

THE KWANLIN DUN FIRST NATION

INCOME TAX ACT

Citation

1. This law may be cited as the *Kwanlin Dun First Nation Income Tax Act*.

Definitions and Interpretation

2. In this law,

“Agreement” means the *Personal Income Tax Administration and Tax Sharing Agreement* to be executed in 2006 between the Government of Canada and the Kwanlin Dun First Nation pursuant to part IV of Schedule III to the *Yukon First Nations Self-Government Act*, S.C. 1994, c. 35, as amended from time to time.

“Chief” means the Chief of the Kwanlin Dun First Nation;

“Citizen” has the same meaning as in the Constitution of the Kwanlin Dun First Nation;

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

“federal tax” 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;

“income earned in the year in the Yukon” means the amount determined in respect of the Yukon Territory and in accordance with subsection 120(4) of the federal Act;

“individual” means a person other than a corporation and includes a trust or estate for the purposes of Part I of the federal Act;

“individual’s income for the year” has the same meaning as in subsection 120(3) of the federal act;

“Minister” means the Minister of National Revenue for Canada and includes any other persons charged by federal law with responsibility for the federal Act;

“Settlement Land” means settlement land of the Kwanlin Dun First Nation under the Kwanlin Dun First Nation Final Agreement, the *Yukon First Nations Land Claims Settlement Act*, S.C. 1994, c. 34 and *An Act Approving Yukon Land Claims Final Agreements*, R.S.Y., 2002, c. 240;

“taxation year” has the same meaning as in paragraph 249(1)(b) 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;

“Yukon tax” 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 11 of that Act or to a Yukon First Nation tax credit under that Act and, for greater certainty, includes the surtax under that Act; and

“Territorial Act” means the *Income Tax Act*, R.S.Y., 2002, c. 118.

3. 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.
4. The tax payable by an individual under this Act is based on the federal tax and the territorial tax as fixed by assessment subject to variation on objection or appeal, if any, in accordance with Part I of the federal Act.
5. 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 I

Tax payable by individuals residing on Settlement Land

6. An income tax shall be paid, as required by this Act, for each taxation year by every individual who resides within Settlement land on the last day of the taxation year.

Computation of tax

7. The tax payable under this Act for a taxation year by an individual who is resident within Settlement Land on the last day of the taxation year and who only has income earned in the year in the Yukon is the aggregate of:
 - (a) in respect of taxation years 2006 to 2015, 75% of the federal tax payable by the individual for that year;

- (b) in respect of taxation years after 2015, 95% of the federal tax payable by the individual for that year; and
 - (c) 95% of the Yukon tax payable by the individual for that year.
- 8. The tax payable under this Act for a taxation year by an individual who is resident within Settlement Land on the last day of the taxation year and who has individual's income for the year, other than income earned in the year in the Yukon, is the aggregate of :
 - (a) in respect of taxation years 2006 to 2015, 75% of the federal tax payable by the individual for that year;
 - (b) in respect of taxation years after 2015, 95% of the federal tax payable by the individual for that year; and
 - (c) 95% of the Yukon tax payable by the individual for that year;the sum of which is multiplied by the ratio of the individual's income earned in the year in the Yukon to the individual's income for the year.

PART II

Returns, Assessments, Administration, Collection, Enforcement and Appeals

- 9. The Agreement has the force of law, and without limiting the generality of the foregoing,
 - (a) even if it has ended, the Minister, as agent of the Kwanlin Dun First Nation, may exercise all the powers necessary for the effective administration, collection and enforcement of this Act in respect of taxation years to which the Agreement applies;
 - (b) any amount payable under this Act may be recovered by the Minister as a debt due to Canada;
 - (c) this Act is to operate concurrently with, but not in duplication of, the federal Act and the territorial Act;
 - (d) no criminal offences and penalties are imposed under this Act;
 - (e) the payments to the Kwanlin Dun First Nation in respect of the income tax imposed under this Act are not assignable; and

- (f) the Minister may remit to an individual any income tax or penalty imposed under this Act , including any interest paid or payable thereon, where any federal tax or penalty has been remitted to the individual under section 23 of the *Financial Administration Act*, R.S.C. 1985, c. F-11.
10. The Chief of the First Nation, with the approval of the Council, may amend the Agreement.
11. To the extent that they are consistent 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.

Coming into force

12. This Act shall come into force on the date of execution of the Agreement.

THIS KWANLIN DUN FIRST NATION INCOME TAX ACT IS HEREBY ENACTED by the Chief and a quorum of Councillors at a duly convened meeting of the Council of the Kwanlin Dun First Nation pursuant to section 49(1)(d) of the *Constitution of the Kwanlin Dun First Nation* on this 9th day of November, 2006.

Signed Chief Mike Smith
Chief Mike Smith