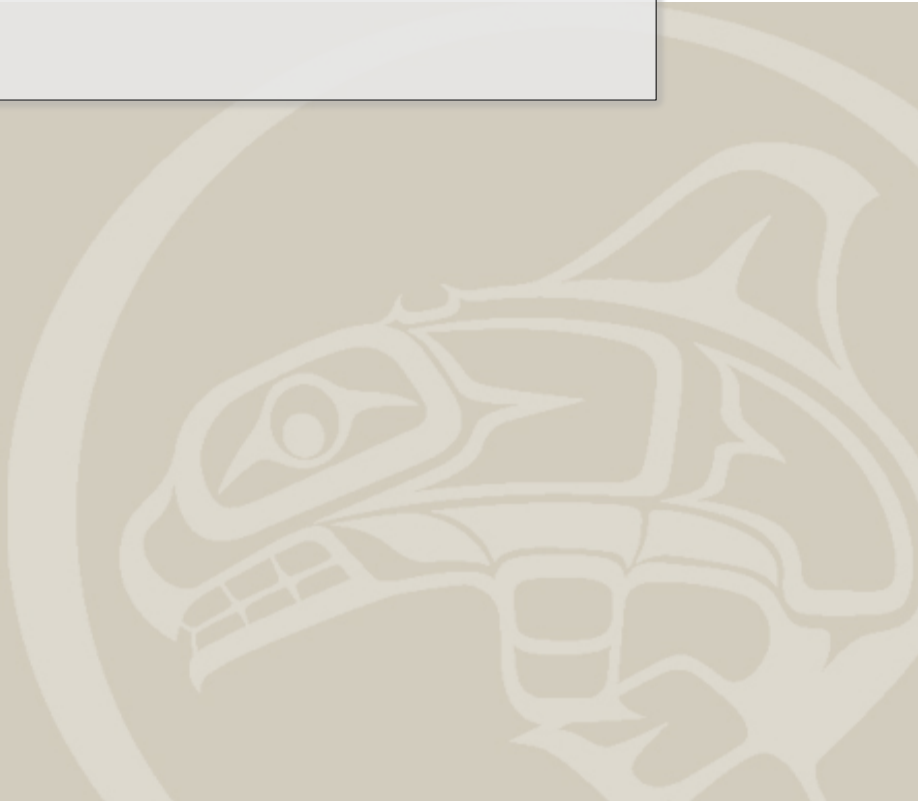




huu ay aht

ANCIENT SPIRIT, MODERN MIND

**HUU-AY-AHT FIRST NATIONS  
GOODS AND SERVICES TAX ACT**





## REGISTRY OF LAWS CERTIFICATION

I certify that the *Huu-ay-aht First Nations Goods and Services Tax Act* was passed by Executive Council on:

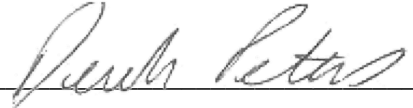
March 27, 2020



Chief Councillor, Robert Dennis

I certify that the *Huu-ay-aht First Nations Goods and Services Tax Act* is enacted as law on:

March 27, 2020



Ta'yii Hawilth, Derek Peters

I certify that the *Huu-ay-aht First Nations Goods and Services Tax Act* came into force on:

March 27, 2020



Coraleah Johnson, Law Clerk



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## PART 1 - DEFINITIONS AND INTERPRETATION

### Short Title

- 1 This Act may be cited as the *FNGST Act*.

