

TA'AN KWÄCH'ÄN COUNCIL

Chapter 3

Income Tax Act

June 2007

Ta'an Kwäch'än Council

INCOME TAX ACT

Enacted on this 18th day of June 2007

Chief Ruth Massie

The Board of Directors of the Ta'an Kwäch'än Council hereby enacts as follows:

Short title

1. This Act may be cited as the *Income Tax Act*.

Interpretation

2. In this Act,

"Board" means the Board pursuant to the Constitution;

"Chief" means the Chief of the Ta'an Kwäch'än Council under the Constitution;

"Commissioner" means the Commissioner of the Yukon;

"Constitution" means the *Constitution of the Ta'an Kwäch'än Council*, as amended from time to time;

"federal Act" means the *Income Tax Act*, R.S.C. 1985 (5th Supp.), c. 1;

"individual" means a person other than a corporation and includes a trust or an estate as defined in section 104 (1) of the federal Act;

"Minister" means the Minister of National Revenue for Canada and any other person charged by federal legislation with responsibility for the federal Act, but in any provision of this Act which incorporates by reference the federal Act, means, in the absence of a tax collection agreement, the Board;

"Settlement Land" means settlement land of the Ta'an Kwäch'än Council under the Ta'an Kwäch'än Council Final Agreement, the *Yukon First Nations Land Claims Settlement Act*, S.C. 1994, c. 34, and *An Act Approving Yukon Land Claims Final Agreements*, S.Y. 1993, c. 19;

“taxation year” has the same meaning as in subsection 249 (1) of the federal Act and, in the case of an estate or trust arising on death, has the same meaning as in subsection 104 (23) of the federal Act;

“tax payable under the federal Act” means the amount that, but for section 120 of the federal Act, would be the tax payable by an individual under Part I of that Act for the taxation year in respect of which the expression is being applied, computed as if the individual were not entitled to any deduction under sections 126, 127, 127.2, 127.4 or 127.41 of that Act or to a Yukon First Nation income tax credit under that Act;

“tax payable under the territorial Act” means the amount that would be the tax payable by an individual under the territorial Act for the taxation year in respect of which the expression is being applied, computed as if the individual were not entitled to a deduction under section 5 of that Act or to a Yukon First Nation income tax credit under that Act and, for greater certainty, includes the surtax eligible under that Act;

“territorial Act” means the *Income Tax Act*, R.S.Y. 1986, c. 90; and

“trust” means a trust referred to in subdivision k of Division B of Part I of the federal Act, and includes an *inter vivos* trust deemed under subsection 149 (5) of the federal Act to have been created and to have been in existence throughout a period that includes the last day of the taxation year.

3. Except where they are at variance with the definitions contained in section 2 or in the *Yukon First Nations Self-Government Act*, S.C. 1994, c. 35, the definitions and interpretations contained in the federal Act and in the territorial Act, as the case may be, shall apply for the purposes of this Act.

4. Where there is any inconsistency or conflict between the provisions of the federal Act and the provisions of the territorial Act, the provisions of the federal Act shall prevail for the purposes of this Act.

5. In the case of an individual who resided in Canada at any time in the taxation year but ceased to reside in Canada before the last day thereof, the expression “last day of the taxation year” shall be deemed to be a reference to the last day in the taxation year on which the individual resided in Canada.

6. The tax payable by an individual under this Act is based on the tax payable under the federal Act and the tax payable under the territorial Act as fixed by assessment subject to variation on objection or appeal, if any, in accordance with Part I of the federal Act.

7. This Act shall be interpreted in accordance with the *Interpretation Act*, R.S.C. 1985, c. I-21, with such modifications as the circumstances require.

PART ONE

Tax on the income of individuals

8. An income tax shall be paid as required by this Act for each taxation year by every individual who was resident within Settlement Land on the last day of the taxation year.

