HUU-AY-AHT FIRST NATIONS



REAL PROPERTY TAX ACT

The Huu-ay-aht Legislature enacts this law to ensure a fair and effective property tax system for Huu-ay-aht Treaty Lands.

REGISTRY OF LAWS CERTIFICATION

I certify that the *Real Property Tax Act* passed Third Reading in the Legislature on:

March 30, 2012

Chief Councillor Jeff Cook

I certify that the *Real Property Tax Act* is enacted as law on:

March 30, 2012

Ta'yii Hawilth Derek Peters

I certify that the *Real Property Tax Act* came into force on:

Law Clerk Connie Waddell

REAL PROPERTY TAX ACT

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Note to Reader

In keeping with other Maa-nulth property tax legislation, the *Real Property Tax Act* sets out the legal framework for the collection of property taxes on Huu-ay-aht Treaty Lands. The British Columbia Assessment Authority provides property assessments for taxable property on Treaty Lands. Executive Council establishes tax rates to raise revenue from property owners based on the assessed value of their property.

Properties exempt from taxation and the powers of Executive Council to exempt additional properties are set out in this Act. In addition, the Act allows for grants to taxpayers in financial need.

Under this Act, the Executive Director prepares a tax roll for the tax year and sends tax notices to owners of taxable property. Property taxes must be paid before July 2 each year to avoid penalties and interest. Unpaid taxes may be collected as a debt due to the Huu-ay-aht and become a lien on the land or improvements.

The Huu-ay-aht Taxation Authority is established under this Act to review tax regulations, tax budgets and tax rates established by Executive Council. One member of the Huu-ay-aht Taxation Authority is a non-citizen who holds an interest in Treaty Lands.

The Legislature enacts as follows:

PART 1 – INTRODUCTORY PROVISIONS

Purpose

1 The purpose of this Act is to provide a fair and effective system for property taxation of Treaty Lands and improvements on those lands.

Application

2 This Act applies to all Treaty Lands and their improvements.

Land Act definitions apply

3 The words and expressions defined in section 2 of the *Land Act* apply to this Act.

Definitions

4 In this Act:

"assessed value" means the value of land or improvements as determined by an assessor in accordance with the *Assessment Act* (British Columbia);

"charge" means an estate or interest in land less than the fee simple;

"Huu-ay-aht Taxation Authority" means the Huu-ay-aht public body established under section 6;

"impose" includes levy;

"local authority" has the same meaning as in the *Community Charter* (British Columbia);

"non-citizen stakeholder" means an individual at least 19 years of age who is not a Huu-ay-aht citizen and who

(a) holds of an interest in Treaty Lands,

(b) is a registered owner of real property within Treaty Lands, or

(c) is ordinarily resident on Treaty Lands;

"partnering agreement" means an agreement between the Huu-ay-aht and a person or Huu-ay-aht body under which the person or Huu-ay-aht body agrees to provide a service on behalf of the Huu-ay-aht, other than a service that is part of the general administration of the Huu-ay-aht;

"provincial taxation authority" means a public authority or Huu-ay-aht public body that is authorized under an enactment of British Columbia to

(a) impose real property taxes on Treaty Lands, or

(b) receive revenue from real property taxes imposed on Treaty Lands or collected on its behalf by the Surveyor of Taxes;

"public authority" has the same meaning as in the *Community Charter* (British Columbia);

"registered" means, in respect of real property, registered in the records of the Huu-ay-aht Land Registry or the land title office;

"registered owner" means, in relation to real property,

(a) the owner of a registered estate in fee simple in the property, unless another person holds an interest in the property referred to in paragraphs (b) to (d),

(b) the holder of the last registered agreement for sale and purchase of the property, unless another person holds an interest in the property referred to in paragraph (c) or (d),

(c) the tenant for life under a registered life interest in the property, unless another person holds an interest in the property referred to in paragraph (d), or

(d) the holder of a registered lease of the property for a term of at least 99 years;

"request for information" means a request substantially in the form set out in Schedule 1;

"service" means, in respect of the Huu-ay-aht, an activity, work or facility undertaken or provided by or on their behalf;

"Surveyor of Taxes" has the same meaning as in the *Taxation (Rural Area) Act* (British Columbia);

"tax arrears certificate" means a certificate substantially in the form set out in Schedule 4;

"tax certificate" means a certificate substantially in the form set out in Schedule 3;

"tax notice" means a notice substantially in the form set out in Schedule 2;

"tax roll" means a roll prepared by the Executive Director in accordance with Part 7;

"taxable property" means property that is subject to taxation under this Act;

"taxes" includes taxes levied under this Act and any penalties and interest added to those taxes in accordance with this Act;

"taxpayer" means a person liable for taxes imposed under this Act.

