

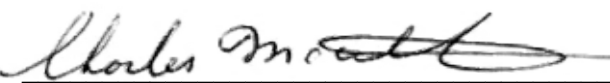
YUULU?IL?ATH GOVERNMENT

REAL PROPERTY TAX ACT

YFNS 86/2024



This law enacted on October 15, 2024.

Signed 
Charles McCarthy, President of the
Yuulu?il?ath government

DEPOSITED IN THE
REGISTRY OF LAWS
AND OFFICIAL RECORDS

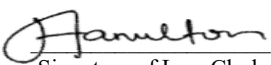
ON 15/OCT/2024

Signature of Law Clerk

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PREAMBLE

Through the act of governing and as a treaty first nation, the Yuulu?il?ath government 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 Yuulu?il?ath as a strong political, social and cultural community that aspires to grow as an organized, determined, successful and self-reliant peoples.

The Yuulu?il?ath 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 redistributed among our people. We wish to honour this practice and carry it on in the modern world by putting in place a Yuulu?il?ath real property tax system through which revenues are collected from owners and occupiers of Yuulu?il?ath lands and used to help fund programs and services for our people.

The Yuulu?il?ath government 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.

Authority and application

- 1.3 (a) This Act is enacted under
- (i) section 19.1.1 of Chapter 19 Taxation of the Maa-nulth Treaty, and
 - (ii) sections 3.2 (v) and (gg) of the Constitution.
- (b) This Act applies to all Yuulu?il?ath 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);

“assessment” means a valuation and classification of property;

“assessment authority” means the British Columbia Assessment Authority;

“assessment roll” includes a revised assessment roll, a supplementary assessment roll and any amendments made under sections 63 and 65 (10) of the Assessment Act (British Columbia);

“assessment roll number” means the alphanumeric identifier described as an assessment roll number on an assessment roll and used to identify a particular property;

“assessor” means an assessor appointed under the Assessment Authority Act (British Columbia);

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

“closed circuit television company” includes a person operating for a fee or charge a television signal receiving antenna or similar device, or equipment for the transmission of television signals to television receivers of subscribers, or any or all of those devices and equipment;

“impose” includes levy;

“improvements” means any building, fixture, structure or similar thing constructed or placed on or in land, or water over land, or on or in another improvement, but does not include any of the following things unless that thing is a building or is deemed to be included in this definition by section 1 (2) of the Assessment Act (British Columbia):

- (a) production machinery;
- (b) anything intended to be moved as a complete unit in its day to day use; or
- (c) furniture and equipment that is not affixed for any purpose other than its own stability and that is easily moved by hand;

“land” includes

- (a) land covered by water,
- (b) quarries, and
- (c) sand and gravel,
- (d) but does not include coal or minerals;

“occupier” means

- (a) a person who, if a trespass has occurred, is entitled to maintain an action for trespass,
- (b) a person who is in possession of Yuulu?il?ath lands the fee of which is in the Yuulu?il?ath government and that is held under a lease, licence, agreement for sale, accepted application to purchase, easement or other record from the Yuulu?il?ath government, or who simply occupies the land, or
- (c) a person who is in possession of Yuulu?il?ath lands the fee of which is in, or is held on behalf of, a person who is exempted from taxation under this Act and that is held under a lease, licence, agreement for sale, accepted application to purchase, easement, or other record from the person exempted from taxation or who simply occupies the land;

“owner”, in respect of Yuulu?il?ath lands, means the registered owner of an estate in fee simple, and includes,

- (a) if a person is a registered owner of a life estate, the tenant for life,
- (b) if there is an agreement for sale and purchase of Yuulu?il?ath lands, the registered holder of the last registered agreement for sale and purchase, and

- (c) if Yuulu?il?ath lands are held or occupied in the manner referred to in sections 26, 27 and 28 of the Assessment Act (British Columbia), the holder or occupier;

“parcel” means a lot, block, or other area in which Yuulu?il?ath lands are held or into which Yuulu?il?ath lands are subdivided and includes the right or interest of an occupier of Yuulu?il?ath lands, but does not include a highway or portion of a highway;

“production machinery” means any

- (a) engine,
- (b) motor, or
- (c) machine

used to manufacture, process, repair or convey a product;

“property” includes land and improvements;

“property class” means a class of property prescribed under section 19 (14) of the Assessment Act (British Columbia);

“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 Yuulu?il?ath lands;

“registered” means, in respect of Yuulu?il?ath lands, registered in the records of the lands registry office or the land title office;

“registered owner” means, in relation to Yuulu?il?ath lands,

- (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 3 years;

“school district” means a school district created under the School Act (British Columbia);

“service” means, in respect of the Yuulu?il?ath government, an activity, work or facility undertaken or provided by or on behalf of the Yuulu?il?ath government;