### Definitions

- 2 (1) In this Act,

“**administration agreement**” means an agreement in respect of this Act entered into between the Chief Councillor on behalf of the HUU-ay-aht First Nations and the Minister of Finance on behalf of the Government of Canada for, among other things, the administration and enforcement of this Act including the collection of tax imposed under this Act;

“**Excise Tax Act**” means the *Excise Tax Act*, R.S.C., 1985, c. E-15;

“**Federal Act**” means the *First Nations Goods and Services Tax Act*, S.C. 2003, c.15, s.67;

“**HUU-ay-aht First Nations Government**” means the governing body listed opposite the name of the HUU-ay-aht First Nations in Schedule 1 to the Federal Act;

“**HUU-ay-aht Taxation Lands**” means the lands that are described opposite the name of the HUU-ay-aht First Nations in Schedule 1 to the Federal Act;

“**Indian Act**” means the *Indian Act*, R.S.C., 1985, c. I-5;

“**Interpretation Act (Canada)**” means the *Interpretation Act*, R.S.C., 1985, c. I-21;

“**net tax**” has the same meaning as in subsection 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; and

“**tax attributable to the HUU-ay-aht First Nations**” means tax attributable to the HUU-ay-aht First Nations within the meaning of subsection 5(1) of the Federal Act.

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

### Application of Federal Legislation

- 3 (1) Division X of Part IX of the *Excise Tax Act* applies for the purposes of determining the application of this Act as if:
- (a) the HUU-ay-aht Taxation Lands were a participating province;
  - (b) the announcement date, implementation date and specified pre-implementation date for that participating province were the date of the coming into force of this Act that is referred to in section 23;
  - (c) the tax imposed under section 4(a) were imposed under subsection 165(2) of the *Excise Tax Act*;
  - (d) the tax imposed under section 4(b) were imposed under subsection 220.05(1) of the *Excise Tax Act*; and

- (e) the tax imposed under section 4(c) were imposed under subsection 218.1(1) of the *Excise Tax Act*.
- (2) The *Interpretation Act (Canada)* applies, with such modifications as the circumstances require, to this Act.

## PART 2 - TAX ON SUPPLIES

### Imposition of Tax

- 4 Subject to this Part,
- (a) every recipient of a taxable supply made on Huu-ay-aht Taxation Lands shall pay to the Huu-ay-aht First Nations tax in respect of the supply calculated in accordance with section 13;
  - (b) every person who brings tangible personal property onto Huu-ay-aht Taxation Lands from a place in Canada shall pay to the Huu-ay-aht First Nations tax in respect of the bringing of the property onto those lands calculated in accordance with section 11; and
  - (c) every recipient of an imported taxable supply made on Huu-ay-aht Taxation Lands shall pay to the Huu-ay-aht First Nations tax in respect of the supply calculated in accordance with section 13.

### Supply Made on Huu-ay-aht Taxation Lands

- 5 A supply, other than an imported taxable supply, is made on Huu-ay-aht Taxation Lands only if at least one of the following conditions is met:
- (a) if the Huu-ay-aht Taxation 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 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 Act, be payable but for the connection of the supply with Huu-ay-aht Taxation 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 Specified Motor Vehicle Made on Huu-ay-aht Taxation Lands

- 6 Despite section 5, for the purposes of section 4(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 HUU-ay-aht Taxation Lands only if:

- (a) in the case of a recipient who is an individual, the recipient ordinarily resides on HUU-ay-aht Taxation 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 HUU-ay-aht Taxation Lands.

#### **Imported Taxable Supply Made on HUU-ay-aht Taxation Lands**

**7** An imported taxable supply is made on HUU-ay-aht Taxation 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 HUU-ay-aht Taxation 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 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 Act, be payable but for the connection of the supply with HUU-ay-aht Taxation 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 Tangible Personal Property onto HUU-ay-aht Taxation Lands**

**8** Subject to section 9, a tax in respect of the bringing of tangible personal property onto HUU-ay-aht Taxation 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 Parliament that is similar to the exemption under that section.

#### **Exception**

**9** A tax in respect of the bringing of tangible personal property onto HUU-ay-aht Taxation 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 Act, or section 212 of the *Excise Tax Act* before the property is brought onto Huu-ay-aht Taxation 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 Huu-ay-aht Taxation Lands if:
  - (i) the Huu-ay-aht Taxation 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 Act, is in force at the time the property is brought onto Huu-ay-aht Taxation 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 Huu-ay-aht Taxation Lands.

