

TOQUAHT NATION GOVERNMENT
REAL PROPERTY TAX ACT

TNS 18/2011



This law enacted on May 26, 2011

Signed Anne Mack
Anne Mack, Tyee Ha'wilt of the
Toquaht Nation

DEPOSITED IN THE
REGISTRY OF LAWS
ON 26 / 05 / 11
[Signature]
Signature of Law Clerk

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PREAMBLE

Through the act of governing and as a treaty first nation, the Toquaht Nation assumes the responsibility of providing responsible, transparent and accountable government, blending hereditary and modern-day governing systems. In doing so, we honour our past and embrace the future ensuring the continued existence of the Toquaht Nation as a strong political, social and cultural community that aspires to grow as an organized, determined, successful and self-reliant peoples.

The Toquaht Nation asserts that since time out of mind we have had a system for distributing the wealth and resources within our traditional territory. The great potlatches our ancestors hosted were once the primary means in which wealth was distributed among our people. We wish to honour this practice and carry it on in the modern world by putting in place a real property tax system through which revenues are collected from owners and occupiers of Toquaht lands and used to help fund programs and services for our people.

The Toquaht Nation adopts this Act based on these values.

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Real Property Tax Act.

Executive oversight

1.2 The member of the Executive holding the finance portfolio is responsible for the executive oversight of this Act.

Application

1.3 This Act applies to all Toquaht lands and their improvements.

Definitions

1.4 In this Act,

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

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

“director” means the director of finance;

“impose” includes levy;

“local authority” has the meaning given to that term in the Community Charter (British Columbia);

“non-citizen stakeholder” means an individual who has reached the age of majority, is not a Toquaht citizen and is either

(a) a registered owner of real property within Toquaht lands, or

(b) ordinarily resident on Toquaht lands;

“partnering agreement” means an agreement between the Toquaht Nation and a person or public authority under which the person or public authority agrees to provide a service on behalf of the Toquaht Nation, other than a service that is part of the general administration of the Toquaht Nation;

“Provincial Taxation Authority” means a public authority that is authorized under an enactment of British Columbia either to impose real property taxes or to receive revenue from real property taxes imposed or collected for it by the Surveyor of Taxes on Toquaht lands;

“public authority” has the meaning given to that term in the Community Charter (British Columbia);

“registered” means, in respect of real property, registered in the records of the lands registry office 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 subsections (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 subsection (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 subsection (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 Toquaht Nation, an activity, work or facility undertaken or provided by or on behalf of the Toquaht Nation;

“Surveyor of Taxes” has the meaning given to that term 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 director in accordance with Part 8;

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

“taxes” include 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;

“Toquaht Taxation Authority” means the Toquaht public institution established under section 2.1.

Incorporation of British Columbia assessment rules

- 1.5** (a) Words and expressions not defined in this Act, but defined in the Assessment Act (British Columbia) have the meanings given to them in the Assessment Act (British Columbia).
- (b) The Assessment Act (British Columbia) and the Assessment Authority Act (British Columbia) apply in relation to the assessment of Toquaht lands and their improvements for the purposes of taxation under this Act.
- (c) The Assessment Authority must assess Toquaht lands and their improvements in accordance with the Assessment Act (British Columbia) and any policies of the Assessment Authority.

PART 2 - TAXATION AUTHORITY

Toquaht Taxation Authority

- 2.1** (a) The Toquaht Taxation Authority is established as a Toquaht public institution under 13.11.1a of Chapter 13 Governance of the Maa-nulth Treaty.
- (b) The Executive must appoint three individuals as directors of the Toquaht Taxation Authority, two of whom must be members of the Executive and one of whom must be a non-citizen stakeholder.
- (c) The Executive must consult with non-citizen stakeholders regarding the appointment of the non-citizen stakeholder under subsection (b).
- (d) Directors of the Toquaht Taxation Authority hold office for a term of four years or until they resign or are replaced in accordance with this Act.
- (e) Despite subsections (b) to (d), if there are no non-citizen stakeholders or no non-citizen stakeholders wish to become directors of the Toquaht Taxation Authority at the time of the appointment, the Executive must appoint three members of the Executive as directors of the Toquaht Taxation Authority,
- (i) two of whom hold office for a term of four years or until they resign or are replaced in accordance with this Act, and
- (ii) one of whom holds office for a term of four years, until he or she resigns or is replaced in accordance with this Act or until a non-citizen stakeholder delivers notice in writing to the Executive that he or she wishes to become a director of the Toquaht Taxation Authority.
- (f) A director of the Toquaht Taxation Authority may be removed or replaced at any time by the Executive by motion.
- (g) Subject to this Act, the Toquaht Taxation Authority may establish its own rules of order and procedure.