“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 prescribed form;

“tax certificate” means a certificate substantially in the prescribed form;

“tax notice” means a notice substantially in the prescribed form;

“tax roll” means a roll prepared by the chief financial officer in accordance with Part 3;

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

“taxation year” means the calendar year to which an assessment roll applies for the purposes of taxation;

“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;

British Columbia assessment rules

- 1.5 (a) The Assessment Act (British Columbia) and the Assessment Authority Act (British Columbia) apply in relation to the assessment of Yuułu?il?ath lands and their improvements for the purposes of taxation under this Act.
- (b) In accordance with Part 1 of the Assessment Act (British Columbia), the assessment authority is the assessor of Yuułu?il?ath lands and their improvements.
- (c) If there is a conflict between the definition of a term in this Act and in the Assessment Act (British Columbia), the Assessment Act (British Columbia) will prevail.

PART 2 - TAX ADMINISTRATION

Tax administrator

- 2.1 The chief financial officer is appointed as the tax administrator to oversee the administration and enforcement of this Act and the day-to-day management of tax revenues.

Tax rates

- 2.2 (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 Yuulu?i?ath government 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 Yuulu?i?ath government that the Yuulu?i?ath government proposes to raise from taxes imposed under this Act for that year, as provided in the annual budget approved by the Legislature under the Financial Administration Act.
- (b) The Executive may establish a different tax rate for
- (i) each property class, and
 - (ii) Yuulu?i?ath citizens and non-citizens.
- (c) 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.

Tax roll

- 2.3 (a) In each taxation year, the chief financial officer 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; and
 - (vi) the amount of any unpaid taxes owing under this Act for previous taxation years.
- (c) The chief financial officer 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

- 2.4 (a) On or before June 1 of each year, the chief financial officer must deliver in accordance with Yuulu?il?ath 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 chief financial officer must enter on the tax roll the date on which a tax notice was mailed.
- (c) The mailing of a tax notice by the chief financial officer 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 chief financial officer 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

- 2.5 (a) If
- (i) the assessment roll has been revised, or
 - (ii) a supplementary assessment roll has been issued,
- the chief financial officer must
- (iii) amend the tax roll, or
 - (iv) create a supplementary tax roll,
- as necessary, and must deliver in accordance with Yuulu?il?ath law an amended tax notice to every person affected by the amended or supplementary tax roll.
- (b) The duties imposed on the chief financial officer 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 chief financial officer must immediately refund any excess taxes that have been paid in accordance with section 3.3.
- (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

- 2.6 (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 chief financial officer 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.
- (b) The chief financial officer may record any apportionment under subsection (a) on the tax roll in the manner the chief financial officer 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) Prior to making the apportionment, the chief financial officer must request and obtain from the assessor the assessed values necessary to calculate the proportions referred to in subsection (a).

Requests for information

- 2.7 (a) The chief financial officer may request information from an owner, occupier or person who has disposed of property.
- (b) A person who receives a request under subsection (a) must provide the information requested to the chief financial officer within 14 days or a longer period specified in the request.
- (c) The chief financial officer is not bound by information provided in response to a request for information.

PART 3 - TAX LIABILITY, EXEMPTIONS AND GRANTS

Tax liability

- 3.1 (a) Except as provided for in the regulations, all Yuulu?il?ath lands and their improvements are subject to taxation under this Act.
- (b) If a person's interest in Yuulu?il?ath 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, however taxes are due and payable under this Act notwithstanding a proceeding under this subsection.
- (d) Persons who hold an interest in taxable property as tenants in common or joint tenants are jointly and severally liable to the Yuulu?il?ath government 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.
- (e) Despite subsection (a) and the regulations, if Yuulu?il?ath 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.
- (f) Except as provided in the Veterans' Land Act (Canada), taxes imposed on land and improvements referred to in subsection (e) are a liability only of the owner or occupier, recoverable in the manner set out in this Act.

Tax liability exception

- 3.2 Section 3.1(e) does not make the following subject to taxation under this Act:
- (a) land or improvements otherwise exempt in the regulations; and
 - (b) a highway occupied by
 - (i) a gas, electric light, telephone, telegraph, power, pipeline, water, motor bus, electric trolley bus, radio or television broadcasting or closed circuit television company, or
 - (ii) a company that, in addition to any other function, provides a service similar in nature to a service referred to in paragraph (i).

Tax refunds

- 3.3 (a) If
- (i) 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 chief financial officer 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 chief financial officer 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 Yuulu?il?ath government in relation to taxable property held by that person.
- (c) If a person is entitled to a refund under subsection (a), the chief financial officer 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 Yuulu?il?ath government;
 - (ii) interest on the refund must be paid at the prescribed rate;
 - (iii) interest is not compounded; and
 - (iv) interest stops running on the date payment of the money owed is delivered in accordance with Yuulu?il?ath law to the person to whom it is owed.