#### Carriers

- 10** For the purposes of this Act, if a particular person brings tangible personal property onto Huu-ay-aht Taxation Lands on behalf of another person, the other person, and not the particular person, is deemed to have brought the property onto Huu-ay-aht Taxation Lands.

#### Amount of Tax – Bringing of Tangible Personal Property onto Huu-ay-aht Taxation Lands

- 11** For the purposes of section 4, the amount of tax that is imposed under this Act in respect of the bringing of tangible personal property onto Huu-ay-aht Taxation 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 tangible personal 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 Huu-ay-aht Taxation 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 tangible personal property at the time the property is brought onto Huu-ay-aht Taxation Lands; and
  - (ii) the value of the consideration referred to in paragraph (a).

### Reporting and Payment of Tax

- 12** Tax that is imposed under this Act in respect of the bringing of tangible personal property onto Huu-ay-aht Taxation Lands shall become payable by the person who brings it onto Huu-ay-aht Taxation 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 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 Huu-ay-aht Taxation Lands

- 13** For the purposes of section 4(a) and section 4(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 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.

### Rules

- 14** The following rules apply for the purposes of this Act:
- (a) every provision of Part IX of the *Excise Tax Act* (other than a provision that creates a criminal offence) applies, with such modifications as the circumstances require, for the purposes of this Act as if tax referred to in each of section 4(a) and section 4(c) were imposed under subsection 165(1) and section 218 of the *Excise Tax Act*, respectively and, subject to section 12, as if tax referred to in paragraph 4(b) were

imposed under subsection 220.05(1) of the *Excise Tax Act* in respect of the bringing of property into a participating province, but this Act shall not thereby be construed as imposing a tax except as provided in sections 4 to 13;

- (b) this Act applies as if tax imposed under Part IX of the *Excise Tax Act* were imposed under this Act and as if the provisions of that Part (other than a provision that creates a criminal offence) relating to that tax were included in this Act, but this Act shall not thereby be construed as imposing a tax except as provided in this Part; and
- (c) for greater certainty,
  - (i) a person who does anything to satisfy a requirement of this Act that would satisfy a corresponding requirement of Part IX of the *Excise Tax Act* if the tax imposed under this Act were imposed under that Part is deemed to have satisfied the requirement of this Act;
  - (ii) a person who does anything to exercise an authority, right or privilege under this Act that would be a valid exercise of a corresponding authority, right or privilege under Part IX of the *Excise Tax Act* if the tax imposed under this Act were imposed under that Part is deemed to have validly exercised the authority, right or privilege under this Act;
  - (iii) a person who does anything to satisfy a requirement or exercise an authority, right or privilege under Part IX of the *Excise Tax Act* is deemed to have done that thing for the purposes of both that Part and this Act; and
  - (iv) a person who is a registrant for the purposes of Part IX of the *Excise Tax Act* is a registrant for the purposes of both that Part and this Act.

### **PART 3 - ADMINISTRATION, ENFORCEMENT AND REVENUE SHARING**

#### **Incorporated and Delegated Authorities**

- 15** For the purposes of this Act,
- (a) The Huu-ay-aht First Nations Government shall have all of the authorities, rights and privileges of the Minister of National Revenue under Part IX of the *Excise Tax Act* that are also within the jurisdiction of the Huu-ay-aht First Nations and, as the applicable branch of the Huu-ay-aht First Nations Government may determine for the better operation, administration and enforcement of this Act, that branch of the Huu-ay-aht First Nations Government may delegate its authorities, rights and privileges as provided in the administration agreement, including the authority to exercise any discretion or to perform the duties of the Huu-ay-aht First Nations Government under this Act; and
  - (b) a person who does anything to exercise an authority, right or privilege of the Huu-ay-aht First Nations Government under paragraph (a) that would be a valid exercise of a corresponding authority, right or privilege of the Minister of National Revenue under Part IX of the *Excise Tax Act* if the tax imposed under this Act were imposed under that Part is authorized to do that thing without need for further action, exercise of discretion or delegation by the Huu-ay-aht First Nations Government if the doing

of the thing is in respect of the administration or enforcement of this Act, or collection of amounts payable under this Act, by the Government of Canada on behalf of the HUU-ay-aht First Nations pursuant to an administration agreement.