Computation of tax

9. For the purposes of this section and sections 10 and 11,

“income earned in the taxation year outside Yukon” means income for the year minus income earned in the taxation year on Settlement Land;

“income earned in the taxation year on Settlement Land” means the amount of income that would be determined to be earned in the Yukon for the purposes of determining the amount of income earned in the year in a province under section 120 of the federal Act; and

“income for the year” means

- (a) in the case of an individual resident in Canada during part only of the taxation year in respect of whom section 114 of the federal Act applies, the aggregate of that individual’s income for the period or periods in the year referred to in paragraph 114 (a) of the federal Act as determined in accordance with the federal Act as though such portion of the year were the whole taxation year; or
- (b) in the case of any other individual, income for the year as determined in accordance with the federal Act.

10. The tax payable under this Act for a taxation year by an individual who was resident within Settlement Land on the last day of the taxation year and who had no income earned in the taxation year outside Yukon is the aggregate of:

- (a) (i) for taxation years ending after 2003 and before 2012, 75% of the tax payable under the federal Act for that taxation year; and
- (ii) for taxation years ending after 2012, 95% of the tax payable under the federal Act for that taxation year; and
- (b) 95% of the tax payable under the territorial Act for that taxation year.

11. The tax payable under this Act for a taxation year by an individual who was resident within Settlement Land on the last day of the taxation year and who had income earned in the taxation year outside Yukon is the aggregate amount that bears the same relation to:

- (a) (i) for taxation years ending after 2003 and before 2012, 75% of the tax payable under the federal Act for that taxation year; and
- (ii) for taxation years ending after 2012, 95% of the tax payable under the federal Act for that taxation year; and
- (b) 95% of the tax payable under the territorial Act for that taxation year, that the individual’s income earned in the taxation year within Settlement Land bears to that individual’s income for that year.

12. For the purposes of section 13,

“Citizen” means a citizen of the Ta’an Kwäch’än Council under the Constitution;

“eligible individual” means an individual who is a status Indian and who, at the valuation time, is a Citizen or holds an eligible interest;

“eligible interest” means any estate or interest in specified land or in personal property situate on specified land;

“reserve” means a reserve within the meaning of the *Indian Act*, R.S.C. 1985, c. I-5;

“specified land” means and includes Settlement Land and, if the individual is a status Indian who is a Citizen, a reserve;

“status Indian” means an individual who is a status Indian within the meaning of the *Indian Act*, R.S.C.1985, c. I-5; and

“valuation time” means the beginning of January 1 of the first calendar year that begins after the third anniversary date of the effective date of the *Yukon First Nations Land Claims Settlement Act*, S.C. 1994, c.34, and *An Act Approving Yukon Land Claims Final Agreements*, S.Y. 1993, c. 19.

13. For the purposes of this Act, an eligible individual is deemed to have disposed of all of the individual’s eligible interests at the time that is immediately prior to the valuation time for an amount equal to its fair market value at that time and to have reacquired the eligible interests at the valuation time at a cost equal to the fair market value.

PART TWO

Returns, assessments, administration, collections, enforcement and appeals

14. Except as may be provided in this Part, and to the extent they are consistent otherwise with this Act, the provisions of Divisions I and J of Part I and Parts XV and XVI of the federal Act, and the provisions of Division 4 of Part 1 and Parts 2 and 3 of the territorial Act, are incorporated as provisions of this Act in relation to tax payable under Part I of this Act, with such modifications as the circumstances require.

15. For the purposes of this Act, the Board shall have all the rights, powers and privileges of the Minister under the federal Act and of the Commissioner under the territorial Act and may delegate its powers and the exercise of its rights and privileges to the Minister, as the Board may determine to be required for the better operation, administration and enforcement of this Act.

16. For greater certainty,

(a) all taxes, interest, penalties, costs and other amounts payable under this Act are debts due to the Ta’an Kwäch’än Council and recoverable as such in any court of competent jurisdiction or in any other manner provided by this Act; and

(b) if there is a tax collection agreement between the Ta’an Kwäch’än Council and the Government of Canada,

(i) any amount payable under this Act may be recovered by Her Majesty as a debt due to Her Majesty on behalf of the Ta’an Kwäch’än Council and is recoverable as such in any court of competent jurisdiction or in any other manner provided by this Act;

(ii) this Act is to operate concurrently with, but not in duplication of, the federal Act and the territorial Act; and

(iii) for the purposes of administration, enforcement and collection, an action or exercise of discretion by the Minister for the purposes of the federal Act shall be an action or exercise of discretion for the purposes of this Act, without need for further action or the exercise of discretion by the Board for the purposes of enforcement under this Act.