PART 3 - TAX LIABILITY

Tax liability

- 3.1**
- (a) Except as provided in Part 4, all Toquaht lands and their improvements are subject to taxation under this Act.
 - (b) If a person's interest in Toquaht lands is not subject to taxation under this Act, the liability for taxes of any other person in relation to the same property is not affected.
 - (c) 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.
 - (d) Taxes are due and payable under this Act notwithstanding a proceeding under subsection (c).
 - (e) Any persons who share the same interest in taxable property are jointly and severally liable to the Toquaht Nation in relation to that taxable property for
 - (i) all taxes imposed under this Act in the current taxation year, and
 - (ii) all unpaid taxes owing under this Act for a previous taxation year,including, for certainty, any penalties and interest added to those taxes in accordance with this Act.
 - (f) Despite subsection (a) and Part 4, if Toquaht lands or their improvements are assessed under section 27 of the Assessment Act (British Columbia), the land or improvements are liable to taxation under this Act.
 - (g) Subsection (f) does not make the following liable to taxation under this Act:
 - (i) land or improvements otherwise exempt under Part 4; and
 - (ii) a highway occupied by
 - (A) a gas, electric light, telephone, telegraph, power, pipeline, water, motor bus, electric trolley bus, radio or television broadcasting or closed circuit television company, or
 - (B) a company that, in addition to any other function, provides a service similar in nature to a service referred to in subparagraph (A).
 - (h) Except as provided in the Veterans' Land Act (Canada), taxes imposed on land and improvements referred to in subsection (f) are a liability only of the holder or occupier, recoverable in the manner set out in this Act.

Tax refunds

- 3.2** (a) If
- (i) the assessor or a court of competent jurisdiction determines that a person is not liable for taxes imposed under this Act, or
 - (ii) it is determined under this Act that a person was taxed in excess of the proper amount,
- the director must refund any excess taxes paid by or on behalf of that person.
- (b) If a person is entitled to a refund under subsection (a), the Executive may, by resolution, authorize the director to refund the amount in whole or in part by applying it as a credit on account of taxes or other unpaid amounts due or accruing due to the Toquaht Nation in relation to taxable property held by that person.
- (c) If a person is entitled to a refund under subsection (a), the director must pay the person interest in accordance with the following rules:
- (i) interest accrues from the date that the taxes were originally paid to the Toquaht Nation;
 - (ii) 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 Toquaht Nation on the 15th day of the month immediately preceding that 3 month period;
 - (iii) interest is not compounded;
 - (iv) interest stops running on the date payment of the money owed is delivered in accordance with Toquaht law to the person to whom it is owed.

PART 4 - TAX EXEMPTIONS

Statutory exemptions

- 4.1** (a) For certainty, property exempt from taxation under the Maa-nulth Treaty, the tax treatment agreement or the Treaty First Nations Taxation Act (British Columbia) is exempt from taxation under this Act.
- (b) If not already exempt from taxation under the Maa-nulth Treaty, the tax treatment agreement or the Treaty First Nations Taxation Act (British Columbia), the following property is exempt from taxation under this Act:
- (i) land or improvements vested in or held by the Toquaht Nation;
 - (ii) land or improvements vested in or held by British Columbia;
 - (iii) land or improvements vested in or held by the Toquaht Nation jointly with another first nation, British Columbia, a municipality or a regional district;
 - (iv) 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

- 4.2** (a) Subject to this section, the Executive may, by regulation, exempt property referred to in subsection (b) from taxation under this Act to the extent provided in the regulation.
- (b) The following property is eligible for an exemption under this section:
- (i) land or improvements that
 - (A) are owned or held by a charitable, philanthropic or other not for profit corporation, and
 - (B) the Executive considers are used for a purpose directly related to the purposes of the corporation;
 - (ii) land or improvements that
 - (A) are owned or held by a first nation, municipality, regional district or other local authority, and
 - (B) the Executive considers are used for a purpose of the local authority;
 - (iii) land or improvements that the Executive considers would otherwise qualify for exemption under section 4.1 were it not for a secondary use;

