, as discussed in Section 8, local service delivery options.

Intergovernmental relations

The independent band taxation option could be exercised either in full cooperation with other governments or in a non-cooperative environment. In a cooperative environment, independent band taxation could simply replace existing taxation, with the band and the other governments entering into contractual agreements where mutually beneficial. Because it takes into account provincial revenue sharing grants (whose population criteria include Indian reserve residents), as well as user charges and other non-general revenue sources, the *adjusted net cost* discussed in Sections 6 and 7 provides an excellent benchmark upon which to base a fair price for services provided by a local government to leaseholds. Such a concept could be extended to the entire reserve.

Independent band taxation could also be used where there is a lack of cooperation or where an existing government is taxing leaseholders but not providing services. Where there is a lack of cooperation and the band has not yet succeeded in making alternative service arrangements, the provincial government could exercise its power under Bill 64 to require the continued delivery of services during a transition period, at prices set by the provincial government.

In some situations, a leaseholder may not require any services, as in the case of a public utility easement or perhaps a large self-contained industrial plant. Where no services are required or provided, the band may wish to capture all of the tax revenue through the independent band taxation option. In some cases, this approach would make the most sense. In other cases, where such an approach could adversely affect the band's relationships with other governments from whom the band would like to receive services to other properties, the band would be wise to proceed with caution. Whatever the case may be, the band would normally find that its bargaining position is strong enough to achieve a settlement which is fair to all concerned.

When considering the issue of service continuity, the band must take into account existing contractual arrangements, including any agreements it has with other governments regarding capital works such as roads, waterworks, sewers, dykes, etc. While it can be argued that existing service and property taxation agreements are effectively nullified under the independent band taxation option, a court might find that an existing agreement must be respected, or compensation provided, as a matter of natural justice.

The Home Owner Grant (HOG)

The provincial government provides to each resident home owner a grant which reduces the total property tax bill. Thus, while governments receive the full amount of their property tax levy, part of the revenue comes in the form of a payment from the provincial government equal to the sum of Home

Owner Grants in the tax collector's jurisdiction. Historically, the Home Owner Grant has been viewed as a way to reduce the residential school tax burden.

The basic grant is currently \$430, with a minimum tax payment of \$350. The elderly, handicapped and veterans receive a grant of \$780, with a minimum tax payment of \$100. Where residential school taxes are especially high, Home Owner Grants are supplemented by an additional amount.

Bill 64 contains a provision which allows the provincial government to make Home Owner Grants to leaseholders who pay taxes to band governments. While no agreements have been made and detailed regulations have not yet been published, it appears that the provincial government would want payment from the band equivalent to the amount of school taxes that would have been collected from leaseholders in the absence of independent band taxation. This would leave the band with three options in relation to the Home Owner Grant, as follows:

1. Ignore the grant.
2. A Band home owner grant program, identical to the provincial program.
3. Provincial Home Owner Grants and band payments, as provided in Bill 64.

If the band were to ignore the Home Owner Grant while levying the same total taxes as were previously levied by other governments, all home owners would be effectively paying higher taxes than they were previously paying. The amount of the tax increase would be large and very unpopular. Such an action would certainly depress leaseholder property values and be viewed as unfair. This is unlikely to be a desirable option.

The second option would be for the band government to provide a reduction in taxes to home owners just like the provincial government does. This option would leave the taxes paid by residential leaseholders unchanged. It would not depress property values and would be considered fair by residential leaseholders. The net revenue to the band would be the amount by which the property taxes collected exceeded the sum of all Home Owner Grants.

In the third option, the band government could calculate the net amount of school property taxes levied on leaseholders after the total value of Home Owner Grants had been subtracted. It would appear that the band would then have to pay this net amount to the provincial government in exchange for the continued provision by the provincial government of Home Owner Grants on behalf of eligible residential leaseholders. The net revenue to the band would be the total property tax levy minus the amount by which school taxes exceed the sum of all Home Owner Grants. In effect, leaseholder school property taxes would continue to be paid to the provincial government.

Options 2 and 3 can be compared as follows:

•Option 2

Total tax levy	\$200,000
Total HOG from band	<u>5,000</u>
Net revenue to band	<u>\$195,000</u>

•Option 3

Total tax levy	\$200,000
School tax levy	\$70,000
Total HOG from province	<u>5,000</u>
Net school taxes to province	<u>65,000</u>
Net revenue to band	<u>\$135,000</u>

The band would maximize its property tax revenue by selecting the option with the highest net revenue. In this example, Option 2 would be preferred. If the Home Owner Grants were worth \$45,000 instead of \$5,000, then Option 3 would be preferred. Where the leaseholds are primarily residential, Option 3 will probably be preferred because the total of Home Owner Grants will usually be large relative to the total school tax levy. Where the leaseholds are primarily non-residential, the value of Home Owner Grants will be very low and Option 2 would likely generate the most revenue for the band.