British Columbia assessment rules apply

5 (1) Words and expressions not defined in this Act, but defined in the *Assessment Act* (British Columbia) have the meanings given to them in that Act.

(2) The *Assessment Act* (British Columbia) and the *Assessment Authority Act* (British Columbia) apply in relation to the assessment of Treaty Lands and their improvements for the purposes of taxation under this Act.

(3) The British Columbia Assessment Authority must assess Treaty Lands and their improvements in accordance with the *Assessment Act* (British Columbia) and any of its own policies.

PART 2 – TAXATION AUTHORITY

Huu-ay-aht Taxation Authority

6 (1) The Huu-ay-aht Taxation Authority is established and consists of the following directors appointed by Executive Council:

(a) two members of Executive Council;

(b) a non-citizen stakeholder.

(2) Executive Council must consult with non-citizen stakeholders before appointing a non-citizen stakeholder to the Huu-ay-aht Taxation Authority.

(3) Directors of the Huu-ay-aht Taxation Authority hold office for a term of 4 years or until they resign or are replaced in accordance with Huu-ay-aht legislation.

(4) Despite subsections (1) and (2), if Executive Council is unable to appoint a non-citizen stakeholder because

(a) there are no non-citizen stakeholders, or

(b) a non-citizen stakeholder is unwilling to be appointed,

Executive Council must appoint another of its members as a director of the Huu-ay-aht Taxation Authority.

(5) The director appointed under subsection (4) holds office for a term of 4 years, or until he or she resigns or is replaced in accordance with Huu-ay-aht legislation, or a non-citizen stakeholder delivers written notice to Executive Council that he or she wishes to be a director of the Huu-ay-aht Taxation Authority.

(6) Executive Council may remove or replace a director of the Huu-ay-aht Taxation Authority at any time.

(7) Subject to this Act and Huu-ay-aht legislation, the Huu-ay-aht Taxation Authority may establish its own rules and procedures.

(8) Directors and employees of the Huu-ay-aht Taxation Authority are public officers.

PART 3 – TAX LIABILITY

Tax liability

7 (1) Except as provided in Part 4, all Treaty Lands and their improvements are subject to taxation under this Act.

(2) Any persons who share the same interest in taxable property are jointly and severally liable to the Huu-ay-aht for taxation including

(a) all taxes imposed in the current taxation year,

(b) all unpaid taxes owing for a previous taxation year, and

(c) any penalties and interest owing on taxes under paragraphs (a) and (b).

(3) If a person's interest in Treaty Lands is not subject to taxation, the liability for taxes of any other person in relation to the same property is not affected.

(4) If a person alleges that he or she is not liable for taxes imposed under this Act, the person may initiate proceedings in a court of competent jurisdiction.

(5) Taxes are due and payable under this Act despite any proceeding under subsection (4).

(6) Despite subsection (1) and Part 4, if Treaty Lands or their improvements are assessed under section 27 of the *Assessment Act* (British Columbia), the land or improvements are liable for taxation under this Act.

(7) Subsection (6) does not make the following liable for taxation under this Act:

(a) land or improvements otherwise exempt under Part 4;

(b) a highway occupied by a company that

(i) provides gas, electric light, telephone, telegraph, power, pipeline or water service,

(ii) operates a motor bus, electric trolley bus, radio or television broadcasting or closed circuit television, or

(iii) in addition to any other function, provides a service similar in nature to one referred to in subparagraph (i).

(8) Except as provided in the *Veterans' Land Act* (Canada), taxes imposed on land and improvements referred to in subsection (6) are a liability only of the holder or occupier, recoverable in the manner set out in this Act.

Tax refunds

8 (1) If

(a) the assessor or a court of competent jurisdiction determines that a person is not liable for taxes imposed under this Act, or

(b) it is determined under this Act that a person was taxed in excess of the proper amount,

the Huu-ay-aht must refund any excess taxes paid by or on behalf of that person.

(2) If a person is entitled to a refund under subsection (1), Executive Council may authorize the Executive Director to refund all or part of the amount by applying it as a credit on account of taxes or other unpaid amounts due or accruing due to the Huu-ay-aht in relation to taxable property held by that person.

