

## **WESTBANK FIRST NATION PROPERTY TAXATION QUICK REFERENCE GUIDE**

### **BUDGETING PROCESS**

Uses of Property Tax	2
Local Revenue Account	2
Advisory Council	2
Property tax budget	3

### **TAX RATES**

Current Rates	3
Determination of Rates	3
Provisional Rates	4

### **PROPERTY ASSESSMENTS AND APPEALS**

How a Property is Assessed	4
Appealing an Assessment	4
Appealing a Board of Review Decision	5

### **PAYMENT OF PROPERTY TAX**

Due Date	5
Payment Methods	5
Pre-payments	6
Late payments	6
Extensions	6

### **GRANTS AND EXEMPTIONS**

Grants	7
Exemptions	7

### **EXPENDITURE OF PROPERTY TAX REVENUES**

How revenues collected are spent	8
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### **TAXPAYER REQUESTS**

Changes to Bylaws	8
Requests for Services	8

### **FINANCIAL REPORTING AND ACCOUNTABILITY**

Reporting on Local Revenues	8
Financial Management Rules	8

<b>CHALLENGING BYLAWS OR DECISIONS OR ACTIONS UNDER BYLAWS</b>	<b>9</b>
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## BUDGETING PROCESS

### 1. What are property taxes used for?

- Property taxes are used to help pay for the Government of the Westbank First Nation and the provision of local (municipal type) services on Westbank Lands, either provided directly by the Government of the Westbank First Nation or through service contracts.
- The *Property Taxation Bylaw*, as amended, authorizes expenditures of funds raised under the Bylaw for a variety of purposes at s. 12.
- Local services can include: water and sewer services; fire and other protective services; waste disposal and recycling; roads and lighting, and; parks, recreation and cultural facilities.
- The taxpayer can find information on the Westbank property taxation on the WFN website: property taxes: <https://www.wfn.ca/your-government/budget-taxes/property-tax.htm> and they can see the laws applicable to property taxation on the Westbank laws page of the website: <https://www.wfn.ca/your-government/law-enforcement/laws.htm>.

### 2. What are Local Revenues?

- Local Revenues as defined in the *Westbank Constitution*, are moneys raised under a Local Revenue Law. This includes the municipal type revenues collected under the Westbank *Property Taxation Bylaw*.
- Local Revenues are placed in a Local Revenue Account, separate from other moneys of Westbank and are administered and expended in accordance with Local Revenue Laws (*Westbank Constitution*, s. 77).
- Local Revenues may only be expended under the authority of a Local Revenue Law and cannot exceed the Local revenues estimated for the year in which they are made.
- The process for enacting a Local Revenue Law (by-law) is not exactly the same as making other laws at Westbank given the purpose of the bylaw and from whom taxes are collected (*Westbank First Nation Constitution* s. 60.9).

### 3. What is the Advisory Council?

- Westbank has an elected Advisory Council, established by the *WFN Advisory Council Law, 2017*, that provides non-Members and persons having an interest on Westbank Lands to have input in proposed Westbank Laws that directly and significantly affect them. The Advisory Council must meet at least once every three months, but in practice usually meets on the second Tuesday of each month.
- The taxpayer can attend the Advisory Council's Annual General Meeting, where residents are informed of new developments and projects, tax expenditures, programs and services. and are advised of the Westbank tax rates.

- Agendas and meeting dates are posted on the Westbank website:  
<https://www.wfn.ca/your-government/meetings.htm>.
- Advisory Council meeting minutes are made available to the public as well:  
<https://www.wfn.ca/your-government/meetings.htm>.

#### 4. **How is the property tax budget established?**

- The Budget Year for Westbank begins on April 1<sup>st</sup> and ends on March 31<sup>st</sup>.
- In accordance with the *Westbank Constitution*, the Chief and Council must establish a five-year Financial Plan before a Budget is adopted. This includes the Local Revenue Account (*Westbank Constitution*, s.76).
- Council adopts a Provisional Budget (by December 15<sup>th</sup>) and a Budget (by March 31<sup>st</sup>) for each Budget Year.
- The Local Revenue budgeting process takes into account the legal obligations of WFN, existing programs and services provided by WFN, and input received from taxpayers on the advice of the WFN Advisory Council.
- Each year, and in addition to the Budget being approved, and other requirements being met under the *Westbank Constitution* and following consultation with the Advisory Council, an annual amending bylaw to the *Westbank First Nation Taxation Expenditure By-law* is made. This by-law is subject to approval by the First Nations Tax Commission before coming into effect.
- The taxpayer can review the *Westbank First Nation Taxation Expenditure By-law*, and the annual amending by-laws, which includes the property taxation budgets for each year. These are available on the Westbank First Nation property taxation website at:  
<https://www.wfn.ca/your-government/budget-taxes/property-tax.htm>

### **TAX RATES**

#### 5. **How are Westbank's property tax rates determined?**

- Tax Rates are set once a budget has been determined based on the assessed value of a property (see "Property Assessments and Appeals" below).
- Council must enact a bylaw establishing, imposing and levying the tax rate for each property class within each taxation district. All rates are applied against each \$1000 of actual value of property value on the assessment roll applicable in the appropriate property class within the appropriate taxation district (*Property Taxation Bylaw*, s. 18).