Form 9.1 can be used for calculating the best band option. If Option 3 is best, the band government should immediately contact the provincial Ministry of Native Affairs to negotiate payment of school taxes and receipt of Home Owner Grants. If Option 2 is best, the band will have to provide for Home Owner Grants in its own taxation bylaw.

INDIAN DISTRICT ORGANIZATION

Part 3 of Bill 64 provides that a band may be recognized as an Indian district. Whether or not the provincial government will recognize all bands as eligible for Indian district status, in contrast to recognizing only bands which have separate enabling legislation, is currently unknown.

In addition to its authority to levy taxes and administer its own taxation, a band organized as an Indian district may receive a number of additional benefits, including:

- the continuation of a service provided by another government at a price set by the provincial government (if the band and the other government cannot come to an acceptable agreement on their own);
- the receipt of "municipal benefits", defined to include grants, a service, participation in provincial programs for municipalities, or any other benefit available to a municipality; and
- participation in the provincial land titles system.

FORM 9.1 Home Owner Grants

Taxation year

Location
(name and number of reserve; regional district; municipality or electoral area)**Option 2** Total taxes levied on all leaseholds (Form 5.2) \$.....

Subtract total Home Owner Grants (Form 5.2) —

Equals net revenue to band = \$

Option 3 Total taxes levied on all leaseholds (Form 5.2) \$.....

School tax levy (Form 5.2) \$.....

Subtract total Home Owner Grants (Form 5.2) —

Subtract net school taxes to province —

Equals net revenue to band = \$

Completed by on
(name) (date)**Municipal benefits**

The municipal benefits could include participation in provincial revenue sharing for municipalities and regional districts, water and sewer grants, and other special purpose grants. This could be quite significant. For example, in 1990, provincial revenue sharing provided \$50,000 minimum for each municipality, plus additional amounts based on population (including Indian reserve residents), assessments, and operating costs.

Under Bill 64, municipal benefits need not be the same for all Indian districts. Thus, at one extreme, an Indian district could receive all the benefits that the provincial government provides to municipalities. At the other extreme, such benefits could be quite limited. The "spirit" of the legislation, however, is that an Indian government would be treated as much like a municipality as it wishes. This treatment would not involve any surrender of the authority an Indian band possesses under federal legislation or under the aboriginal rights provisions of the Constitution.

The provincial land titles system

If an Indian district assumed responsibility for its own lands from INAC, it could also join the provincial land titles system. The Indian district would be responsible for appointing an approving officer. While there are provisions in the provincial *Land Titles Act* for Indian lands, land titles jurisdiction is quite

complex and any such change in jurisdiction would have to be fully explored by the band with independent legal advice. In any event, such a change in jurisdiction is not required under any of the options prescribed in Bill 64.

Advisory board

The Indian district option requires that the band create an advisory board of leaseholders. The advisory board would be authorized to receive funds for operating expenses but would have no specific authority. It could not interfere with a band council government, but its views could affect the benefits the Indian district might receive from the provincial government.

The Sechelt model

It would appear that the Indian district option is based essentially on the existing Sechelt Indian District model. According to this model, the band must first negotiate a self-government agreement with the federal government. This could be interpreted as the thrust of Section 17 of Bill 64 which requires that the band be "a legal entity with the capacity of a natural person." This point cannot be clarified until there is an historical record of provincial decisions regarding requests for Indian district status.

IMPLICATIONS FOR NON-INDIAN GOVERNMENTS

The options available to band governments under Bill 64 have significant implications for other governments in British Columbia. While a band cannot require another government to provide services to reserve leasehold lands, it can remove taxing authority from that government. The tax room from school and rural tax revenues could provide a band with a large revenue base from which to negotiate. Thus, many local governments in British Columbia may expect to find themselves bargaining with a band whose negotiating position is relatively strong.

Bill 64 clearly envisages that the provincial and local governments will deal directly with band governments, just as they would with any other government. While Indian bands are not statutory corporations under the *Indian Act*, a 1982 decision by the Supreme Court of Canada indicated that an Indian band may act much like a corporation and sue or be sued (*Francis v. Canada Labour Relations Board*). Under S. 286.1 of the B.C. *Municipal Act*, municipalities and regional districts may contract directly with band governments.

Municipalities and regional districts

At least 26 municipalities in British Columbia have at least 46 reserves containing leasehold lands within their boundaries. There are another 1550 reserves, mostly in rural areas, for which information about leaseholds has not been systematically collected. Previous studies have indicated that, although all municipal taxes have been levied on reserve leaseholders, most municipalities have not provided full municipal services to leasehold lands. There is also some evidence that this inequity has occurred in rural situations. The unfairness of these situations was one of the issues that was, in effect, addressed in the new federal and provincial legislation. The other main issue addressed in the legislation was the desire by Indian governments to assume increased responsibility for governing their lands.