(3) If a person is entitled to a refund under subsection (1), the Huu-ay-aht must pay the person interest in accordance with the following rules:

(a) interest accrues from the date that the taxes were originally paid to the Huu-ay-aht;

(b) the interest rate during each successive 3 month period beginning on April 1, July 1, October 1 and January 1 in every year, is 2% below the prime lending rate of the principal banker to the Huu-ay-aht on the 15th day of the month immediately preceding that 3 month period;

(c) interest is not compounded;

(d) interest stops running on the date payment of the money owed is delivered in accordance with Huu-ay-aht legislation to the person to whom it is owed.

PART 4 – TAX EXEMPTIONS

Statutory exemptions

9 (1) For certainty, property exempt from taxation under the Maa-nulth Treaty, the tax treatment agreement or the *Treaty First Nation Taxation Act* (British Columbia) is exempt from taxation under this Act.

(2) If not already exempt from taxation under subsection (1), the following property is exempt from taxation under this Act:

(a) land or improvements vested in or held by the Huu-ay-aht;

(b) land or improvements vested in or held by British Columbia;

(c) land or improvements vested in or held by the Huu-ay-aht jointly with another First Nation, British Columbia, a municipality or a regional district;

(d) land or improvements which, if they were located in a municipality, would be exempt from municipal taxation by an Act of British Columbia.

Permissive exemptions

10 (1) Subject to this section, Executive Council may, by regulation, exempt property referred to in subsection (2) from taxation under this Act to the extent provided in the regulation.

(2) The following property is eligible for an exemption under this section:

(a) land or improvements

(i) owned or held by a charitable, philanthropic or other not-for-profit corporation, and

(ii) that Executive Council considers are used for a purpose directly related to the purposes of a corporation referred to in subparagraph (i);

(b) land or improvements

(i) owned or held by a First Nation, municipality, regional district or other local authority, and

(ii) that Executive Council considers are used for a purpose of the local authority;

(c) land or improvements that Executive Council considers would otherwise qualify for exemption under section 9 were it not for a secondary use;

(d) the interest of a Huu-ay-aht public body, public authority, local authority or any other corporation or organization in land or improvements that are used or occupied by the corporation or organization if

(i) the land or improvements are owned by a public authority, Huu-ay-aht public body or local authority, and

(ii) the land or improvements are used by the corporation or organization for a purpose in relation to which an exemption under this section or section 9 would apply or could be provided if the land or improvements were owned by that corporation or organization;

(e) the interest of a public authority, local authority or any other corporation or organization in land or improvements used or occupied by the corporation or organization if

(i) the land or improvements are owned by a person who is providing a service to the Huu-ay-aht under a partnering agreement,

(ii) an exemption under section 11 would be available for the land or improvements in relation to the partnering agreement if they were used in relation to the service,

(iii) the partnering agreement expressly contemplates that Executive Council may provide an exemption under this section, and

(iv) the land or improvements are used by the corporation or organization for a purpose in relation to which an exemption under this section or section 9

would apply or could be provided if the land or improvements were owned by that corporation or organization;

(f) land or improvements used or occupied by a religious organization, as tenant or licensee, for the purpose of public worship or for the purposes of a hall that Executive Council considers necessary to land or improvements so used or occupied;

(g) land or improvements owned or held by an athletic or service club or association and used as a public park or recreation ground or for public athletic or recreational purposes;

(h) land or improvements owned or held by a person or organization and operated as a private hospital;

(i) land held or occupied by a person for the purpose of harvesting timber under a licence or permit issued by, or an agreement entered into with, the Huu-ay-aht;

(j) land or improvements

(i) owned by the Huu-ay-aht, and

(ii) rented by the Huu-ay-aht or a Huu-ay-aht body as social housing to persons who, applying the test established for this purpose by the Canada Mortgage and Housing Corporation or a comparable objective test, are determined to be in need of core housing.

(3) A regulation under this section

(a) must establish the term of the exemption, which may not be longer than 10 years,

(b) may only be enacted after

(i) notice of the proposed regulation has been given in accordance with section 13, and

(ii) the proposed regulation has been approved by the Huu-ay-aht Taxation Authority by an affirmative vote of at least a majority of its directors, and

(c) does not apply to taxation in a calendar year unless it comes into force on or before October 31 of the preceding year.