#### 6. **Where can a taxpayer find the current property tax rates?**

- They can look at their Tax Notice and accompanying information.
- They can contact the Westbank Tax Office at 250 769-2400 or [taxation@wfn.ca](mailto:taxation@wfn.ca) which is available to answer questions and provide information.

- They can check the Westbank First Nation website re: property taxes: <https://www.wfn.ca/your-government/budget-taxes/property-tax.htm> and they can see the property tax bylaws on the Westbank laws page of the website: <https://www.wfn.ca/your-government/law-enforcement/laws.htm>
- The taxpayer can contact the Advisory Council or attend the AGM.
- The First Nations Gazette (“FNG”) website also posts Westbank bylaws: <http://sp.fng.ca/Pages/searchFN.aspx>.

**7. How can a taxpayer find information on provisional rates?**

- The taxpayer can review the provisional rates and budgets posted on the Westbank First Nation property tax website: <https://www.wfn.ca/your-government/budget-taxes/property-tax.htm>
- They can review the Policy for First Nation Annual Tax Rates Bylaws set by the First Nations Tax Commission (“FNTC”), which sets restrictions on rate increases: [http://sp.fng.ca/fngweb/rates\\_by-law\\_policy\\_web.pdf](http://sp.fng.ca/fngweb/rates_by-law_policy_web.pdf)
- They can contact the Advisory Council, which makes recommendations to Council on property tax rates each year, after meeting with the Surveyor of Taxes and reviewing the proposed rates and budget.
- They can attend Advisory Council meetings.
- The taxpayer can also contact the FNTC, which reviews the annual rates bylaw and recommends them to the Minister for approval: <https://fntc.ca/en/contact-us-2/>

## PROPERTY ASSESSMENTS AND APPEALS

**8. How can a taxpayer find information about how their property was assessed?**

- The taxpayer can review Westbank’s *Property Assessment Bylaw* (as amended).
- The taxpayer should be referred to BC Assessment for further questions and information: <https://info.bcasessment.ca/contact-us/thompson-okanagan>

**9. How can a taxpayer appeal their property assessment?**

- The appeal process is set out on the Tax Notice.
- The taxpayer can file an appeal in accordance with s. 41 of the *Property Assessment Bylaw*, and have the matter heard by Westbank’s Board of Review.
- Under section 41 of the *Property Assessment Bylaw*, a person who is of the opinion that an error or omission exists in the assessment roll (for example that land or improvements are not assessed at actual value), the person may, by providing written notice and a \$25 appeal fee, appeal an assessment. This must be done no later than January 31 of the year following the year the roll is completed.

- A three-person Board of Review is established under the *Property Assessment Bylaw*, with one member being a person qualified to practice law in BC, and one member with experience in property appraisal (*Property Assessment Bylaw*, s. 40).
- After an appeal is filed, a notice of hearing is mailed, setting out the date, time and place of the hearing of the appeal (*Property Assessment Bylaw*, s. 43).
- The Board of Review will hold a hearing and make a determination on the appeal, and a copy of their decision will be delivered to the appellant and other relevant parties (*Property Assessment Bylaw*, ss. 47, 52).
- The Board of Review has the powers under s. 44 of the *Property Assessment Bylaw* to meet and determine appeals, to investigate assessments and to adjudicate on the assessments in respect of which an appeal is made, and to direct amendments to be made to the assessment roll as necessary to give effect to its decisions.
- The Board of Review also has broad inspection powers to determine appeals, under s. 50 of the *Property Assessment Bylaw*.

10. **How can a taxpayer appeal a decision made by the Westbank Board of Review?**

- The taxpayer can appeal the decision to the Supreme Court of British Columbia within 30 days, in accordance with s. 55 of the *Property Assessment Bylaw* (1996 Amendment).
- The BC *Judicial Review Procedure Act* applies to the Westbank First Nation, in accordance with s. 48 of the *Westbank First Nation Self-Government Agreement*.
- Applications for judicial review are brought before the Supreme Court of British Columbia in accordance with the *Judicial Review Procedure Act*.