PART THREE

Tax collection agreement

17. The Chief of the Ta'an Kwäch'än Council, with the approval of the Board, may, on behalf of the Ta'an Kwäch'än Council, enter into a tax collection agreement with the Government of Canada under which the Government of Canada, on behalf of the Ta'an Kwäch'än Council, will collect amounts payable under this Act and will make payments to the Ta'an Kwäch'än Council in respect of such tax in accordance with such terms and conditions, as to collection and payment, as the agreement may prescribe.

18. The Chief of the Ta'an Kwäch'än Council, with the approval of the Board, may, on behalf of the Ta'an Kwäch'än Council, enter into a tax collection agreement with the Government of Canada amending the terms and conditions of an agreement entered into pursuant to section 17.

19. A tax collection agreement with the Government of Canada which is consistent with this Act, approved by the Board and entered into by the Chief on behalf of the Ta'an Kwäch'än Council prior to the coming into force of this Act is affirmed as if it were entered into under this Act.

20. For the purposes of a tax collection agreement, the Board may
- (a) appoint the Minister as agent of the Ta'an Kwäch'än Council;
 - (b) delegate to the Minister, in respect of tax payable under this Act, the authority to exercise any discretion, employ the powers and perform the duties of the Board under this Act; and
 - (c) delegate to the Deputy Minister of National Revenue, in respect of amounts payable under this Act, the authority to exercise any discretion, employ the powers and perform the duties of the Board under this Act, and to designate officers of the Department of National Revenue to carry out such functions and duties, and to exercise such powers, as are similar to those that are exercised by them on the Minister's behalf under the federal Act.

PART FOUR

Confidentiality

21. No person shall provide access to information obtained in the administration of this Act that may directly or indirectly identify a person except

- (a) for the purposes of administering or enforcing this Act, the federal Act or the territorial Act;
- (b) for the purpose for which taxpayer information may be provided under this Act, the federal Act or the territorial Act;
- (c) for the purpose of any legal proceedings related to administration or enforcement of this Act, the federal Act or the territorial Act, the *Canada Pension Plan*, R.S.C. 1985, c. C-8, the *Employment Insurance Act*, S.C. 1996, c. 23 or any other law of the Ta'an Kwäch'än Council or any other law of general application which provides for the imposition or collection of a tax or duty;
- (d) to the person to whom the information relates;
- (e) to the Board, and to any person engaged in the tax administration of the Ta'an Kwäch'än Council who is authorized by the Board to have access to the information, for the purposes of formulating or implementing the fiscal policy of the Ta'an Kwäch'än Council;

(f) to an official of the Department of Finance, Government of Canada, or an official of the Department of Finance, Government of Yukon, for the purposes of formulating or implementing the fiscal policy of the Government of Canada or of the Government of Yukon; and

(g) to any person legally entitled under a law of the Ta'an Kwäch'än Council or a law of general application to have access to it, solely for the purpose for which that person is entitled to have such access.

Offences

22. Every person to whom information has been provided for a particular purpose under section 21 and who for any other purpose knowingly uses, provides to any person, allows the provision to any person of, or allows any person access to, that information is guilty of an offence and is liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

23. Every person who contravenes this Act, except section 22, is guilty of an offence and is liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

PART FIVE

Regulations

24. The Board shall by regulation prescribe for the purposes of subsections 10 (a) (i) and 11 (a) (i) of this Act the percentage of tax payable under the federal Act for the taxation years ending after 2003 and before 2012 and may make such other regulations as it deems required for the purposes of this Act.

Coming into Force

25. This Act shall replace the *Income Tax Act* that was brought into force on January 1, 2003.