



**TZEACHTEN FIRST NATION
PROPERTY TRANSFER TAX LAW, 2013**



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WHEREAS:

A. The Tzeachten First Nation has an inherent right to self-government which emanates from our people, culture and land and which is recognized and affirmed by section 35 of the *Constitution Act, 1982*;

B. Pursuant to section 5 and subsection 5(1)(a) of the *First Nations Fiscal and Statistical Management Act*, the council of a first nation may make laws respecting taxation for local purposes of reserve lands, interests in reserve lands or rights to occupy, possess or use reserve lands;

C. Tzeachten Council deems it to be in the best interests of Tzeachten to pass a law to generate taxation revenues for local purposes from certain interests in lands on the reserve at the time of transfer of these interests; and

D. Tzeachten Council has given notice of this Law and has considered

representations received by the Council, in accordance with the requirements of the *First Nations Fiscal and Statistical Management Act*;

NOW THEREFORE this *Tzeachten First Nation Property Transfer Tax Law, 2013* is hereby duly enacted as a Law of the Tzeachten First Nation.

PART I

NAME

1. This Law may be cited as the *Tzeachten First Nation Property Transfer Tax Law, 2013*.

PART II

APPLICATION

2. The provisions of this Law apply to transfers of all interests in land in the reserve as set out in this Law and all such transfers are subject to taxation under this Law except as provided in Part VII.

PART III

DEFINITIONS AND INTERPRETATION

3. For the purposes of this Law, any terms defined in the *Tzeachten Land Code* have the same definitions for the purposes of this Law, and the following definitions apply:

"Act" means the *First Nations Fiscal and Statistical Management Act*, S.C. 2005, c.9, and the regulations enacted under that Act;

"agreement for sale" means a contract for the sale of an interest in land under which the purchaser agrees to pay the purchase price in the manner stated in the contract, and on payment of which the vendor is obliged to transfer the interest in land to the purchaser;

"assessment" includes reassessment;

"child" includes a person who is the stepchild of a parent;

"fair market value" means the amount that would have been paid if the interest in land had been sold at the date of registration of the transfer in the open market by a willing seller to a willing purchaser free of any trust and unencumbered by

(a) a mortgage, debenture, trust deed, hypothecation agreement or any other financial instrument, that secures the payment of money or the performance of an obligation,

(b) a right to purchase under an agreement for sale,

(c) a judgment for the payment of money, or

(d) the rights of a lien holder under a builders lien;

"holder" means a person in possession of an interest in land or a person who, for the time being,

(a) is entitled through a lease, licence or other legal means to possess or occupy the interest in land,

(b) is in actual occupation of the interest in land,

(c) has any right, title, estate or interest in the interest in land, or

(d) is a trustee of the interest in land;

"interest in land" means land or improvements, or both, used for residential purposes in the reserve under a lease or similar right of use or occupation with a term of greater than thirty (30) years but, for greater certainty, excludes any non-residential interest in land, or any interest in land where the zoning does not permit residential occupation;

"lease" means

(a) an agreement by which a leasehold estate is granted or assigned, or

(b) an agreement by which an option to renew or extend the term of a lease is granted,

and includes a sub-lease or a lease modification agreement;

"Notice of Assessment" means a notice containing the information set out in Schedule II and includes a notice of reassessment;

"parent" includes a spouse of the mother or father of the child;

"principal residence" means an interest in land

(a) on which the person in relation to whose residency the exemption under Part VII is claimed usually resides and uses as his or her home, and

(b) on which all the improvements are classified under the *Tzeachten First Nation Property Assessment Law, 2010* as property used for residential purposes;

"property transfer tax" or "tax" means all taxes imposed, levied, assessed or assessable under this Law, and all penalties, interest and costs added to taxes under this Law;

"Property Transfer Tax Return" means a tax return containing the information set out in Schedule I;

"register" or "registration" means the registration of an interest in land or transfer in the registry by the Lands Manager or another authorized Tzeachten official or appointee;

"registry" means the First Nations Lands Registry or its successor;

"related individual" means

- (a) a person's spouse, child, grandchild, great-grandchild, parent, grandparent, great-grandparent, or sibling,
- (b) the spouse of a person's child, grandchild or great-grandchild, or
- (c) the child, parent, grandparent or great-grandparent of a person's spouse;

"reserve" means any land set apart for the use and benefit of Tzeachten within the meaning of the *Indian Act*;