- (iv) the interest of a 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
 - (A) the land or improvements are owned by a public authority or local authority, and
 - (B) 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 4.1 would apply or could be provided if the land or improvements were owned by that corporation or organization;
- (v) the interest of a 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
 - (A) the land or improvements are owned by a person who is providing a service to the Toquaht Nation under a partnering agreement,
 - (B) an exemption under section 4.3 would be available for the land or improvements in relation to the partnering agreement if they were used in relation to the service,
 - (C) the partnering agreement expressly contemplates that the Executive may provide an exemption under this section, and
 - (D) 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 4.1 would apply or could be provided if the land or improvements were owned by that corporation or organization;
- (vi) 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 the Executive considers is necessary to land or improvements so used or occupied;
- (vii) 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;
- (viii) land or improvements owned or held by a person or organization and operated as a private hospital;

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- (ix) 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 Toquaht Nation; and
 - (x) land or improvements that are
 - (A) owned by the Toquaht Nation, and
 - (B) rented by the Toquaht Nation 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 core housing need.
 - (c) A regulation under this section
 - (i) must establish the term of the exemption, which may not be longer than 10 years,
 - (ii) may only be enacted after
 - (A) notice of the proposed regulation has been given in accordance with section 4.5, and
 - (B) the proposed regulation has been approved by the Toquaht Taxation Authority by an affirmative vote of at least a majority of all directors of the Toquaht Taxation Authority, and
 - (iii) does not apply to taxation in a calendar year unless it comes into force on or before October 31 of the preceding year.
 - (d) If only a portion of a parcel of land is exempt under this section, the regulation must include a description of the land that is satisfactory to the assessor.
 - (e) 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 this, the property is liable to taxation under this Act.

Special exemptions

- 4.3** (a) In this section,
- “eligible property” means property referred to in subsection (c);
 - “exemption agreement” means an agreement under subsection (d).
- (b) Subject to this section, the Executive may, by regulation, exempt eligible property from taxation under this Act to the extent provided in the regulation and subject to any conditions established by an exemption agreement.

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- (c) The following property is eligible for an exemption under this section:
- (i) eligible partnering property, being property that
 - (A) is owned by a person or public authority providing a service under a partnering agreement, and
 - (B) the Executive considers will be used in relation to the service being provided under the partnering agreement;
 - (ii) eligible heritage property, being property that is
 - (A) protected heritage property,
 - (B) subject to a heritage revitalization agreement
 - (C) subject to a covenant under section 7.13 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 subparagraphs (i) to (iii) is a building or other improvement so affixed to the land as to constitute real property, an area of land surrounding that improvement;
 - (iii) eligible riparian property, being property that
 - (A) is riparian land,
 - (B) is subject to a covenant under section 7.13 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 Toquaht Nation granting the exemption under this section as a covenantee in whose favour the covenant is made, and
 - (C) meets any other prescribed requirements;
 - (iv) eligible cemetery property, being land held for cemetery, mausoleum or columbarium purposes; and
 - (v) eligible golf course property, being land maintained as a golf course.
- (d) For the purposes of this section, the Executive may enter into an agreement with an owner of property that is exempt or is to be exempt under this section respecting the extent of the exemption and the conditions on which it is made.

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- (e) Without limiting subsection (d), an exemption agreement may do one or more of the following:
- (i) require the eligible property to be subject to a covenant under section 7.13 of the Land Act or section 219 of the Land Title Act (British Columbia) in favour of the Toquaht Nation;
 - (ii) provide that, if
 - (A) a condition is not met,
 - (B) a required covenant under section 7.13 of the Land Act or section 219 of the Land Title Act (British Columbia) is discharged, or
 - (C) any other circumstances specified in the agreement occur,the property owner must pay to the Toquaht Nation an amount determined in accordance with the agreement.
- (f) A regulation under this section
- (i) must specify the term of the exemption,
 - (ii) may only be enacted after
 - (A) notice of the proposed regulation has been given in accordance with section 4.3, and
 - (B) the proposed regulation has been approved by the Toquaht Taxation Authority by an affirmative vote of at least a majority of all directors of the Toquaht Taxation Authority, and
 - (iii) does not apply to taxation in a calendar year unless it comes into force on or before October 31 of the preceding year.
- (g) 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 this, the property is liable to taxation under this Act.