(4) If only a portion of a parcel of land is exempt under this section, the regulation must include a description of the land in a form satisfactory to the assessor.

(5) A regulation under this section ceases to apply to property, the use or ownership of which no longer conforms to the conditions necessary to qualify for exemption and, after the regulation ceases to apply, the property is liable for taxation under this Act.

Special exemptions

11 (1) In this section:

"exemption agreement" means an agreement under subsection (4).

"heritage property" means property that is

(a) protected heritage property,

(b) subject to a heritage revitalization agreement,

(c) subject to a covenant under section 10 or 11 of the *Land Act* or section 219 of the *Land Title Act* (British Columbia) that relates to the conservation of heritage property, or

(d) if property referred to in paragraphs (a) to (c) is a building or other improvement affixed to the land so as to constitute real property, an area of land surrounding that improvement;

"partnering property" means property that

(a) is owned by a person, public authority or Huu-ay-aht public body providing a service under a partnering agreement, and

(b) Executive Council considers will be used in relation to the service being provided under the partnering agreement;

"riparian property" means property that

(a) is riparian land,

(b) is subject to a covenant under section 10 or 11 of the *Land Act* or section 219 of the *Land Title Act* (British Columbia) that

(i) relates to the protection of the property as riparian property, and

(ii) has the Huu-ay-aht granting the exemption under this section as a covenantee in whose favour the covenant is made, and

(c) meets any other prescribed requirements.

(2) Executive Council may, by regulation, exempt the following property from taxation:

(a) partnering property;

(b) heritage property;

(c) riparian property;

(d) cemetery property, including land held for cemetery, mausoleum or columbarium purposes;

(e) golf course property.

(3) Executive Council may exempt a property under subsection (2) to the extent provided for by regulation and subject to any conditions established by an exemption agreement under subsection (4).

(4) Executive Council may enter into an agreement with an owner of property under subsection (2) respecting the extent of the exemption and the conditions on which it is made.

(5) Without limiting subsection (4), an exemption agreement may do one or more of the following:

(a) require the eligible property to be subject to a covenant under section 10 or 11 of the *Land Act* or section 219 of the *Land Title Act* (British Columbia) in favour of the Huu-ay-aht;

(b) provide that, if

(i) a condition is not met,

(ii) a required covenant under section 10 or 11 of the *Land Act* or section 219 of the *Land Title Act* (British Columbia) is discharged, or

(iii) any other circumstances specified in the agreement occur,

the property owner must pay to the Huu-ay-aht an amount determined in accordance with the agreement.

(6) A regulation under this section

(a) must specify the term of the exemption,

(b) may only be enacted after

(i) notice of the proposed regulation has been given in accordance with section 13, and

(i) the proposed regulation has been approved by the Huu-ay-aht Taxation Authority by an affirmative vote of at least a majority of its directors, and

(c) does not apply to taxation in a calendar year unless it comes into force on or before October 31 of the preceding year.

(7) An exemption under this section ceases to apply to property, the use or ownership of which no longer conforms to the conditions necessary to qualify for exemption and, after the exemption ceases to apply, the property is liable for taxation under this Act.

Revitalization exemptions

12 (1) In this section:

"exemption agreement" means an agreement under subsection (7);

"exemption certificate" means a certificate under subsection (8);

"revitalization program regulation" means a regulation under subsection (4).

(2) For the purpose of encouraging revitalization of Treaty Lands, Executive Council may exempt property from taxation in accordance with this section.

(3) For an exemption under this section to apply to a particular property,

(a) the exemption must be in accordance with a revitalization program regulation,

(b) an exemption agreement must be entered into in relation to the property, and

(c) an exemption certificate must be issued in relation to the property.

(4) Executive Council may, by regulation, establish a revitalization program exempting property from taxation.

(5) A revitalization program regulation must include the following:

(a) a description of the objectives of the program;

(b) a description of how the program is intended to accomplish those objectives;

(c) a description of the kinds of property, or related activities or circumstances, that are eligible for an exemption under the program;

(d) the amounts of exemptions that may be provided under the program, by specifying the amounts or establishing formulas by which the amounts are to be determined;

(e) the maximum term of an exemption that may be provided under the program, which may not be longer than 10 years.

