

The Tsleil-Waututh Nation Goods and Services Tax

Short title

1. This Law may be cited as the Tsleil-Waututh Nation Goods and Services Tax Law.

Interpretation

2. (1) In this Law,

“administration agreement” means an agreement in respect of this Law entered into between the authorized body on behalf of the Tsleil-Waututh Nation and the Minister of Finance on behalf of the Government of Canada for, among other things, the administration and enforcement of this Law including the collection of tax imposed under this Law;

“authorized body” means the elected Chief of the Tsleil-Waututh Nation;

“Excise Tax Act” means the *Excise Tax Act*, R.S.C. 1985, c.E-15, as amended from time to time;

“Federal FNGST Act” means the *First Nations Goods and Services Tax Act*, S.C. 2003, c.15, as amended from time to time;

“First Nation” means the Burrard Indian Band, also known as the Tsleil-Waututh Nation;

“First Nation Lands” means the reserve lands that are listed opposite the name of the Tsleil-Waututh Nation in Schedule 1 to the Federal FNGST Act;

“governing body” means the body of the Tsleil-Waututh Nation listed opposite the name of the Tsleil-Waututh Nation in Schedule 1 to the Federal FNGST Act;

“net tax” has the same meaning as in subsection 225(1) of the Excise Tax Act; and

“Part IX of the Excise Tax Act” means Part IX of the *Excise Tax Act* and Schedules V to X to that Act.

- (2) Unless a contrary intention appears, words and expressions used in this Law have the meanings assigned by Part IX of the *Excise Tax Act*.

- (3) Division X of Part IX of the *Excise Tax Act* applies for the purposes of determining

the application of this Law as if:

- (a) the First Nation Lands were a participating province;
- (b) the announcement date, implementation date and specified pre-implementation date for that participating province were the effective date of the administration agreement, referred to in section 9;
- (c) the tax imposed under paragraph 3(1)(a) of this Law were imposed under subsection 165(2) of the *Excise Tax Act*;
- (d) the tax imposed under paragraph 3(1)(b) of this Law were imposed under subsection 220.05(1) of the *Excise Tax Act*; and;
- (e) the tax imposed under paragraph 3(1)(c) of this Law were imposed under subsection 218.1(1) of the *Excise Tax Act*.

PART I TAX ON SUPPLIES

Imposition of Tax

3. (1) Subject to this section,

- (a) every recipient of a taxable supply made on the First Nation Lands shall pay to the First Nation tax in respect of the supply calculated in accordance with subsection (10);
- (b) every person who brings tangible personal property onto the First Nation Lands from a place in Canada shall pay to the First Nation tax in respect of the bringing of the property onto those lands calculated in accordance with subsection (8); and
- (c) every recipient of an imported taxable supply made on the First Nation Lands shall pay to the First Nation tax in respect of the supply calculated in accordance with subsection (10).

Supply made on the First Nation Lands

(2) A supply, other than an imported taxable supply, is made on the First Nation Lands only if at least one of the following conditions is met:

- (a) if the First Nation Lands were a participating province, a provision of Part IX

of the *Excise Tax Act* would deem the supply to be made in that participating province if

(i) the lands of every other first nation in respect of which a first nation law, as defined in subsection 11(1) or 12(1) of the Federal FNGST Act, is in force at the time the supply is made were each a separate participating province, and

(ii) the participating provinces listed in Schedule VIII to the *Excise Tax Act* were non-participating provinces; or

(b) tax under Part IX of the *Excise Tax Act* is not payable in respect of the supply and such tax would, without section 13 of the Federal FNGST Act, be payable but for the connection of the supply with the First Nation Lands and the application of the exemption under section 87 of the *Indian Act* or of any other exemption from taxation under any other Act of Parliament that is similar to the exemption under that section.

**Supply of a specified
motor vehicle made
on First Nation Lands**

(3) Despite subsection (2), for the purposes of paragraph (1)(a), a supply of a specified motor vehicle by way of lease, licence or similar arrangement under an agreement under which continuous possession or use of the vehicle is provided for a period of more than three months is made on the First Nation Lands only if

(a) in the case of a recipient who is an individual, the recipient ordinarily resides on the First Nation Lands at the time the supply is made; and

(b) in the case of a recipient who is not an individual, the ordinary location of the vehicle, determined for the purposes of Schedule IX to the *Excise Tax Act* at the time the supply is made, is on the First Nation Lands.

**Imported taxable
supply made on
the First Nation Lands**

(4) An imported taxable supply is made on the First Nation Lands only if at least one of the following conditions is met:

(a) tax would be payable in respect of the imported taxable supply under subsection 218.1(1) of the *Excise Tax Act* if

(i) the First Nation Lands were the particular participating province

referred to in that subsection,

(ii) the lands of every other first nation in respect of which a first nation law, as defined in subsection 11(1) or 12(1) of the Federal FNGST Act, is in force at the time the supply is made were each a separate participating province,

(iii) the participating provinces listed in Schedule VIII to the *Excise Tax Act* were non-participating provinces, and

(iv) the recipient of the supply were not a selected listed financial institution; or

(b) tax under Part IX of the *Excise Tax Act* is not payable in respect of the imported taxable supply and such tax would, without section 13 of the Federal FNGST Act, be payable but for the connection of the supply with the First Nation Lands and the application of the exemption under section 87 of the *Indian Act* or of any other exemption from taxation under any other Act of Parliament that is similar to the exemption under that section.