Revitalization exemptions

- 4.4** (a) 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 (d).
- (b) For the purpose of encouraging revitalization of Toquaht lands, the Executive may exempt property from taxation under this Act in accordance with this section.
- (c) For an exemption under this section to apply to a particular property,
- (i) the exemption must be in accordance with a revitalization program regulation,
 - (ii) an exemption agreement must be entered into in relation to the property, and
 - (iii) an exemption certificate must be issued in relation to the property.
- (d) The Executive may, by regulation, establish a revitalization tax exemption program.
- (e) A revitalization program regulation must include the following:
- (i) a description of the objectives of the program;
 - (ii) a description of how the program is intended to accomplish those objectives;
 - (iii) a description of the kinds of property, or related activities or circumstances, that are eligible for an exemption under the program;
 - (iv) 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;
 - (v) the maximum term of an exemption that may be provided under the program, which may not be longer than 10 years.
- (f) A revitalization program regulation
- (i) may include any other provisions the Executive considers necessary or advisable for the purposes of the program including but not limited to
 - (A) the requirements that must be met before an exemption certificate may be issued,
 - (B) conditions that must be included in an exemption certificate, and
 - (C) provision for a recapture amount that must be paid by the owner of the property to the Toquaht Nation if the conditions specified in the exemption certificate are not met,

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- (ii) may differ for different
 - (A) areas of Toquaht lands,
 - (B) property classes,
 - (C) activities or circumstances related to a property or its uses, and
 - (D) uses as established by a zoning law.
 - (iii) may only be enacted after
 - (A) notice of the proposed regulation has been given in accordance with section 4.3, and
 - (B) the proposed regulation has been approved by the Toquaht Taxation Authority by an affirmative vote of at least a majority of all directors of the Toquaht Taxation Authority.
 - (g) The Executive may enter into an agreement with an owner of property respecting the provision of an exemption under this section, including
 - (i) any requirements that must be met before the exemption will be provided, and
 - (ii) any conditions on which the exemption is to be provided.
 - (h) Once
 - (i) all requirements established in the revitalization program regulation, and
 - (ii) any additional requirements established in the exemption agreement in relation to a property

have been met, the director must issue an exemption certificate in relation to the property in accordance with subsection (i), the revitalization program regulation and the exemption agreement.
 - (i) An exemption certificate must specify the following:
 - (i) the amount of the exemption or the formula for determining the amount of the exemption;
 - (ii) the term of the exemption;
 - (iii) if applicable, the conditions on which the exemption is provided;

- (iv) if applicable, that the recapture amount payable if the exemption certificate is cancelled or how that amount is to be determined.
- (j) If an exemption certificate in relation to a property has not been cancelled or expired, the property exempt from taxation under this Act.
- (k) The Executive Council may cancel an exemption certificate
 - (i) on the request of the property owner, or
 - (ii) if any of the conditions specified in the exemption certificate are not met.
- (l) 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.
- (m) The director must
 - (i) provide a copy of all exemption certificates to the assessor as soon as practicable after they are issued, and
 - (ii) if applicable, notify that assessor as soon as practicable after an exemption certificate is cancelled.

Notice of exemption regulations

- 4.5**
- (a) The Executive must post in accordance with Toquaht law a notice of a proposed regulation under this Part for a period of not less than two consecutive weeks prior to the enactment of the regulation.
 - (b) Subject to subsection (c), a notice under subsection (a) must
 - (i) identify the property that would be exempt from taxation,
 - (ii) state the number of years that the exemption would be provided, and
 - (iii) 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 two years.
 - (c) In the case of a proposed regulation under section 4.4, a notice under subsection (a) must include a general description of each of the following:
 - (i) the objectives of the proposed program;
 - (ii) how the proposed program is intended to accomplish those objectives;

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- (iii) the kinds of property, or related activities or circumstances, that would be eligible for an exemption under the program;
 - (iv) the amounts and maximum terms of exemptions that could be provided under the proposed program.

Requisitions

- 4.6** 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
- (a) to the extent that land and improvements were treated as taxable under the applicable Act for the purpose of determining the amount of the requisition, land and improvements must be treated as taxable under this Act, and
 - (b) to the extent that land and improvements were treated as exempt from taxation under the applicable Act for the purpose of determining the amount of the requisition, land and improvements must be treated as exempt from taxation under this Act.

PART 5 - TAX ABATEMENT

Home owner grant

- 5.1** While the exemption under 19.5.2 of Chapter 19 Taxation of the Maa-nulth Treaty is in effect in relation to real property taxation, the Executive 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

- 5.2**
- (a) Subject to this section, the Executive may, by regulation, provide a grant to taxpayers in financial need.
 - (b) A regulation under this section may only be enacted after
 - (i) notice of the proposed regulation has been given in accordance with subsection (c),
 - (ii) the proposed regulation has been approved by the Toquaht Taxation Authority by an affirmative vote of at least a majority of all directors of the Toquaht Taxation Authority.
 - (c) The Executive must post in accordance with Toquaht law a notice of a proposed regulation under this Part for a period of not less than two consecutive weeks prior to the enactment of the regulation.