(6) A revitalization program regulation

(a) may include any other provisions Executive Council considers necessary or advisable for the purposes of the program, including, but not limited to

(i) the requirements that must be met before an exemption certificate may be issued,

(ii) conditions that must be included in an exemption certificate, and

(iii) provision for a recapture amount that must be paid by the owner of the property to the Huu-ay-aht if the conditions specified in the exemption certificate are not met,

(b) may differ for different

(i) areas of Treaty Lands,

(ii) property classes,

(iii) activities or circumstances related to a property or its uses, and

(iv) uses as established by a zoning law,

(c) may only be enacted after

(i) notice of the proposed regulation has been given in accordance with section 13, and

(ii) the proposed regulation has been approved by the Huu-ay-aht Taxation Authority by an affirmative vote of at least a majority of its directors.

(7) Executive Council may enter into an agreement with an owner of property respecting the provision of an exemption under this section, including any

(a) requirements that must be met before the exemption may be provided, and

(b) conditions for the provision of that exemption.

(8) After

(a) all requirements established in the revitalization program regulation, and

(b) any additional requirements established in the exemption agreement in relation to a property

have been met, the Executive Director must issue an exemption certificate in relation to the property in accordance with subsection (9), the revitalization program regulation and the exemption agreement.

(9) An exemption certificate must specify the following:

(a) the amount of the exemption or the formula for determining the amount of the exemption;

(b) the term of the exemption;

(c) if applicable, the conditions on which the exemption is provided;

(d) if applicable, the recapture amount payable if the exemption certificate is cancelled or how that amount is to be determined.

(10) If an exemption certificate in relation to a property has not been cancelled or has not expired, the property is exempt from taxation under this Act.

(11) Executive Council may cancel an exemption certificate

(a) on the request of the property owner, or

(b) if any of the conditions specified in the exemption certificate are not met.

(12) The issuance or cancellation of an exemption certificate does not apply to taxation in a calendar year unless the exemption certificate is issued or cancelled, as applicable, on or before October 31 of the preceding year.

(13) The Executive Director must

(a) provide the assessor with copies of all exemption certificates as soon as practicable after they are issued, and

(b) if applicable, notify the assessor as soon as practicable after an exemption certificate is cancelled.

Notice of exemption regulations

13 (1) Executive Council must give public notice of a proposed regulation under this Part.

(2) Subject to subsection (3), a notice under subsection (1) must

(a) identify the property that would be exempt from taxation,

(b) state the number of years for which the exemption would be provided, and

(c) provide an estimate of the amount of taxes that would be imposed on the property if it were not exempt from taxation for the year in which the proposed regulation is to take effect and the immediately following 2 years.

(3) In the case of a proposed regulation under section 12, a notice under subsection (1) must include a general description of each of the following:

(a) the objectives of the proposed program;

(b) how the proposed program is intended to accomplish those objectives;

(c) the kinds of property, or related activities or circumstances, that would be eligible for an exemption under the proposed program;

(d) the amounts and maximum terms of exemptions that could be provided under the proposed program.

Requisitions

14 Despite this Part, if taxes are imposed under this Act for the purpose of raising the amount of a specific requisition received from a provincial taxation authority, to the extent that land and improvements were treated as

(a) taxable under the applicable Act for the purpose of determining the amount of the requisition, the land and improvements must be treated as taxable under this Act, and

(b) exempt from taxation under the applicable Act for the purpose of determining the amount of the requisition, the land and improvements must be treated as exempt from taxation under this Act.

PART 5 – TAX ABATEMENT

Home owner grant

15 While the exemption under section 19.5.2 of Chapter 19 *[Taxation]* of the Maa-nulth Treaty is in effect in relation to real property taxation, Executive Council must, by regulation, provide in each year to each taxpayer a grant equal to the amount the taxpayer would have been eligible for under the *Home Owner Grant Act* (British Columbia) had the taxpayer been liable for taxes imposed under the *School Act* (British Columbia) for that year in relation to the taxable property.

Financial need grant

16 (1) Subject to this section, Executive Council may, by regulation, provide a grant to taxpayers in financial need.

(2) A regulation under this section may only be enacted after

(a) notice of the proposed regulation has been given in accordance with subsection (3), and

(b) the proposed regulation has been approved by the Huu-ay-aht Taxation Authority by an affirmative vote of at least a majority of its directors.

(3) Executive Council must give public notice of a proposed regulation under this Part for a period of at least 2 consecutive weeks before the enactment of the regulation.