Tax exemptions

- 3.4 (a) The Executive may, by regulation, exempt property from taxation under this Act to the extent provided in the regulation.
- (b) The Executive must post in accordance with Yuulu?il?ath law a notice of a proposed exemption regulation under subsection (a) for a period of not less than two consecutive weeks prior to the enactment of the regulation.
- (c) A notice under subsection (b) must
- (i) identify the property or group of properties that would be exempt from taxation under subsection (a),
 - (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.

Grants

- 3.5
- (a) Subject to this section, the Executive may, by regulation, provide a grant to a taxpayer.
 - (b) The Executive must post in accordance with Yuulu?il?ath law a notice of a proposed grant regulation under subsection (a) for a period of not less than two consecutive weeks prior to the enactment of the regulation.
 - (c) A notice under subsection (b) must
 - (i) identify the recipient or group of recipients of the grant provided under subsection (a),
 - (ii) state the number of years that the grant will be provided, and
 - (iii) identify the amount of the grant.

PART 4 - TAX PAYMENTS, PENALTIES AND REVENUES

Due date for taxes

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

Mode of payment and penalty for unpaid taxes

- 4.2 The Executive must, by regulation, establish
- (a) the mode of payment for taxes levied under this Act,
 - (b) penalties for unpaid taxes levied under this Act, and
 - (c) interest on unpaid taxes levied under this Act.

Application of payments

- 4.3 Payments for taxes levied under this Act must be credited by the chief financial officer 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

- 4.4 On receipt of a payment for taxes levied under this Act, the chief financial officer 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

- 4.5 On receipt of a written request and payment of any prescribed fee, the chief financial officer must issue a tax certificate to the person who made the request.

Tax revenues

- 4.6 Money received by the Yuulu?il?ath government for taxes levied under this Act

- (a) must be deposited into the general account established under the Financial Administration Act or a local revenue account created in accordance with section 5.2 (b) of the Financial Administration Act, and
- (b) must not be paid out of the general account or a local revenue account unless the expenditure is authorized under the Financial Administration Act.

PART 5 - ENFORCEMENT

General collection authority

- 5.1 (a) Taxes owed to the Yuulu?il?ath government under this Act are a debt due to the Yuulu?il?ath government recoverable by the Yuulu?il?ath government
- (i) in any court of competent jurisdiction, or
 - (ii) by any other method authorized by law, including section 5.9 of the Financial Administration Act
- 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 chief financial officer, is evidence of that person's debt for the taxes set out on the tax notice.

Tax arrears certificate

- 5.2 (a) Before any enforcement measures may be taken or any enforcement proceedings may be commenced under this Part, the chief financial officer must
- (i) issue a tax arrears certificate, and
 - (ii) deliver in accordance with Yuulu?il?ath 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

- 5.3 Despite section 5.2(b), if the chief financial officer has reasonable grounds to believe that a taxpayer intends to
- (a) remove the taxpayer's personal property from Yuulu?il?ath lands,
 - (b) dismantle or remove the taxpayer's improvements on Yuulu?il?ath lands, or
 - (c) take any other action that may prevent or impede the collection of unpaid taxes owing under this Act,

The Yuulu?il?ath government 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

- 5.4 (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 chief financial officer must maintain a list of all liens created under this section.
- (c) Yuulu?il?ath government may apply to any court of competent jurisdiction to protect or enforce a lien created under this section.

Enforcement regulations

- 5.5 The Executive may, by regulation, establish other enforcement mechanisms for the collection of debts due to the Yuulu?il?ath government under this Act.

PART 6 - GENERAL PROVISIONS

Regulations

- 6.1 (a) The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.
- (b) Without limiting subsection (a), the Executive may make regulations for
- (i) tax exemptions, in accordance with section 3.4,
 - (ii) tax grants, in accordance with section 3.5,
 - (iii) tax rates, in accordance with section 2.2,
 - (iv) tax payments, penalties and interest, in accordance with section 4.2, or
 - (v) enforcement mechanisms, in accordance with section 5.5.

Validity

- 6.2 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 chief financial officer,
 - (c) an error or omission in a tax roll, tax notice or any other notice given under this Act, or
 - (d) a failure of Yuulu?il?ath government, the chief financial officer or the assessor to do something within the required time.

Limitation on actions

- 6.3 (a) A person may not commence an action for the return of money paid to the Yuulu?il?ath government, 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 Yuulu?il?ath government is conclusively deemed to have been voluntarily paid.

Repeal

- 6.4 Real Property Tax Act YFNS 18/2011 is repealed.

Commencement

6.5 This Act comes into force on the day it is enacted.