PART 6 - TAX LEVY

Tax levy

- 6.1** (a) After March 31 and on or before May 28 of each year, the Executive must, by regulation, establish a tax rate for each property class for that year, being the aggregate of the following:
- (i) an education equivalency tax rate for general Toquaht Nation 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),
 - (ii) 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, and
 - (iii) a tax rate sufficient to meet the costs of any local services provided by the Toquaht Nation that the Toquaht Nation proposes to raise from taxes imposed under this Act for that year, as provided in the annual budget approved by Council under the Financial Administration Act.
- (b) A regulation under this section may only be enacted after the proposed regulation has been approved by the Toquaht Taxation Authority by an affirmative vote of at least a majority of all directors of the Toquaht Taxation Authority.
- (c) The Executive may establish a different tax rate for each property class.
- (d) Taxes levied under this Act
- (i) are to be calculated by applying the applicable tax rate against each \$1,000 of the assessed value of land or improvements, and
 - (ii) 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

- 7.1** (a) In each taxation year, the director must prepare a tax roll for that taxation year.
- (b) The tax roll must be in paper or electronic form and must contain the following information in relation to taxable property:
- (i) a description of the property as it appears on the assessment roll;
 - (ii) the name and address of the owner or occupier entered on the assessment roll in relation to the property;
 - (iii) the name and address of any other person entered on the assessment roll in relation to the property;
 - (iv) the assessed value by classification of the land and its improvements as they appear on the assessment roll, exclusive of exemptions, if any;
 - (v) the amount of taxes levied under this Act in the current taxation year;
 - (vi) the amount of any unpaid taxes owing under this Act for previous taxation years.
- (c) The director may use the certified assessment roll as the tax roll by adding the information referred to in subsections (b)(v) and (b)(vi) to it.

Tax notices

- 7.2** (a) On or before June 1 of each year, the director must deliver in accordance with Toquaht law a tax notice to
- (i) each owner or occupier of taxable property, and
 - (ii) any other person whose name appears on the tax roll in relation to the property
- to the address of the person as shown on the tax roll.
- (b) The director must enter on the tax roll the date on which a tax notice was mailed.
- (c) The mailing of a tax notice by the director constitutes a statement of and demand for payment of the taxes set out on the tax notice.
- (d) 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.

- (e) 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 director must mail a copy of all tax notices issued in relation to the property to the holder of the charge during the duration of the charge.

Adjustment for amended or supplementary assessment rolls

- 7.3** (a) If
- (i) the assessment roll has been revised, or
 - (ii) a supplementary assessment roll has been issued,
- the director must
- (iii) amend the tax roll, or
 - (iv) create a supplementary tax roll,
- as necessary, and must delivered in accordance with Toquaht law an amended tax notice to every person affected by the amended or supplementary tax roll.
- (b) The duties imposed on the 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.
 - (c) If an amended tax notice indicates a reduction in the amount of taxes owing, the director must immediately refund any excess taxes that have been paid in accordance with section 3.2.
 - (d) 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.
 - (e) Despite subsection (d),
 - (i) a taxpayer must be given 30 days to pay the taxes due and payable under that subsection, and
 - (ii) a penalty or interest must not be added during that 30 day period.

Adjustment for subdivision of property

- 7.4** (a) If a property is subdivided after the assessment roll for a taxation year has been certified, before June 1 of that taxation year, the 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.

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- (b) The director may record any apportionment under subsection (a) on the tall roll in the manner the director considers necessary or appropriate.
 - (c) Taxes apportioned to a property under subsection (a) are the taxes payable in relation to that property for the year in which they were apportioned.
 - (d) The assessor must provide the director with the assessed values necessary to calculate the proportions referred to in subsection (a).

Requests for information

- 7.5**
- (a) The director may deliver a request for information to an owner, occupier or person who has disposed of property.
 - (b) A person to whom the director delivers a request for information must provide the information requested to the director within 14 days or a longer period specified in the request.
 - (c) The director is not bound by information provided in response to a request for information.

PART 8 - PAYMENTS, PENALTIES AND INTEREST

Due date for taxes

- 8.1** 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

- 8.2** 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 the unpaid amount and the amount so added is deemed for all purposes to be part of the taxes.