It is commonly understood that, where two or more local governments are in close proximity, there are many opportunities for joint or contracted provision of services for mutual benefit. Each government can be responsible for its territory while cooperatively providing an efficient and attractive tax-service package for its citizens. There is substantial evidence indicating that there are many situations where a band and a local government can establish this kind of harmonious relationship.

There are also situations, however, where band policies under the new legislation could leave municipal governments worse off. These include situations:

- where a municipality was taxing but not providing services to leaseholders; or

- where leasehold tax revenues were much higher than service costs, thus generating a surplus for the municipality that was not being shared with the band.

In such cases, the band would likely proceed with the independent taxation option and the municipality would have no choice but to comply with the provisions of Bill 64. Consequently, municipalities in this kind of situation may find it in their best interests to propose constructive remedies at an early stage.

No province-wide analysis has been done of the degree to which regional district services are provided to tax-paying reserve leaseholders. Regional districts can, however, adjust service area boundaries so that only those properties receiving certain benefits pay taxes related to those benefits. The main exceptions are planning, zoning, and by-law enforcement, for which there is no authority to act on reserves. While the funds involved are usually quite small, a band could seek concurrent taxation to obtain this share of the regional district's taxation. It is more likely that a rural band would introduce independent band taxation and would want to negotiate one or more agreements for the provision of regional district services. There is some evidence that, in such cases, the band will be willing to pay the reserve's fair share of the cost of such services.

Pricing of services

There is no "one best way" to price services delivered to reserve leaseholders. The choice will depend largely on whether or not the leaseholders are viewed as being part of the local community, even though they happen to be located on reserve lands.

If the leaseholders are viewed as part of the community, then one of two approaches would be appropriate. One approach would involve a payment equivalent to the amount of taxes the leaseholders would have paid. The other approach would involve a payment based on the proportion of the costs of services usually financed by property taxes (this would be the adjusted net cost calculated by the methodology described in Sections 6 and 7). All services, including services such as parks and recreation, should be paid for under either approach.

If the leaseholders are not viewed as part of the community, the local governments may wish to charge full cost. Charges could be made for the services actually delivered to leaseholders and no payment should be anticipated for services utilized elsewhere, such as a recreation center. In other words, like any other non-resident, the leaseholders would use these services "for free" or for nominal user charges.

It is likely that different governments will adopt different pricing policies. What should be remembered is that there is an opportunity for local governments and band governments

to achieve improved fiscal positions under independent band taxation, as discussed elsewhere in this booklet.

Improvement districts, school districts and the province

Improvement districts should be unaffected by any changes in taxation. This is because improvement districts tend to be very service specific and only include their beneficiaries within their boundaries. A band which introduces independent taxation would probably be willing to arrange for the continued provision of services at a price equivalent to the taxes that were previously paid. The other fair alternative would be for the band to pay the adjusted net cost of the service.

School districts, with the possible exception of those districts which contain many residential leasehold properties, will be unaffected by band taxation because district funding comes directly from the provincial government. The exception would be where a school district wishes to raise additional funds locally, through the referendum process. Since the district's assessment base would be slightly lower, a slightly higher tax rate would be needed to raise the desired funds. School districts will not generally be involved in band property taxation decisions. School districts may find, however, that some bands are willing to use their tax room to support aboriginal materials in the public schools.

The provincial government would have to absorb any losses attributable to the reduction in provincial school taxes and rural property taxes formerly paid by leaseholders. The amount of money involved is considerably less than one percent of the total property taxes levied by the province. By offering bands the opportunity to engage in independent taxation, British Columbia brings its policies in line with those of other provinces and provides Indian bands with some tax room to finance improved services on reserves.

Tax collection and delinquency

Where Indian bands introduce their own taxation, municipal and provincial tax collection can be improved and delinquencies can be reduced. At present, the tax collector must pay other taxing authorities the total amount of taxes levied on their behalf, whether or not the taxes are actually collected. This has posed a severe burden on some municipalities where there has been a high rate of tax delinquency among Indian reserve leaseholders. Where bands adopt independent taxation, the tax delinquency problems will simply end. Where concurrent taxation is implemented, band governments will be willing to cooperate in the enforcement of tax collection.

10 Implementation

When it has completed the analyses discussed in this booklet, the band government will have assembled sufficient information to select its taxation option and work out tentative service agreements with other governments. Several additional steps are needed to implement a taxation option.

The band will require independent legal advice at this stage. It should also take advantage of the advice and guidelines available from the Indian Taxation Advisory Board, as well as whatever can be learned from the experience of other bands who have already prepared their own by-laws.