Bringing of property onto the First Nation Lands

(5) Subject to subsection (6), a tax in respect of the bringing of property onto the First Nation Lands by a person shall be imposed under this Law only if the property was last supplied to the person by way of sale at a time when an administration agreement was in effect and tax would have been payable under Part IX of the *Excise Tax Act* in respect of the supply otherwise than at the rate of zero but for the application of the exemption under section 87 of the *Indian Act* or of any other exemption from taxation under any other Act of Parliament that is similar to the exemption under that section.

Exception

(6) A tax in respect of the bringing of property onto the First Nation Lands by a person shall not be imposed if

(a) tax became payable by the person in respect of the property under any first nation law, as defined in subsection 11(1) or 12(1) of the Federal FNGST Act, or section 212 of the *Excise Tax Act* before the property is brought onto the First Nation Lands; or

(b) tax would not be payable under subsection 220.05(1) of the *Excise Tax Act* in respect of the bringing of the property onto the First Nation Lands if

(i) the First Nation Lands were the particular participating province referred to in that subsection,

(ii) the lands of every other first nation in respect of which a first nation law, as defined in subsection 11(1) or 12(1) of the Federal FNGST Act, is in force at the time the property is brought onto the First Nation Lands were each a separate participating province,

(iii) the participating provinces listed in Schedule VIII to the *Excise Tax Act* were non-participating provinces, and

(iv) paragraphs 220.05(3)(a) and (b) of the *Excise Tax Act*, section 18 of Part I of Schedule X to that Act, the exemption under section 87 of the *Indian Act* and any other exemption from taxation under any other Act of Parliament that is similar to the exemption under that section did not apply in respect of the bringing of the property onto the First Nation Lands.

Carriers

(7) For the purposes of this Law, if a particular person brings property onto the First Nation Lands on behalf of another person, the other person, and not the particular person, is deemed to have brought the property onto the First Nation Lands.

Amount of tax - bringing of property onto the First Nation Lands

(8) For the purposes of subsection (1), the amount of tax that is imposed under this Law in respect of the bringing of property onto the First Nation Lands by a person is equal to the amount determined by the formula

$$A \times B$$

where

A is the rate of tax set out in subsection 165(1) of the *Excise Tax Act*, and

B is

(a) if the person last acquired the property by way of a sale under which the property was delivered to the person within thirty days before the day on which it is brought onto the First Nation Lands, the value of the consideration on which tax under Part IX of the *Excise Tax Act* in respect of the sale would have been calculated but for the application of the exemption under section 87 of the *Indian Act* or of any other exemption from taxation under any other Act of Parliament that is similar to the exemption under that section, and

(b) in any other case, the lesser of

(i) the fair market value of the property at the time the property is brought

onto the First Nation Lands, and

(ii) the value of the consideration referred to in paragraph (a).

**Reporting and
payment of tax**

(9) Tax that is imposed under this Law in respect of the bringing of property onto the First Nation Lands shall become payable by the person who brings it onto the First Nation Lands at the time it is brought onto those Lands and

(a) if the person is a registrant who acquired the property for consumption, use or supply primarily in the course of commercial activities of the person, the person shall, on or before the day on or before which the person's return in respect of net tax is required to be filed under this Law for the reporting period in which the tax became payable, pay the tax to the Receiver General and report the tax in that return; and

(b) in any other case, the person shall, on or before the last day of the month following the calendar month in which the tax became payable, pay the tax to the Receiver General and file with the Minister of National Revenue in the manner authorized by that Minister a return in respect of the tax in the form authorized by and containing information specified by that Minister.

**Amount of tax - supply
made on the
First Nation Lands**

(10) For the purposes of paragraphs (1)(a) and (c), the amount of tax imposed under this Law in respect of a supply is equal to the amount of tax that would be imposed under Part IX of the *Excise Tax Act* in respect of that supply if

(a) the *Excise Tax Act* applied and this Law, the exemption under section 87 of the *Indian Act* and any other exemption from taxation under any other Act of Parliament that is similar to the exemption under that section did not apply in respect of that supply;

(b) the amount were determined without reference to subparagraph (v) of the description of A or subparagraph (vi) of the description of J in the definition "basic tax content" in subsection 123(1) of the *Excise Tax Act*; and

(c) no amount of tax under subsection 165(2), 212.1(2) or 218.1(1) or Division IV.1 of Part IX of the *Excise Tax Act* were included in determining that amount.

PART II ADMINISTRATION AND ENFORCMENT

Amounts Payable

4. All amounts payable under this Law,

(a) are debts due to the First Nation and are recoverable as such in any court of competent jurisdiction or in any other manner provided by this Law; and

(b) may be recovered by Her Majesty in Right of Canada as a debt due to Her Majesty acting on behalf of the First Nation if they become payable while an administration agreement is in effect or become payable after an administration agreement has ceased to be in effect but relate to taxes, interest, penalties, costs or other amounts that became payable, or to the doing of anything or the failure to do anything, while such an administration agreement was in effect.

Administration Agreement

5. The authorized body with the approval of governing body may enter into, and amend from time to time, an administration agreement with the Government of Canada that, among other things, provides for the matters referred to in subsection 5(2) of the Federal FNGST Act.

Agreement Affirmed

6. An administration agreement that is consistent with this Law and entered into by the authorized body on behalf of the First Nation prior to the coming into force of this Law is affirmed as if it were entered into under this Law.

Proof of law

7. A copy of this Law, if it is certified by the authorized body to be a true copy, is evidence that this Law was duly enacted by the governing body, without proof of the signature or official character of the authorized body.

Authority

8. This Law is made pursuant to the authority provided to the First Nation under subsection 4(1) of the Federal FNGST Act for the purpose of enacting a law imposing a tax.

Coming into Force

9. Subsection 2(1) and sections 5 and 7 of this Law shall come into force upon the enactment of the Law and all other sections shall come into force on the effective date of the administration agreement.