### **Amounts Payable**

#### **16 All amounts payable under this Act**

- (a) are debts due to the HUU-ay-aht First Nations 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 debts due to Her Majesty acting on behalf of the HUU-ay-aht First Nations 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**

- 17**
- (1) Executive Council on behalf of the HUU-ay-aht First Nations Government may approve and authorize the Chief Councillor to enter into or to amend from time to time, an administration agreement.
  - (2) The Chief Councillor with the approval of Executive Council on behalf of the HUU-ay-aht First Government may enter into, and amend from time to time, an administration agreement with the Government of Canada under which the Government of Canada, on behalf of the HUU-ay-aht First Nations, will administer and enforce this Act, collect amounts payable under this Act and retain or make payments to the HUU-ay-aht First Nations in respect of amounts payable under this Act, in accordance with such terms and conditions, as to administration, enforcement, collection, retention and payment, as the administration agreement may prescribe.
  - (3) The Chief Councillor is designated as the authorized body for the purposes of a tax administration agreement with Canada.
  - (4) An administration agreement that is consistent with this Act and entered into by the Chief Councillor on behalf of the HUU-ay-aht First Nations prior to the coming into force of this Act is affirmed as if it were entered into under this Act.
  - (5) An administration agreement shall, among other things, provide for
    - (a) a revenue sharing mechanism; and
    - (b) payments, and the eligibility of the HUU-ay-aht First Nations for payments, by the Government of Canada to the HUU-ay-aht First Nations in respect of, and the method for estimating, tax attributable to the HUU-ay-aht First Nations.

### **Revenue Sharing**

- 18** The HUU-ay-aht First Nations are authorized to share in accordance with the terms of the administration agreement:

- (a) the tax attributable to the HUU-ay-aht First Nations, and
- (b) tax and other amounts payable under this Act that are not included in the tax attributable to the HUU-ay-aht First Nations.

#### **PART 4 - REMISSION**

##### **Remission by Canada**

- 19** (1) The HUU-ay-aht First Nations hereby delegate to Canada the authority to remit any amount payable under this Act where Canada considers that the collection or the enforcement of the payment of the amount is:
- (a) unreasonable;
  - (b) unjust; or
  - (c) otherwise not in the public interest.
- (2) Subsection (1) applies to any amount that is paid or becomes payable while an administration agreement is in effect and to any amount that becomes payable after an administration agreement has ceased to be in effect but that relates to an amount that became payable while such an administration agreement was in effect.
- (3) Where subsection (1) applies, an amount payable under this Act shall, for the purposes of subsection (1), be deemed to be “tax” as defined in the *Financial Administration Act* (Canada).

#### **PART 5 - GENERAL**

##### **Offences**

- 20** Where a person commits an act or omission in respect of this Act that would be an offence under a provision of Part IX of the *Excise Tax Act* or regulations made under that Act if the act or omission were committed in relation to that Part or those regulations, the person is guilty of an offence under this Act punishable on summary conviction and is liable on conviction to the punishment provided for in that provision upon summary conviction.

##### **Proof of Act**

- 21** A copy of this Act that is certified by the Chief Councillor to be a true copy is evidence that this Act was duly enacted by the HUU-ay-aht First Nations Government without proof of the signature or official character of the Chief Councillor.

##### **Cross Reference in Administration Agreement**

- 22** For greater certainty, the reference in clause 43 of the administration agreement which came into effect on January 27, 2020 is a reference to section 21 of this Act.

##### **Coming into Force**

- 23** This Act comes into force on the date of its enactment.