Taxation by-law submission

When the taxation by-law has been drafted, the band submits it to the Indian Taxation Advisory Board. To implement taxation in 1992, the Board requires three months for review prior to an approval deadline of December 1991. Thus, the band taxation by-law should be submitted by early September.

The Board may request that the band make some revisions. When it is satisfied that the by-law is acceptable, the Board then recommends approval to the Minister of Indian and Northern Affairs for Canada. The Minister then approves the by-law, normally without further revision.

Negotiation of new agreements

The negotiation of agreements with other governments should take place at the same time as the taxation by-law is being prepared. Again, independent advice will be required from legal and possibly other consultants. For example, to properly assess its tax administration options, the band may wish to retain an expert in this field (a contract with the B.C. Assessment Authority is the obvious choice for bands with few leaseholds).

Agreements with other governments should be reached by the time the Minister approves the taxation by-law, particularly if the band intends to proceed under one of the taxation options of Bill 64. If the band plans to simply impose additional taxes without reference to Bill 64, other agreements may be unimportant. It is, however, important for the band to recognize and appreciate the impact of any uncertainty in the process on its leaseholders and, where relevant, its locatees.

Until recently, some local governments were reluctant to negotiate new agreements until the band's taxation by-law was approved. It would seem that everyone now recognizes the benefits of early negotiation.

Notification under Bill 64

If the band's situation assessment indicates that a new band taxation regime should be accompanied by the reduction or elimination of taxes currently imposed by existing governments and agencies, it will be necessary for the band to notify the B.C. Minister of Native Affairs of its intentions. The Minister would then notify the various governments and agencies in the province of the band's intentions and of their authority to make appropriate adjustments under Bill 64. Without this notification, it would be impossible for the governments and agencies to formalize and implement the agreed-upon or required changes.

If the band intends to proceed under the concurrent taxation option, conditional agreements should be in place before the Minister of Native Affairs is formally notified. If it is intended to proceed under the independent band taxation option, the band may consider it desirable to give notice before agreements are in place. In any case, the draft of the taxation by-law should be close to completion before the band formally notifies the provincial government of its intentions.

Notification deadlines

Bands should be aware of notification deadlines. Where notification is made prior to March 1st, the band may choose either the current or the next calendar year for implementation. Where notification is after March 1st, the provisions of Bill 64 cannot be implemented until the following year. For practical reasons, bands should provide notification by October or November, prior to the development of the following year's budget by local governments, if it wishes to implement concurrent or independent taxation the following year. March 1st is much too late a deadline for cooperative responses.

Where band governments wish to implement independent taxation but have not made their decision until relatively close to March 1st, a suggested strategy is to (1) pay affected local governments amounts equal to what their tax levies would have been for the coming year, and (2) establish a joint committee to work out an agreement for the following year. This would allow the local government to proceed with its budget, for which it faces provincial deadlines, and set a tone of good will for the following negotiations. If most leaseholds are residential, the band should also come to an early decision on Home Owner Grants, since it will still obtain significant revenues from the tax room provided by the provincial government.

Implementation of the taxation by-law

At the same time as the new taxation by-law takes effect, so will the adjustment or elimination of the taxes levied by other governments. The assumption by the band of new responsibilities for delivering services may occur at the same time, or transition arrangements may be made to phase in service responsibilities over time. Careful planning can ensure that any negative impacts of these changes are minimized.

The evolution of a taxation routine

It is likely that most bands will initially use tax rates similar to those that non-Indian governments would have used in levying their own taxes on the leaseholds. Eventually, however, each band government will have to set its own rates just as it determines its own service requirements.

In British Columbia, local government budgeting is begun in the fall, reviewed in the winter, and set by mid-April. Final tax rate by-laws must be enacted by May 15th. Bands will find it convenient to develop a parallel process. Thus, band governments can make agreements with other governments in the fall and winter and have contracts agreed upon by mid-April. Bands can simultaneously work out their required tax revenues and submit rates to the Indian Taxation Advisory Board for approval by early April. This will provide just enough time (1) for the Board to approve the rates and (2) for the preparation and mailing of tax notices by June 1st, as is necessary for tax collection by July 1st.

OBSERVATIONS

Property taxation and service delivery arrangements can be complicated and expensive. They can also have a major influence on the development potential of a reserve. A few bands have extensive experience in land management and, for them, assuming new taxation responsibilities will be reasonably easy. Most bands, however, do not have extensive land management experience. It is primarily for these bands that this booklet has been prepared.

It cannot be emphasized enough how much property users value certainty when they make major investments on leasehold lands. Any generation of uncertainty will cause existing and potential leaseholders to seek alternative locations. Thus it is very important that bands considering the implementation of band taxation do so in a systematic, businesslike manner. The analyses, the selection of options, and the implementation should be done carefully to avoid both mistakes and the need for frequent policy changes. No one likes taxes, but land users are used to paying them in exchange for good, reliable services.