PART 6 –TAX LEVY

Tax levy

17 (1) After March 31 and on or before May 28 of each year, Executive Council must, by regulation, establish a tax rate for each property class for that year, being the aggregate of the following:

(a) an education equivalency tax rate for general Huu-ay-aht purposes that is not less than the tax rate established for that property class for that year under the *School Act* (British Columbia) for taxes imposed under that Act on property within School District No. 70 (Port Alberni);

(b) a tax rate sufficient to pay the amounts requisitioned by the Alberni-Clayoquot Regional District, the assessor and any other provincial taxation authority for that year for services provided by them;

(c) a tax rate sufficient to meet the costs of any local services provided by the Huu-ay-aht that the Huu-ay-aht propose to raise from taxes imposed under this Act for that year, as provided in the annual Budget Act.

(2) A regulation under this section may only be enacted after the proposed regulation has been approved by the Huu-ay-aht Taxation Authority by an affirmative vote of at least a majority of its directors.

(3) Executive Council may establish a different tax rate for each property class.

(4) Taxes levied under this Act

(a) are to be calculated by applying the applicable tax rate against each $1 000 of the assessed value of land or improvements, and

(b) are deemed to be imposed on January 1 of the taxation year in which they were first imposed.

PART 7 – TAX ROLL AND TAX NOTICES

Tax roll

18 (1) In each taxation year, the Executive Director must prepare a tax roll for that taxation year.

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

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

(b) the name and address of the owner or occupier entered on the assessment roll in relation to the property;

(c) the name and address of any other person entered on the assessment roll in relation to the property;

(d) the assessed value by classification of the land and its improvements as they appear on the assessment roll, excluding any exemptions;

(e) the amount of taxes levied under this Act in the current taxation year;

(f) the amount of any unpaid taxes owing under this Act for previous taxation years.

(3) The Executive Director may use the certified assessment roll as the tax roll by adding the information referred to in subsection (2) (e) and (f) to it.

Tax notices

19 (1) On or before June 1 of each year, the Executive Director must deliver a tax notice to

(a) each owner or occupier of taxable property, and

(b) any other person whose name appears on the tax roll in relation to the property

at the person's address as shown on the tax roll.

(2) The Executive Director must enter on the tax roll the date on which a tax notice is mailed.

(3) The mailing of a tax notice by the Executive Director constitutes a statement of, and demand for, payment of the taxes set out on the tax notice.

(4) If a number of properties are assessed in the name of the same owner or occupier, any number of those properties may be included in one tax notice.

(5) If the holder of a charge on taxable property gives notice to the assessor and the assessor enters the holder's name on the assessment roll, the Executive Director must mail a copy of all tax notices issued in relation to the property to the holder of the charge for the duration of that charge.

Adjustment for amended or supplementary assessment rolls

20 (1) If

(a) the assessment roll has been revised, or

(b) a supplementary assessment roll has been issued,

the Executive Director must

(c) amend the tax roll, or

(d) create a supplementary tax roll,

as necessary, and must deliver in accordance with Huu-ay-aht legislation an amended tax notice to every person affected by the amended or supplementary tax roll.

(2) The duties imposed on the Executive Director in relation to the tax roll and the provisions of this Act relating to tax rolls, so far as they are applicable, apply to supplementary tax rolls.

(3) If an amended tax notice indicates a reduction in the amount of taxes owing, the Executive Director must immediately refund any excess taxes paid, in accordance with section 8.

(4) If an amended tax notice indicates an increase in the amount of taxes owing, the taxes are due and payable on the date the amended tax notice is delivered.

(5) Despite subsection (4),

(a) a taxpayer must be given 30 days to pay the taxes due and payable under that subsection, and

(b) a penalty or interest must not be added during that 30 day period.

Adjustment for subdivision of property

21 (1) If a property is subdivided after the assessment roll for a taxation year has been certified, before June 1 of that taxation year, the Executive Director may apportion the taxes payable under this Act for that year among the properties created by the subdivision in the same proportions as taxes would have been payable had the subdivision occurred before the assessment roll was certified.

(2) The Executive Director may record any apportionment under subsection (1) on the tax roll in the manner the Executive Director considers necessary or appropriate.

(3) Taxes apportioned to a property under subsection (1) are the taxes payable in relation to that property for the year in which they were apportioned.

(4) The assessor must provide the Executive Director with the assessed values necessary to calculate the proportions referred to in subsection (1).

Requests for information

22 (1) The Executive Director may deliver a request for information to an owner, occupier or person who has disposed of property.