## PAYMENT OF PROPERTY TAX

11. **When are property taxes due?**

- Taxes are normally due before 4:00 pm on the first business day following July 1 of the year they are levied (*Property Taxation Bylaw*, s. 10(1)). In 2020, an exception has been made and taxes are due on September 30.
- Taxes levied in a supplementary tax notice made under s. 20(8) are due and payable 38 days after the statement date in the notice (*Property Taxation Bylaw*, s. 10.1(1)).

12. **How are property taxes paid?**

- Taxpayers can pay property taxes through online banking, by mail, directly at Westbank's Government Building, at their bank, or with their mortgage.
- See further instructions for payment on Westbank's website at <https://www.wfn.ca/your-government/budget-taxes/property-tax.htm>
- Also see *Property Taxation Bylaw*, s. 13: Place and Mode of Payment.

**13. Can taxpayers make pre-payments of taxes?**

- Westbank can receive deposits to be applied to taxes pursuant to Schedule I of the *Property Taxation Bylaw*, and interest at the rate provided in Schedule I is payable to the taxpayer on these deposits (*Property Taxation Bylaw*, s. 11).
- The minimum tax prepayment amount is \$50.00, and interest is paid by way of credit to the taxpayer's account at a rate of 3.5% below the prime lending rate, commencing on the first day of the month following the deposit (*Property Taxation Bylaw*, Schedule I).

**14. What happens when tax payments are late?**

- A 10% penalty is applied to a taxpayer's account on any amount not paid on the due date (*Property Taxation Bylaw*, s. 10(2), see additional provisions for supplementary taxes at s. 10.1).
- If a portion of the taxes is unpaid after December 31, that portion bears interest at a rate of 5% above the prime lending rate on Canadian dollar commercial loans in Canada made to the prime risk commercial customers by the principal banker to Westbank (*Property Taxation Bylaw*, ss. 10(3)-(4)).
- Where taxes remain unpaid, a number of enforcement and collection options are available under the *Property Taxation Bylaw*, including:
  - court action
  - filing of a special lien (*Property Taxation Bylaw*, s. 28)
  - seizure and sale of personal property (*Property Taxation Bylaw*, s. 30)
  - cancellation of proprietary interests held by the interest holder (*Property Taxation Bylaw*, s. 31)
  - sale of improvements and proprietary interests held by interest holder (*Property Taxation Bylaw*, s. 32)
  - garnishment of rent and other monies owed to interest holder (*Property Taxation Bylaw*, ss. 33-34)
  - forfeiture of property held by interest holder (*Property Taxation Bylaw*, s. 35)
  - discontinuance of services provided by Westbank (*Property Taxation Bylaw*, s. 37)
- The costs of collection of all taxes, interest penalties and other costs are also payable by the taxpayer (*Property Taxation Bylaw*, s. 25).

**15. If a taxpayer cannot pay their taxes on time, can they request an extension?**

- A taxpayer who cannot pay taxes because of sickness or extreme poverty can petition the Westbank Council, who may delay the payment of taxes until April 30 of the following year and may waive penalties (*Westbank First Nation Property Taxation Amendment Bylaw*, 1997, at s. 23.2(1)). Council may also refuse the request.
- If Council accepts the request to delay the payment of taxes, Council may: require interest to accrue on tax arrears; require the taxpayer to provide security for payment of the tax arrears; and required the Surveyor of Taxes to register a lien on the property.

## GRANTS AND EXEMPTIONS

### 16. Are property tax grants available?

- Under the *Property Taxation Bylaw*, 1997 Amendment, at section 23.1, Council may provide for a general reduction of taxes in an amount determined by Band Council Resolution.
- Council has provided for homeowner grants that are similar to the provincial grants available under BC's *Home Owner Grant Act*.
- Grants are available to help reduce the amount of property taxes that homeowners pay on their primary residences. Applications for grants must be made by December 31 each year.
- Grant applications are attached to property Tax Notices. They must be returned to Westbank offices.
- Grants of up to \$570 are available to people under age 65. Additional grants of up to \$845 are available to people over age 65, persons with disabilities and war veterans.
- Further information is available on the Westbank First Nation website:  
<https://www.wfn.ca/your-government/budget-taxes/property-tax.htm>

### 17. What property is exempted from property taxation?

- The *Property Taxation Bylaw* (and the 2009 Amendment) at section 14 set out the types of property that is exempted from taxation. This includes:
  - certain property held by band members
  - certain property held by Westbank First Nation or organizations owned or controlled by Westbank First Nation
  - manufactured homes occupied by a person not ordinarily resident on the reserve and situated in a mobile home park for less than 60 days
  - campers and motor homes that have a current vehicle licence and are not used as a principal residence
  - certain floating manufactured homes
  - property owned by a corporation, all shares of which are held by a band member, and which is used and occupied by a band member
  - if approved by BCR, municipal park property and municipal property used for sewer services
  - if approved by BCR, property occupied by religious organizations and used for public worship, religious education or as a church hall
  - if approved by BCR, property occupied by a bon-profit providing emergency services
  - if approved by BCR, property used as a hospital or seniors' home
  - if approved by BCR, property used by a non-profit society or charity