"spouse" means a person who

- (a) is married to another person, or
- (b) is living and cohabiting with another person in a marriage-like relationship, including a marriage-like relationship between persons of the same gender, and has been living and cohabiting in that relationship for a continuous period of at least two (2) years;

"tax administrator" means the person appointed by Council to that position under the Taxation Law;

"Taxation Law" means the *Tzeachten First Nation Property Taxation Law, 2010* and any successor;

"taxpayer" means a person liable for payment of property transfer tax under this Law;

"transfer" means any transfer, grant or disposition of an interest in land by any method, including by an order of a court, including an order absolute of foreclosure, or by the operation of any enactment or law, and includes

- (a) the transfer of
 - (i) a life estate in the interest in land,
 - (ii) a right to occupy the interest in land under a lease, or
 - (iii) a right to
 - (A) occupy the interest in land, or
 - (B) require the transfer of an interest in land,under an agreement for sale,

(b) the transfer or purported transfer of a right referred to in paragraph (a)(iii), if an agreement for sale is cancelled or determined in any manner, including

- (i) a court order cancelling or otherwise determining the agreement, or
- (ii) a quit claim releasing the interest of the purchaser under the

agreement,

- (c) an assignment of a lease, and
- (d) an extension of the term of a lease;

"transferee" means a person to whom an interest in land is transferred;

"transferor" means a person who transfers an interest in land to a transferee; and

"Tzeachten" means the Tzeachten First Nation.

4. For the purpose of determining the term and fair market value of a lease,

(a) the term of the lease includes the cumulative total of all options or rights to renew the lease, and

(b) if the lease is a time share or fractional ownership plan, the term of the lease must be determined by adding together the number of calendar years during which the transferee may, for any part of a year, occupy the interest in land.

5. For the purpose of calculating property transfer tax payable under this Law, a person registered in the registry as the holder of the interest in land, other than a person registered only as the owner or holder of a charge, is deemed to be the legal and beneficial owner of that interest in the land, even if the person holds the interest in land in trust.

PART IV ADMINISTRATION

Tax Administrator

6. The tax administrator must fulfill the responsibilities given to the tax administrator under this Law and such other duties assigned to the tax administrator by Tzeachten Council from time to time.

7. The tax administrator may, with the written consent of Council, assign the performance of any duties of the tax administrator to any Tzeachten officer, employee, contractor or agent.

Authorizations of Financial Management Board and First Nations Finance Authority

8. Notwithstanding any other provision of this Law:

- (a) if the First Nations Financial Management Board gives notice to Council pursuant to the Act that third-party management of the revenues raised under this Law is required, Council authorizes the First Nations Financial Management Board to act as agent of Tzeachten to fulfill any of the powers and obligations of the Council under this Law and the Act; and



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(b) if Tzeachten is at any time required, in accordance with paragraph 84(5)(b) of the Act, to pay to the First Nations Finance Authority an amount sufficient to replenish the debt reserve fund, Council must make or amend such property taxation laws as necessary in order to recover the amount payable.

Administration of Revenues

9. The funds generated by this Law must be used for local purposes on the reserve.

10. All revenues raised under this Law must be placed into a local revenue account, separate from other Tzeachten moneys.

11. An expenditure of revenues raised under this Law must be made under the authority of an expenditure law made under paragraph 5(1)(b) of the Act.

PART V

PROPERTY TRANSFER TAX LEVY

12. Subject to the exemptions set out in Part VII below, a property transfer tax must be

(a) levied and imposed on every interest in land at the time of a transfer of that interest in land, and

(b) paid by the transferee,

in accordance with this Law.

13. On application for registration of a transfer in the registry, the transferee must

(a) pay the property transfer tax in accordance with this Law; and

(b) file a Property Transfer Tax Return in accordance with this Law, whether or not the transfer is exempt under this Law.

14. The Property Transfer Tax Return must be signed, certified and dated

(a) if no exemption is claimed, by the transferee or a person with actual authority to sign the Property Transfer Tax Return on behalf of the transferee;

(b) if an exemption is claimed and the transferee is an individual, by the transferee or by an agent of the transferee who has personal knowledge of the matters stated; or

(c) if an exemption is claimed and the transferee is a corporation, by a person who has personal knowledge of the matters certified and actual authority to sign the Property Transfer Tax Return on behalf of the transferee.