Band governments which recognize that taxes and services go

together can provide a better environment for leaseholders on their reserves than had been provided in the past. In the long run, such an environment can benefit the band, the leaseholders, and their neighbors.

Appendix A **Communication Strategies**

Band leaders must maintain good communication with three particular groups as well as with band members. The groups with special concerns, and for whom special communications programs may be necessary, are leaseholders, locatees, and officials of the non-Indian governments that will be affected by band taxation. Different processes will be needed for each group.

LEASEHOLDERS

Many leaseholders have major investments on their leaseholds. Any change in taxation will be a major concern. Leaseholders need to:

- be informed that the band will be substituting its own taxation for that of other governments;
- have an opportunity to have questions answered, learn details, and make their concerns known; and
- have an opportunity to provide long run input to help the band decide the best uses of leasehold lands and the most efficient way to obtain preferred services.

Meeting these objectives will require a program like the one below.

Contacting leaseholders

The band must have a systematic way to contact leaseholders. The three main options are:

1. Direct mail:
 - mailing list based on records from band, B.C. Assessment Authority, or tax collector (Surveyor of Taxes or municipality);
 - most effective;
 - only feasible approach if many leaseholders are non-residents (e.g. summer cottagers);
 - very professional;
 - very expensive if there are many leaseholders.
2. Hand delivery – not addressed
 - address list not required;
 - less expensive than mailing;
 - can be effective if most leaseholders are on their premises.
3. Newspaper announcement
 - may be able to get free space;
 - will provide good coverage if paper is delivered to all residents (usually a free weekly);
 - band may have to provide copies to businesses who would not receive delivery;
 - least effective, but can work with good relations with a local paper's editor.

Announcements

Most bands will require two announcements. The initial announcement will consist of one page. It will:

- announce the band's intention to substitute its taxation for that of other governments under Bill C-115 and Bill 64;
- indicate that there will be no immediate change in taxes but that some service responsibility will change;
- indicate that discussion on service continuity has begun; and
- indicate that additional information will be forthcoming.

The purpose of this announcement is to allay uncertainty and indicate that the band is taking a professional approach.

The second announcement should follow the first fairly closely. It should:

- provide a bit more detail, especially if some service continuity can be announced;
- announce a public meeting where information will be provided, questions answered and concerns heard;
- if there are more than a few leaseholders, indicate that the creation of a leaseholder's committee will be discussed at the meeting; and
- announce a band contact person, a location, and phone number where more information can be obtained.

Public meeting

The public meeting has several purposes, including:

- disseminating information on what is happening to taxes and services;
- answering questions;
- hearing leaseholder concerns; and
- ascertaining leaseholder interest in a permanent advisory committee.

A key objective of the meeting would be to change leaseholder concerns from a focus on taxation to a focus on improved services to leasehold lands. Volunteer or elected leaseholders could serve on an advisory committee to help the band decide on how to get better services. Probably, some leaseholders will know the other local governments well, and may be able to help the band council in its negotiations with other governments. If the leaseholders are on side, the band's bargaining position is stronger, especially if the leaseholders include major taxpayers such as the manager of a local mill or the chairman of a mobile home park association.

Long run collaboration

In the long run, leaseholders will know the most about the services they receive and will be very interested in seeing that the services they want are provided efficiently. They will also be the best source of information as to whether or not they are actually receiving services for which the band has contracted with other governments.

Local governments use many committees and leaseholders will be used to them. An advisory committee should consist of four to six leaseholders and at least two band members, one of whom should be the council member responsible for leasehold services. If the band has locatees, they should also be represented. The committee should keep records, respond to questions, and offer advice. It does not have final decision-making authority, so it can be relatively large - up to nine or ten members. It can then still function even when only half the members attend a meeting.

Such a committee can improve the functioning of the band's governance of leaseholds and help raise their value in the long run. The committee could be supplemented by an annual newsletter, perhaps sent with tax bills, describing tax and service arrangements.

LOCATEES

Locatees who have their land in leaseholds will be very interested in how changes in taxes or services influence the value of their leased land. If locatees are local residents who participate in band meetings and band activities, they will learn about tax changes along with other band members. If locatees are not local residents, they should be informed by mail of the changes.

If there are many locatees, or some locatees with large holdings, it may be useful to hold a special meeting with them and the band council. As with leaseholders, the purpose of the meeting would be to inform, answer questions, hear concerns, and get the locatees to see the potential benefits that can be achieved with an efficient system of taxation and service delivery to leaseholds. In the long run, an efficient program will raise the value of the locatee leaseholds, and they need to be encouraged to support the changes.