(2) A person to whom the Executive Director delivers a request for information must provide the Executive Director with that information within 14 days unless a longer period is specified in the request.

(3) The Executive Director is not bound by information provided in response to a request for that information.

PART 8 – PAYMENTS, PENALTIES AND INTEREST

Due date for taxes

23 Taxes levied under this Act are due and payable on or before July 2 of the taxation year in which they are levied.

Penalty for unpaid taxes

24 If all or a portion of the taxes levied under this Act remain unpaid after July 2 of the taxation year in which they are levied, a penalty of 10% of the unpaid amount must be added to that unpaid amount and the added amount is deemed for all purposes to be part of the taxes.

Interest on unpaid taxes

25 If all or a portion of the taxes levied under this Act remain unpaid on July 2 of the taxation year in which they are levied, the unpaid amount accrues interest at the prime lending rate set from time to time by the principal banker to the Huu-ay-aht, plus 2% per annum, compounded monthly, and any accrued interest is deemed for all purposes to be part of the taxes.

Place and mode of payment

26 Taxes levied under this Act must be paid at the Port Alberni or Anacla administrative offices of the Huu-ay-aht during normal business hours, by

(a) cheque or money order made payable to the Huu-ay-aht, or

(b) cash.

Application of payments

27 Payments for taxes levied under this Act must be credited by the Executive Director as follows:

(a) first, to unpaid taxes, including penalties and interest, for previous taxation years;

(b) second, to a penalty or interest added in the current taxation year;

(c) third, to unpaid taxes for the current taxation year.

Receipts for payments

28 On receipt of a payment for taxes levied under this Act, the Executive Director must

(a) issue a receipt to the taxpayer, and

(b) enter the receipt number on the tax roll opposite the property for which the taxes were paid.

Tax certificate

29 On receipt of a written request and payment of any prescribed fee, the Executive Director must issue a tax certificate to the person who made the request.

PART 9 – TAX REVENUES

Real property tax budget

30 (1) On or before December 15 of each year, the Executive Director, after consulting with the Finance Committee, must prepare and submit to the Huu-ay-aht Taxation Authority for review a draft real property tax budget for the next fiscal year.

(2) On or before January 15 of each year, the Huu-ay-aht Taxation Authority must approve a real property tax budget for the next fiscal year by an affirmative vote of at least a majority of its directors.

(3) A real property tax budget approved by the Huu-ay-aht Taxation Authority under subsection (2) must

(a) be incorporated into the annual budget approved by the Legislature under the *Financial Administration Act*, and

(b) set out the amount of revenues the Huu-ay-aht plan to raise from taxes levied under this Act and how the Huu-ay-aht plan to expend those revenues.

Tax revenues

31 Money received by the Huu-ay-aht for taxes levied under this Act must be deposited and paid out in accordance with the *Financial Administration Act*.

PART 10 – ENFORCEMENT

General collection authority

32 (1) Taxes owed to the Huu-ay-aht are a debt due to the Huu-ay-aht and may be recovered by the Huu-ay-aht

(a) in any court of competent jurisdiction, or

(b) by any other method authorized by law

and, unless otherwise provided, the use of one method does not preclude the use of one or more other methods.

(2) A copy of a tax notice issued to a person, certified as a true copy by the Executive Director, is evidence of that person's debt for the taxes set out in the tax notice.

Tax arrears certificate

33 (1) Before any enforcement measures may be taken or any enforcement proceedings may be commenced under this Part, the Executive Director must

(a) issue a tax arrears certificate for the property, and

(b) deliver the tax arrears certificate to every person named on the tax roll in relation to the property.

(2) A tax arrears certificate must not be issued until at least 6 months after the day on which the taxes set out on the tax arrears certificate become due.

Anticipated removal of property

34 Despite section 33 (2), if Executive Council has reasonable grounds to believe that a taxpayer intends to

(a) remove the taxpayer's personal property from Treaty Lands,

(b) dismantle or remove the taxpayer's improvements on Treaty Lands, or

(c) take any other action that may prevent or impede the collection of unpaid taxes owing under this Act,

Executive Council may apply to any court of competent jurisdiction for a remedy, whether or not the time for payment of the taxes has expired.

Tax lien

35 (1) Unpaid taxes owing under this Act are a lien on the land or improvements to which they pertain, and that lien

(a) attaches to the land or improvements,

(b) binds subsequent owners of the land or improvements,

(c) has priority over any charge, claim, privilege, lien or security interest on or in relation to in the land or improvements, and

(d) does not require registration to preserve it.