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Correcting Transactions

15. In this section:

"correcting transaction" means a transfer of an interest in land made for the purpose of transferring an interest in land that was intended to be transferred to the transferee when the original transfer was registered;

"original transaction" means a transfer of an interest in land which was transferred in error, or an error was made in the description or survey under which the interest in land was registered.

(a) Despite sections 12 and 13, the tax payable under this Law for a correcting transaction is the tax payable determined as if the fair market value of the correcting transaction were determined at the date of registration of the original transaction.

(b) On the registration of a correcting transaction, the amount of tax paid under this Law by a transferee in respect of the original transaction is deemed to be tax

- (i) paid by the transferee in respect of the correcting transaction, and
- (ii) paid on the date the correcting transaction is registered.

Lands Manager Must Refuse to Register

16. The Lands Manager must refuse to accept an application for registration of a transfer in the registry if the Lands Manager has reasonable grounds to believe that the property transfer tax relating to the transfer has not been paid or the Property Transfer Tax Return is incomplete or has not been filed.

PART VI

RATE OF PROPERTY TRANSFER TAX

17. The rate of property transfer tax payable under this Law is:

- (a) 1% of the first \$200,000 of the fair market value of the interest in land; and
- (b) 2% of the remaining fair market value of the interest in land.

PART VII

EXEMPTIONS

18. For the purposes of this Part, a person is considered to have only one principal residence at a time.

19. The following transfers are exempt from property transfer tax under Part V of this Law:



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- (a) a transfer of a lease which has a term or a remainder of a term that is thirty (30) years or less than thirty (30) years;
- (b) a transfer from a transferor to a transferee who is a related individual, if the interest in land transferred has been the principal residence of either the transferee or the transferor for a continuous period of at least six (6) months immediately before the date of transfer;
- (c) a transfer of the vendor's interests under an agreement for sale, if the transferee is not the purchaser under the agreement for sale;
- (d) a transfer to a mortgagee, if the mortgagee was the immediately preceding registered owner of the land or holder of the interest in the land;
- (e) a transfer referred to in paragraph (b) of the definition of "transfer", if the transferee was the original vendor under the agreement for sale;
- (f) a transfer from a transferor who is a trustee of a deceased's estate or of a trust established under a deceased's will, if
 - (i) the transferee is a beneficiary of the estate or trust,
 - (ii) the transferee beneficiary was a related individual of the deceased at the time of the deceased's death, and
 - (iii) immediately before the deceased's death, the land transferred
 - (A) was the deceased's principal residence, or
 - (B) had been the transferee's principal residence for a continuous period of at least six (6) months;
- (g) a transfer to the trustee in bankruptcy of land forming part of the estate of a bankrupt;
- (h) a transfer from the trustee in bankruptcy to the bankrupt of land forming part of the estate of the bankrupt, if no consideration for the transfer is paid by or on behalf of the transferee and a declaration to that effect is made by the transferee and the transferor;
- (i) a transfer from the trustee in bankruptcy to the spouse or former spouse of the bankrupt of land forming part of the estate of the bankrupt, if
 - (i) the land transferred was the principal residence of the bankrupt immediately before the date of the bankruptcy, and
 - (ii) no consideration for the transfer is paid by or on behalf of the transferee and a declaration to that effect is made by the transferee and the transferor;
- (j) a transfer to the Public Guardian and Trustee, if
 - (i) the land transferred is to be held in trust by the Public Guardian and Trustee for the sole benefit of a minor,

- (ii) the minor is a related individual of
 - (A) the transferor, or
 - (B) the person whose estate is the transferor, and
- (iii) the land transferred was
 - (A) the principal residence of the transferor,
 - (B) the principal residence of the person whose estate is the transferor, or
 - (C) the principal residence of the minor;
- (k) a transfer for the purpose of reconveying property
 - (i) that was conveyed in error, or
 - (ii) in respect of which an error was made in the description or survey under which title to the property was registered,
 if the tax administrator or Lands Manager is satisfied the transfer is made for that purpose;
- (l) a transfer from a transferor to a transferee who is a spouse or former spouse of the transferor and the transfer is made pursuant to a written separation agreement or a court order under the *Family Relations Act* (British Columbia) or the *Tzeachten Matrimonial Real Property Law*;
- (m) a transfer that changes a joint tenancy to a tenancy in common, if
 - (i) the persons holding the interest in land are the same before and after the transfer, and
 - (ii) each person holding a share of the interest in land after the transfer has a share in the interest in land equal to that held by the other holders;
- (n) a transfer by operation of law to the survivor of a joint tenancy of the interest in land consequent on the death of a joint tenant of the interest in land;
- (o) a transfer resulting from a subdivision for any of the subdivided interests in land that are simply transferred to the holder of the original interest in land that was subdivided;
- (p) a transfer or assignment of a head lease to a developer or builder for a parcel of land which is intended for subdivision and development provided that:
 - (i) the parcel of land is greater than 1.5 hectares in area; and
 - (ii) within one (1) year of the transfer, an application is made to subdivide the land or develop the parcel of land to create at least five (5) residential units on the parcel of land;