## EXPENDITURE OF PROPERTY TAX REVENUES

### 11. How can a taxpayer find out how property tax revenues collected are actually being spent?

- Expenditures are reported on quarterly.
- The taxpayer can attend the monthly Advisory Council meeting and review Advisory Council meeting minutes: <https://www.wfn.ca/your-government/meetings.htm>
- The taxpayer can contact the Westbank Tax Office at 250 769-2400 or [taxation@wfn.ca](mailto:taxation@wfn.ca).
- The Westbank First Nation website also summarizes “tax-paid services” at: <https://www.wfn.ca/your-government/budget-taxes/property-tax.htm>
- The taxpayer can be referred to Westbank’s “Resident Services & Elections” Brochure, including information on tax-paid services.

### TAXPAYER REQUESTS

18. **How can a taxpayer make a specific request for a change to a bylaw or law?**
- The taxpayer can contact the Westbank Tax Office at 250-769-2400 or [taxation@wfn.ca](mailto:taxation@wfn.ca).
  - They can attend the monthly Advisory Council meeting and request that the matter be added to the agenda of an upcoming meeting.
  - A group of taxpayers can submit a petition to the Advisory Council with 250 or more signatures regarding any matter that directly or significantly affects them as residents or interest-holders, and request that the Advisory Council present the petition to Council (see *Advisory Council Law, s. 9*).
19. **How can a taxpayer request a specific service to be provided on Westbank lands?**
- The taxpayer can contact the Westbank Tax Office at 250 769-2400 or [taxation@wfn.ca](mailto:taxation@wfn.ca).
  - They can attend the monthly Advisory Council meeting and request that the matter be added to the agenda for an upcoming Advisory Council meeting.
  - A group of taxpayers can submit a petition to the Advisory Council with 250 or more signatures regarding any matter that directly or significantly affects them as residents or interest-holders, and request that the Advisory Council present the petition to Council (see *Advisory Council Law, s. 9*).

### FINANCIAL REPORTING AND ACCOUNTABILITY

20. **How can a taxpayer see financial reports regarding local revenues?**
- The taxpayer can review the annual Property Tax Overviews posted on the Westbank First Nation property tax website: <https://www.wfn.ca/your-government/budget-taxes/annual-budget.htm>



- The taxpayer can contact the Advisory Council and request a copy of the quarterly expenditures report.
- They can request from the Finance Department the separate audit report of the Local Revenue Account, in accordance with s. 89.1 of the *Westbank First Nation Constitution*.

**21. What financial management rules apply to Westbank First Nation elected officials?**

- The *Westbank First Nation Constitution* (the “Constitution”) applies to all Westbank elected officials and has comprehensive financial management and accountability provisions at Part X, as well as conflict of interest provisions at Part IX.
- The Constitution regulates Council remuneration, reporting of Council members’ remuneration and expenses, Westbank’s financial plan, local revenues, budgeting, expenditures, capital expenditures, audits, financial statements, financial reporting), and borrowing (ss. 73-74, 76-77, 80-88, 92-96).
- The Constitution also provides for removal from office of Council Members in certain circumstances (s. 42), as well as a fine of up to \$10 000 (on summary conviction) if they violate financial management and accountability requirements of the Constitution.
- As well the Constitution provides that a Council member who votes to authorize an expenditure contrary to the Constitution is personally liable to Westbank for the amount of the expenditure and is disqualified from holding office for 10 years (s. 97).
- Westbank’s financial accountability standards must be at least comparable to other governments providing similar public services (SGA s. 55)

**CHALLENGING BYLAWS OR DECISIONS OR ACTIONS UNDER BYLAWS**

**22. How can a taxpayer challenge the validity of an action taken under the *Property Assessment Bylaw* or the *Property Taxation Bylaw* or the validity of the bylaws?**

- The taxpayer can contact the Westbank Surveyor of Taxes.
- They can attend the monthly Advisory Council meeting and request that the matter be added to the agenda of an upcoming meeting.
- They can submit to the Advisory Council a petition with 250 or more signatures regarding any matter that directly or significantly affects them as residents or interest-holders, and request that the Advisory Council present the petition to the Westbank Council.
- They can commence a court action under the *BC Judicial Review Procedure Act*.