GOVERNMENT OFFICIALS

Following notification to the provincial government of the band's taxation choice, the provincial government will notify all local governments. The band government should also directly contact each local government by writing directly to the chief elected official. The letter should:

- indicate the band's taxation choice;

- if in a municipality, indicate that band officials would like to meet with the treasurer to discuss basic financial data on tax revenues and service costs, to be followed by additional meetings to discuss service arrangements; and
- notify any improvement districts and the regional district that meetings are needed to discuss service arrangements.

Following initial notification, band analysts will have to complete tax and service delivery analysis prior to proceeding with discussions of future service delivery arrangements. These subsequent discussions will need to be considered as part of a negotiating strategy. This strategy will vary for different bands and local governments. Key points to keep in mind:

- Technical people should seek help from the BCAA, the Surveyor of Taxes, and/or local governments, to collect the background information discussed in this booklet.
- Policy people should meet other officials when they have good background information. They should discuss general issues.
- Policy people should emphasize band objectives, indicate the desire to cooperate to get the most efficient services possible, and indicate that, while the band will probably provide some services directly, others will be contracted from existing governments.
- Emphasize that leaseholders are part of the local government's community and that the band expects some of its tax revenues will go toward off-reserve services such as recreation centers or libraries.
- Emphasize that, with cooperation, the band expects to improve the attractiveness of leasehold lands, enhance economic development, and leave local governments no worse off than they were before band taxation.
- Remember that local governments do their basic budgets in the fall, refine them from January to March, finalize them by April, and set tax rates early in May. The band should try to follow similar timing with regard to services to leaseholds that involve other governments.

Appendix B Optional Cost Allocations

As discussed in Section 6, there may be situations where costs to leaseholds are more accurately allocated by per capita weighting of residential assessed values or by physical measurement. Cost factor calculations for these situations are provided below.

PER CAPITA WEIGHTED COST FACTOR

Calculating a per capita weighted cost factor for general services requires compilation of population information. Form B.1 provides a format for displaying such information. The most important figure is the proportion of leaseholders in the locality's population (line D column 2). The population data is combined with information about assessed values (Form 6.1) and net expenditures (Form 6.4) to allocate a share of net service costs to leaseholds. A two-step process is involved: first, for non-residential property; second, for residential property. Then they are added together. The logic of the calculation is as follows:

Calculation 1: non-residential property allocation:

_____ net expenditure (Form 6.4)
 x _____ non-residential leasehold proportion of locality's total assessed value (Form 6.1 figure Z)
 = _____ non-residential leasehold cost allocation

Calculation 2: residential allocation:

_____ net expenditure (Form 6.4)
 x _____ total residential proportion of locality's total assessed value (Form 6.1 figure Y)
 = _____ cost allocated to all residential properties
 x _____ resident leaseholder proportion of population (Form B.1 line D col 2))
 = _____ residential leasehold cost allocation

Calculation 3: total leasehold allocation:

_____ residential leasehold cost allocation
 + _____ non-residential leasehold cost allocation
 = _____ total leasehold allocation

The above calculations can be made for each general service. The results can then be added together, giving a total cost allocation for general services to leaseholds. However, once the logic of the allocation process is understood, it is possible to shorten the calculation procedure considerably. One way of doing this in the foregoing calculations is to use the total net expenditure instead of the individual net costs from Form 6.4.

Another way of calculating the total leasehold cost allocation is to determine a summary proportion of net costs (called the cost factor), which can then be applied either to the individual net cost or to the total net expenditure shown in Form 6.4. Form B.2 can be used for this calculation. This cost factor can then be used on Form 6.5.

FORM B.1 Population calculations

Taxation year

Location
(name and number of reserve; regional district; municipality or electoral area)

Locality to which population calculations apply.....
(name of municipality, or electoral area, or service area, or improvement district, etc.)

	(1) Total locality (excluding reserve)	(2) Reserve leaseholders	(3) Total locality (including leaseholders)	(4) Reserve band members	(5) Total locality (including whole reserve)
(A) Census population+=+=
(B) Current estimate+=+=
(C) % of total	.....+ .....	.....= .....	.....+ .....	.....= 100%	.....
(D) % of total	.....+ .....	.....= 100%	not applicable	not applicable	not applicable

A census is conducted very five years (1986, 1991, etc.) Unless there have been significant population changes since the last census and the current estimates (B) are reliable, use the most recent census data (A) for calculations.

Completed by on
(name) (date)

PHYSICAL SERVICE COST FACTORS

While assessed value and population are used to estimate cost allocations for most services, physical measurements may be used for sidewalks, street lights, water supply, and sewage collection. For these services, leasehold costs are allocated either as the leasehold proportion of the total length served in the locality or, in the case of street lights, as the leasehold proportion of the total number of lights in the locality. The

length is usually measured in metres or kilometres (1000 metres). The data can be recorded on Form B.3. The proportion of a physical service located on a reserve will be its cost factor in Form 6.5.