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- (q) a transfer by which an interest in land reverts, escheats or is forfeited to Tzeachten or the federal Crown or by which an interest in land that has reverted, escheated or been forfeited to Tzeachten or to the federal Crown is returned;
- (r) a transfer made in accordance with a registered agreement for sale, if the transferee is
 - (i) the purchaser under the agreement and the tax in respect of the agreement has been paid, or
 - (ii) the assignee of the purchaser under the agreement and the tax in respect of the assignment has been paid;
- (s) a transfer to a person in his or her capacity as personal representative, if the interest in land transferred is part of the deceased's estate;
- (t) a transfer of a life estate, if the transferee of that life estate transferred the certificate of possession or the lease in the same interest in land to the transferor of the life estate in a concurrent transfer;
- (u) a transfer relating to a voluntary exchange of interests in land under subsection 7.11 of the Tzeachten Land Code;
- (v) a transfer of an allotment or certificate of possession from:
 - (i) Tzeachten to one or more Tzeachten members; or
 - (ii) from one Tzeachten member to another; and
- (w) A transfer of a certificate of possession, lease or sub-lease to Tzeachten First Nation or a corporation held by Tzeachten First Nation.

First Time Home Buyer

20. A first time home buyer who is a transferee and applies for registration is exempt from the property transfer tax on that transaction under Part V of this Law if the transferee:

- (a) is a first time home buyer, and applies for an exemption under this section by tendering with the application for registration an application for exemption;
- (b) has not previously held a registered interest in land, whether in British Columbia or elsewhere, that constituted the individual's principal residence,
- (c) has not previously obtained a first time home buyers' exemption or refund anywhere in British Columbia;
- (d) includes a declaration, in the form required by Tzeachten, by which the transferee declares that the transferee is a first time home buyer; and
- (e) includes a consent, in the form required by Tzeachten, by which the transferee consents to the tax administrator conducting inquiries respecting



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the transferee that the administrator considers necessary to confirm the qualifications of the transferee for the exemption.

PART VIII

REFUND TO APPLICANT

21. A transferee who qualifies for an exemption under this Law who fails to apply for that exemption on the registration date may, at any time within eighteen (18) months after that date, apply to the tax administrator, in the form prescribed by the tax administrator, for a refund of the property transfer tax paid.

22. On receiving an application under section 21, the tax administrator must,

- (a) on being satisfied that the transferee would have qualified for an exemption, refund to the transferee the amount of the overpayment; or
- (b) if not satisfied that the transferee would have qualified for an exemption, refuse the application and provide written notice under section 23.

23. If an application for a refund under section 21 is refused, the tax administrator must send a letter to the transferee stating the reason for the refusal, and the letter is deemed to be a Notice of Assessment for the purposes of allowing the transferee to file a notice of objection under Part XI.

PART IX


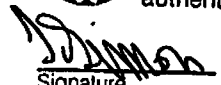
INVESTIGATIONS AND INSPECTIONS

24. If there is information that indicates the value of the interest in the land declared on the Property Transfer Tax Return is less than fair market value, the tax administrator may, at his or her sole discretion:

- (a) request additional information from the transferee;
- (b) require the transferee to provide an appraisal of the fair market value; or
- (c) require an appraisal of the fair market value at the expense of the transferee and add the costs of the appraisal to the property transfer tax owing under this Law.

25. The tax administrator or a person authorized in writing by Council or the tax administrator, for any purpose related to the administration or enforcement of this Law, may

- (a) investigate whether a Property Transfer Tax Return is accurate;
- (b) investigate whether the property transfer tax has been paid as required by this Law;

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(c) investigate whether a provision of this Law has been contravened; and
(d) by registered letter or by a demand served personally, using substantially the same format as set out in the Request for Information in Schedule III, require, from any person any information or additional information, or the production of any records within any reasonable time the tax administrator or the person specifies provided such date is at least fourteen (14) days from the date of delivery, if it is reasonable to make the demand in order to determine the liability or possible liability to tax under this Law.

