

NISGA'A LISIMS GOVERNMENT

WILP SI'AYUUKHL NISGA'A

**NISGA'A GOODS AND SERVICES
TAX ACT**

Wilp Si'ayuukhl Nisga'a enacted this law on _____

Signed _____
Nelson Leeson, President of the Nisga'a Nation

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NISGA'A GOODS AND SERVICES TAX ACT

PART 1 – DEFINITIONS AND INTERPRETATION**Definitions and interpretation****1. (1)** In this Act:

“administration agreement” means an agreement referred to in section 5(2) of the *First Nations Goods and Services Tax Act*, between the Government of Canada, acting through and represented by the Minister of Finance, and the Nisga'a Nation, as represented by the Nisga'a Lisims Government Executive, in respect of this Act, and includes any amendments made to that agreement from time to time in accordance with its provisions;

“Excise Tax Act” means the *Excise Tax Act* (Canada);

“first nation” has the same meaning as in the *First Nations Goods and Services Tax Act*;

“First Nations Goods and Services Tax Act” means the *First Nations Goods and Services Tax Act* (Canada);

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

“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 in this Act, words and expressions that are used in this Act and are also used in Part IX of the *Excise Tax Act* have the meanings assigned to them by Part IX of the *Excise Tax Act*.
- (3) Division X of Part IX of the *Excise Tax Act* applies for the purposes of this Act as if
- (a) Nisga'a Lands were a participating province,
 - (b) the announcement date, implementation date and specified pre-implementation date for that participating province were the date this Act comes into force,
 - (c) the tax imposed under section 2(a) of this Act were imposed under section 165(2) of the *Excise Tax Act*,
 - (d) the tax imposed under section 2(b) of this Act were imposed under section 220.05(1) of the *Excise Tax Act*, and
 - (e) the tax imposed under section 2(c) of this Act were imposed under section 218.1(1) of the *Excise Tax Act*.

PART 2 – TAX ON SUPPLIES**Imposition of tax**

2. Subject to sections 3 to 10,
- (a) every recipient of a taxable supply made on Nisga'a Lands shall pay to the Nisga'a Nation tax in respect of the supply calculated in accordance with section 10,
 - (b) every person who brings tangible personal property onto Nisga'a Lands from a place elsewhere in Canada shall pay to the Nisga'a Nation tax in respect of the bringing of the property onto Nisga'a Lands calculated in accordance with section 8, and
 - (c) every recipient of an imported taxable supply made on Nisga'a Lands shall pay to the Nisga'a Nation tax in respect of the supply calculated in accordance with section 10.

Supply made on Nisga'a Lands

3. (1) A supply, other than an imported taxable supply, is made on Nisga'a Lands only if at least one of the following conditions is met:
- (a) if Nisga'a 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 section 11(1) or 12(1) of the *First Nations Goods and Services Tax 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;
 - (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 *First Nations Goods and Services Tax Act*, be payable but for the connection of the supply with Nisga'a 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 the Parliament of Canada that is similar to the exemption under that section.

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- (2) Despite subsection (1), for the purposes of section 2(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 Nisga'a Lands only if
- (a) in the case of a recipient who is an individual, the recipient ordinarily resides on Nisga'a 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 Nisga'a Lands.

Imported taxable supply made on Nisga'a Lands

4. An imported taxable supply is made on Nisga'a 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 section 218.1(1) of the *Excise Tax Act* if
 - (i) Nisga'a Lands were the particular participating province referred to in that section,
 - (ii) the lands of every other first nation in respect of which a first nation law, as defined in section 11(1) or 12(1) of the *First Nations Goods and Services Tax Act*, is in force at the time the supply is made were each a separate participating province, and
 - (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;
 - (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 *First Nations Goods and Services Tax Act*, be payable but for the connection of the supply with Nisga'a 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 the Parliament of Canada that is similar to the exemption under that section.

Bringing of property onto Nisga'a Lands

5. Subject to section 6, a tax in respect of the bringing of property onto Nisga'a Lands by a person shall be imposed under this Act 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 the Parliament of Canada that is similar to the exemption under that section.

Exception

6. A tax in respect of the bringing of property onto Nisga'a 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 section 11(1) or 12(1) of the *First Nations Goods and Services Tax Act*, or section 212 of the *Excise Tax Act* before the property is brought onto Nisga'a Lands, or
 - (b) tax would not be payable under section 220.05(1) of the *Excise Tax Act* in respect of the bringing of the property onto Nisga'a Lands if
 - (i) Nisga'a Lands were the particular participating province referred to in that section,
 - (ii) the lands of every other first nation in respect of which a first nation law, as defined in section 11(1) or 12(1) of the *First Nations Goods and Services Tax Act*, is in force at the time the property is brought onto Nisga'a 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) section 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 the Parliament of Canada that is similar to the exemption under that section did not apply in respect of the bringing of the property onto Nisga'a Lands.

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Carriers

7. For the purposes of this Act, if a particular person brings property onto Nisga'a Lands on behalf of another person, the other person, and not the particular person, is deemed to have brought the property onto Nisga'a Lands.

Amount of tax – bringing of property onto Nisga'a Lands

8. For the purposes of section 2, the amount of tax that is imposed under this Act in respect of the bringing of property onto Nisga'a 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 section 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 Nisga'a 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 the Parliament of Canada 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 Nisga'a 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 Act in respect of the bringing of property onto Nisga'a Lands shall become payable by the person who brings it onto Nisga'a Lands at the time it is brought onto Nisga'a 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 Act 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 Nisga'a Lands

- 10.** For the purposes of section 2(a) and (c), the amount of tax imposed under this Act 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 Act, the exemption under section 87 of the *Indian Act* and any other exemption from taxation under any other Act of the Parliament of Canada 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 section 123(1) of the *Excise Tax Act*, and
 - (c) no amount of tax under section 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.

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PART 3 – ADMINISTRATION AND ENFORCEMENT**Amounts payable**

- 11.** All amounts payable under this Act
- (a) are debts due to the Nisga'a Nation and are recoverable as such in any court of competent jurisdiction or in any other manner provided by this Act, and
 - (b) may be recovered by Her Majesty in right of Canada as a debt due to Her Majesty acting on behalf of the Nisga'a 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 and enforcement

- 12.** This Act shall be administered and enforced, and the tax imposed under this Act shall be collected, in accordance with an administration agreement.

Administration agreement

- 13.** (1) The Executive may on behalf of the Nisga'a Nation enter into, and amend or replace from time to time, an administration agreement.
- (2) The Executive may authorize a member of the Executive to sign an administration agreement, or an amendment to or replacement of an administration agreement, for the Executive.

PART 4 – MISCELLANEOUS

Authority to impose tax

- 14.** (1) This Act is enacted pursuant to the authority of the Nisga'a Nation under section 4(1) of the *First Nations Goods and Services Tax Act*.
- (2) For certainty, this Act is a first nation law for the purposes of section 11(3) of the *First Nations Goods and Services Tax Act*.

Coming into force

- 15.** This Act comes into force by regulation of the Executive.