FORM B.2 Per capita weighted cost factor calculations

Taxation year

Location
(name and number of reserve; regional district; municipality or electoral area)

Locality to which calculations apply.....
(name of municipality, or electoral area, or service area, or improvement district, etc.)

Proportion of locality assessment in class 1 (Residential) (Form 6.1, figure Y)

Multiplied by proportion of locality population on leaseholds (Form B.1, figure D2) x

Equals proportion of net cost allocated to residential leaseholds = (Y) x (D2) = (R) =

Add proportion of net cost allocated to non-residential leaseholds (Form 6.1, figure Z) +

Equals proportion of net cost allocated to leaseholds = cost factor = (R) + (Z) =

Completed by on
(name) (date)

FORM B.3 Physical services

Taxation year

Location
(name and number of reserve; regional district; municipality or electoral area)

	(1)	(2)	(3)	(4)
	Name of government providing service	Amount serving leasehold lands +	Amount in whole locality +	Proportion on leasehold lands (cost factor)
Sidewalks (miles or kilometres)
Street lights (number)
Sewer lines (miles or kilometres)
Water lines (miles or kilometres)

(1) Services may be provided by different governments.

(2) As measured by band analysts.

(3) Data sources include the relevant government, B.C. Hydro (for street lights), and *Municipal Statistics* published annually by the B.C. Ministry of Municipal Affairs.

(4) Equals column (2) divided by column (3) for each service.

Completed by on
(name) (date)

Appendix C Resources

The foregoing parts of this booklet have discussed what information a band will need and where that information can be obtained. This part lists the sources of information and, in some cases, briefly summarizes what information they can provide. The information sources include:

- the Indian Taxation Advisory Board;
- British Columbia government departments and agencies;
- local governments, including municipalities, regional districts and improvement districts; and
- publications.

INDIAN TAXATION ADVISORY BOARD

The Indian Taxation Advisory Board has a mandate to provide Indian bands with advice and guidance in developing taxation by-laws. To contact the Board, write or call one of the following:

- Chief Manny Jules, Chair
Indian Taxation Advisory Board
Kamloops Indian Band
315 Yellowhead Highway
Kamloops, B.C. V2H 1H1
Telephone (604) 372-9575 Fax (604) 372-8833
- Indian Taxation Secretariat
Indian and Northern Affairs Canada
Room 168 - 10 Wellington Street
Ottawa, Ontario
K1A 0H4
Telephone (819) 997-8210 Fax (819) 994-8142

GOVERNMENT OF BRITISH COLUMBIA

There are a number of British Columbia government departments and agencies with whom a band may deal in assessing and clarifying its taxation options, particularly with reference to Bill 64. The main ones are the Ministry of Native Affairs, the B.C. Assessment Authority and, for bands in rural areas, the B.C. Surveyor of Taxes. The addresses and telephone numbers are as follows:

- Ministry of Native Affairs
712 Yates Street, 5th Floor
Victoria, B.C. V8V 1X4
Telephone (604) 356-8281 Fax (604) 387-6073

- British Columbia Assessment Authority
1537 Hillside Avenue
Victoria, B.C. V8T 4Y2
Telephone (604) 595-6211 Fax (604) 595-3733
The BCAA has regional offices in Victoria, Surrey and Kelowna.
- British Columbia Surveyor of Taxes
1061 Fort Street
Victoria, B.C. V8V 3K5
Telephone (604) 387-1500 Fax (604) 356-1090

In addition to these three sources, the band may also wish to contact one or more of the following:

- Ministry of Finance and Corporate Relations, Statistics Branch, for current statistics on population and other items.
- Ministry of Transportation and Highways for information about rural road ownership and costs. The Ministry has district offices in approximately 40 B.C. communities and regional offices in Burnaby, Kamloops, Nanaimo, Nelson, Prince George and Terrace.
- Ministry of the Solicitor General, Police Services Branch, for information about the costs of police protection in rural areas. The local RCMP detachment may also be able to help.
- Ministry of Municipal Affairs, Recreation and Culture, Local Government Services Department, for general assistance.
- Government Agents Office for general assistance in contacting the right people in the various B.C. government departments and agencies. Government organizations and staff can change relatively frequently and the local Government Agents Office should have the most up-to-date information. There are Government Agents Offices in over 50 B.C. communities.

LOCAL GOVERNMENTS

Where the reserve is located within the boundaries of a municipality, the band will have extensive dealings with the municipal government. It would be appropriate to first contact the Mayor (the principle elected official). After that, the band will probably deal with the municipality's principal appointed official (manager, clerk, etc.), the chief financial officer and, possibly, staff responsible for at least some of the services (municipal engineer, fire chief, etc.). The main items of information that the municipality can provide include:

- property taxes levied on reserve leaseholders;
- financial and technical information about the services currently delivered to leaseholders;

- a breakdown of the municipality's share of regional district taxes; and
- local population information.