Interest on unpaid taxes

- 8.3** 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 Toquaht Nation 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

- 8.4** Taxes levied under this Act must be paid at the Toquaht administrative office during normal business hours,
- (a) by cheque or money order made payable to the Toquaht Nation, or
 - (b) by cash.

Application of payments

- 8.5** Payments for taxes levied under this Act must be credited by the 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; and
 - (c) third, to unpaid taxes for the current taxation year.

Receipts for payments

- 8.6** On receipt of a payment for taxes levied under this Act, the 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

- 8.7** On receipt of a written request and payment of any prescribed fee prescribed, the director must issue a tax certificate to the person who made the request.

PART 9 - TAX REVENUES

Real property tax budget

- 9.1**
- (a) On or before January 31 of each year, the director must prepare and submit to the Toquaht Taxation Authority for review a draft real property tax budget for the next fiscal year.
 - (b) On or before February 15 of each year, the Toquaht Taxation Authority must approve the real property tax budget for the next fiscal year by an affirmative vote of at least a majority of all directors of the Toquaht Taxation Authority.
 - (c) A real property tax budget approved by the Toquaht Taxation Authority under subsection (b) must
 - (i) be incorporated into the annual budget approved by Council under the Financial Administration Act.
 - (ii) set out the amount of revenues the Toquaht Nation plans to raise from taxes levied under this Act and how the Toquaht Nation plans to expend those revenues.

Tax revenues

- 9.2** Money received by the Toquaht Nation for taxes levied under this Act
- (a) must be deposited into the general account established under the Financial Administration Act, and
 - (b) must not be paid out of the general account unless the expenditure is authorized under the Financial Administration Act.

PART 10 - ENFORCEMENT

General collection authority

- 10.1** (a) Taxes owed to the Toquaht Nation under this Act are a debt due to the Toquaht Nation recoverable by the Toquaht Nation
- (i) in any court of competent jurisdiction, or
 - (ii) by any other method authorized by law
- and, unless otherwise provided, the use of one method does not prevent the use of one or more other methods.
- (b) A copy of a tax notice issued to a person, certified as a true copy by the director, is evidence of that person's debt for the taxes set out on the tax notice.

Tax arrears certificate

- 10.2** (a) Before any enforcement measures may be taken or any enforcement proceedings may commenced under this Part, the director must
- (i) issue a tax arrears certificate, and
 - (ii) deliver in accordance with Toquaht law the tax arrears certificate to every person named on the tax roll in relation to the property.
- (b) A tax arrears certificate must not be issued for at least six months after the day on which the taxes set out on the tax arrears certificate become due.

Anticipated removal of property

- 10.3** Despite section 10.2(b), if the Executive has reasonable grounds to believe that a taxpayer intends to
- (a) remove the taxpayer's personal property from Toquaht lands,
 - (b) dismantle or remove the taxpayer's improvements on Toquaht lands, or
 - (c) take any other action that may prevent or impede the collection of unpaid taxes owing under this Act,

the Executive 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

- 10.4** (a) Unpaid taxes owing under this Act are a lien on the land or improvements to which they pertain and that lien
- (i) attaches to the land or improvements,
 - (ii) binds subsequent owners of the land or improvements,
 - (iii) has priority over any charge, claim, privilege, lien or security interest on or in relation to in the land or improvements, and
 - (iv) does not require registration to preserve it.
- (b) The director must maintain a list of all liens created under this section.
- (c) The Executive may apply to any court of competent jurisdiction to protect or enforce a lien created under this section.

PART 11 - GENERAL PROVISIONS

Regulations

11.1 The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.

Validity

11.2 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 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 Toquaht Nation, the director or the assessor to do something within the required time.

Limitation on actions

- 11.3**
- (a) A person may not commence an action for the return of money paid to the Toquaht Nation, 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 six months from the date the payment was made.
 - (b) If a person fails to commence an action within the time limit referred to in subsection (a), the money paid to Toquaht Nation is conclusively deemed to have been voluntarily paid.

Commencement

11.4 This Act comes into force on May 31, 2011.

SCHEDULE 1 – REQUEST FOR INFORMATION

TO: _____

ADDRESS: _____

DESCRIPTION OF LAND: _____

PURSUANT to section 7.5 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)

Director of Finance for the Toquaht Nation

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 Toquaht Nation 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	\$ _____

Director of Finance for the Toquaht Nation

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:

Director of Finance for the Toquaht Nation

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 Toquaht Nation 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:

Director of Finance for the Toquaht Nation

Dated: _____, 20__ .