(2) The Executive Director must maintain a list of all liens created under this section.

(3) Executive Council may apply to any court of competent jurisdiction to protect or enforce a lien created under this section.

PART 11 – GENERAL PROVISIONS

Power to make regulations

36 Executive Council may make regulations referred to in section 39 of the *Interpretation Act*.

Validity

37 Nothing under this Act may be rendered void or invalid, nor is the liability of any person to pay taxes or any other amount under this Act, affected by

(a) an error or omission in a valuation,

(b) a valuation based solely on information in the hands of the assessor or the Executive Director,

(c) an error or omission in a tax roll, tax notice or any other notice given under this Act, or

(d) a failure of the Huu-ay-aht, the Executive Director or the assessor to do something within a required time.

Limitation on actions

38 (1) A person may not commence an action for the return of money paid to the Huu-ay-aht, whether under protest or otherwise, on account of a demand, whether valid or invalid, for taxes or any other amount paid under this Act, after the expiration of 6 months from the date the payment was made.

(2) If a person fails to commence an action within the time limit referred to in subsection (1), the money paid to the Huu-ay-aht is conclusively deemed to have been voluntarily paid.

Amendments

39 An amendment to or the repeal of this Act after April 1, 2016 must be approved by the People's Assembly before the amendment or repeal is brought into force.

Commencement

40 This Act comes into force on the date set by resolution of Executive Council.

SCHEDULE 1

REQUEST FOR INFORMATION

TO: _____

_____

ADDRESS: _____

_____

DESCRIPTION OF LAND: _____

_____

_____

_____

PURSUANT to section 22 of the *Real Property Tax Act*, I request that you provide to me, in writing, no later than _____, the following information relating to the above-noted land:

(1)

(2)

(3)

_____

Executive Director for the Huu-ay-aht

Dated: _____, 20___.

SCHEDULE 2

TAX NOTICE

TO: _____

_____

ADDRESS: _____

_____

DESCRIPTION OF LAND: _____

_____

_____

_____

PURSUANT to the *Real Property Tax Act*, taxes in the amount of $_____ are hereby levied with respect to the above-noted interest in land.

Taxes for the current taxation year are due and payable on or before July 2, 20__. Unpaid taxes, penalties and interest for a previous taxation year are past due and must be paid immediately.

Payments must be made at the administrative office of the Huu-ay-aht located at _____ during normal business hours. Payments must be by cheque, money order or cash.

Taxes that are not paid by July 2, 20__ incur penalties and interest in accordance with the *Real Property Tax Act*.

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

_____

_____

Assessed value: $_____

Taxes (current year): $_____

Unpaid taxes (previous years) $_____

Penalties: $_____

Interest: $_____

Total Payable $_____

_____

Executive Director for the Huu-ay-aht

Dated: _____, 20___ .

SCHEDULE 3

TAX CERTIFICATE

In relation to the land described as: _____ and pursuant to the *Real Property Tax Act*, I hereby certify as follows:

That all taxes due and payable in relation to the above-noted land have been paid as of the date of this certificate.

OR

That unpaid taxes, including interest and penalties, in the amount of $_____ are due and owing on the above-noted interest in land as of the date of this certificate.

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

_____

_____

_____

_____

_____

Executive Director for the Huu-ay-aht

Dated: _____, 20___ .

SCHEDULE 4

TAX ARREARS CERTIFICATE

In relation to the land described as: _____ and pursuant to the *Real Property Tax Act*, I hereby certify as follows:

That taxes, interest and penalties remain unpaid in relation to the above-noted land as follows:

Taxes: $_____

Penalties: $_____

Interest: $_____

Total unpaid tax debt: $_____

The total unpaid tax debt is due and payable immediately.

If the total unpaid tax debt is paid on or before _____, no further penalties and interest will be assessed on this amount.

If all or any portion of the tax debt is not paid on or before July 2, __, a further penalty of $_____ will be assessed on that date.

The total unpaid tax debt accrues interest each day that it remains unpaid at a rate of _____ percent per annum, compounded monthly.

Payments must be made at the administrative office of the Huu-ay-aht located at _____ during normal business hours. Payments must be by cheque, money order or cash.

The following persons are jointly and severally liable for the total unpaid tax debt:

_____

_____

_____

Executive Director for the Huu-ay-aht

Dated: _____, 20___ .