The band should also contact the regional district since, even though the municipality may be able to provide virtually all of the needed information, the regional district will have an interest in what is happening and may be able to provide the band with some additional assistance.

Where the reserve is in a rural area, the band will likely deal most extensively with the regional district. Again, it would be appropriate to contact the regional district Chairman or the Director elected from the electoral area within which the band is located. The regional district can provide financial and technical information about the services it provides but, for property assessment and taxation information, the band will have to contact the BCAA and Surveyor of Taxes.

A rural band may also have to deal with one or more improvement districts in its area, for example a fire protection district. Again, the first formal contact should be with the principal elected official.

PUBLICATIONS

Useful publications include the following (if the publication is not available from Crown Publications Inc., the source is shown in parentheses):

- Acts and regulations of Canada and British Columbia:
 - *Assessment Act*, 1979 RS Chapter 21 (Consol November 3, 1989)
 - *Assessment and Property Tax Reform Act*, 1990 (Bill 49 - 1990)
 - *Assessment and Property Tax Reform Act* (No. 2) (Bill 78 - 1990)
 - *Home Owner Grant Act*, S.B.C., Chapter 18
 - *Home Owner Grant Amendment Act*, 1990 (Bill 14)
 - *Indian Act*, Section 83, or *an Act to amend the Indian Act*, 1988 (Bill C-115)
 - *Indian Self Government Enabling Act* (Bill 64 - 1990)
 - *Municipal Act*, RSBC 1979, Chapter 290, (Consolidated November 3, 1989 or most recent).
 - *Prescribed Classes of Property Regulation*, B.C. Reg. 438/81.oc 2198/81 (Consolidated June 30, 1989)
 - *Taxation (Rural Area) Act*, 1979 RS chapter 400 (Consolidated November 3, 1989)

- Bish, Robert L.
 - *Property Taxation and the Provision of Government Services on Indian Reserves in British Columbia*, 1977 (University of Victoria School of Public Administration)
 - *Local Government in British Columbia*, second edition, 1991 (Union of British Columbia Municipalities)
 - — and Frank Cassidy, *Indian Government: Its Meaning in Practice*, 1989 (Institute for Research on Public Policy / Oolichan Books; order through a book store)
 - —, Eric G. Clemens and Hector G. Topham, *Study of the Tax and Service Implications of Bill C-115*, 1991 (Indian Taxation Advisory Board; University of Victoria School of Public Administration)
- British Columbia
 - *Municipal Statistics*, annual
 - *Statistics Relating to Regional and Municipal Governments in British Columbia*, annual
- Indian Taxation Advisory Board
 - *Guide to By-Law Development*, February 20, 1991
 - *Land Tax Administration Guide*, circa 1990
 - *The Question of Rates in Indian Taxation*, November 21, 1990 (all three available from the Indian Taxation Advisory Board)

The addresses and telephone numbers of the publication sources not previously listed in this Section are:

- Crown Publications Inc.
546 Yates Street
Victoria, B.C. V8W 1K8
Telephone (604) 386-4636 Fax (604) 386-0221
- Union of B.C. Municipalities
Suite 15, 10051 Shellbridge Way
Richmond, B.C. V6X 2W9
Telephone (604) 270-8226 Fax (604) 660-2271
- University of Victoria
School of Public Administration
Box 1700
Victoria, B.C. V8W 2Y2
Telephone (604) 721-8055 Fax (604) 721-8849

BCAA

The British Columbia Assessment Authority. Established in 1974, the BCAA finances its activities by levying a small property tax in all parts of the province at a uniform rate for each class of property.

B.C. Taxing Authority

As defined in Bill 64, a government (province, municipality, regional district, hospital district, improvement district, library district, etc.) or a provincial agency (BCAA, MFA, etc.) that levies property taxes under the authority of the B.C. government.

INAC

Indian and Northern Affairs Canada.

Leaseholder or Lessee

Holder of a Crown lease for land on an Indian Reserve.

Locality

A defined area within the jurisdiction of a local or regional government. In a municipality, the locality would be the whole municipality. In a regional district, the locality could be an electoral area, a regional district service area, or an improvement district's service area, depending on the context.

Locatee

An Indian holding a Certificate of Possession for a parcel of land on an Indian Reserve. The parcel may be leased to a non-Indian, with the locatee, rather than the band, receiving the lease revenue.

MFA

Municipal Finance Authority of British Columbia. A public corporation established in 1969 to undertake debt financing on behalf of regional districts and municipalities. The MFA finances its administrative activities by levying a very small property tax in all parts of the province at a uniform rate for each class of property.