26. The tax administrator or a person authorized in writing by Council or the tax administrator, for any purpose related to the administration or enforcement of this Law, may enter into or on and inspect land, interests in land and improvements.

27. Where a person mentioned in section 25 or 26 wishes to conduct an inspection under this Law, they must deliver a Notice of Inspection, substantially in the form set out in Schedule IV, by personal delivery, mail, fax or e-mail to the person named on the assessment roll at the address indicated on the assessment roll.

28. Personal delivery of a Notice of Inspection is made

- (a) in the case of delivery to a residential dwelling, by leaving the notice with a person at least eighteen (18) years of age residing there; and
- (b) in the case of delivery to any other assessable property, by leaving the notice with the person apparently in charge, at the time of delivery, on those premises.

29. A Notice of Inspection is considered to have been delivered

- (a) if delivered personally, at the time personal delivery is made;
- (b) if sent by mail, five (5) days after the day on which the notice is postmarked;
- (c) if sent by fax, at the time indicated on the confirmation of transmission; and
- (d) if sent by e-mail, at the time indicated in the electronic confirmation that the e-mail has been opened.

30. Where a property or interest in land is occupied by a person other than the holder, the holder must make arrangements with the occupant to provide access for an inspection.

31. Unless otherwise requested by the holder or occupant, inspections must be conducted between 09:00 and 17:00 local time.

32. If the person carrying out the inspection attends at a property or interest



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to inspect it and no occupant eighteen (18) years of age or older is present or permission to inspect the property is denied, the tax administrator may determine the fair market value of the property or interest in land and make any other relevant determination based on the information available to the tax administrator.

33. As part of an inspection under this section, the person carrying out the inspection must be given access to, and may examine and take copies of and extracts from, the books, accounts, vouchers, documents and appraisals respecting the property or interest and the occupant must, on request, furnish every facility and assistance required for the entry and examination.

34. A document certified by the tax administrator or a person authorized by the tax administrator to be a copy made under this section is evidence of the nature and content of the original.

35. A person must not obstruct a person doing anything that he or she is authorized by this section to do.

PART X

ASSESSMENT AND REASSESSMENT

36. The tax administrator may, on information available to him or her, make a determination of:

- (a) the fair market value of an interest in land;
- (b) whether or not property transfer tax is payable on a transfer under this Law; and
- (c) the property transfer tax owing by a transferee.

37. If the tax administrator determines that property transfer tax should have been paid or that the correct amount of property transfer tax has not been paid, the tax administrator must make an assessment and give a Notice of Assessment to the transferee.

38. A Notice of Assessment must state, as applicable, the:

- (a) name and address of the transferee;
- (b) legal description of the interest in land;
- (c) determination of whether or not property transfer tax is payable;
- (d) determination of the fair market value made by the tax administrator;
- (e) total amount of property transfer tax payable;
- (f) amount of property transfer tax that has been already paid, if any;
- (g) balance owing or overpaid; and
- (h) date of the Notice of Assessment.



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39. A transferee who has been assessed must pay to Tzeachten the amount of property transfer tax owing, or the remaining balance of the property transfer tax owing, as set out in the Notice of Assessment, within thirty (30) days after the date shown on the Notice of Assessment.

40. Except as otherwise provided in this Law, the tax administrator must only issue a Notice of Assessment within one (1) year after the date that a transfer was registered in the registry.

41. Despite section 40, if a transferee has applied for an exemption or a refund under this Law, the tax administrator must only issue a Notice of Assessment within twenty-four (24) months after the date that a transfer was registered in the registry.

42. Subject to being varied or vacated on objection or by reassessment, an assessment is valid and binding despite any error, defect, omission or error in procedure.

43. Property transfer tax assessed is due and payable whether or not a transferee makes an objection to the assessment.

PART XI

NOTICE OF OBJECTION

44. A transferee may object to an assessment by delivering a notice of objection to the tax administrator within ninety (90) days after the date shown on the Notice of Assessment.

45. A transferee may object to a refusal by the tax administrator to allow an exemption or a refund under this Law by delivering a notice of objection to the tax administrator within ninety (90) days after the date shown on the Notice of Assessment.

46. The notice of objection must contain the reasons for the objection and must state all relevant facts, including an estimate of the fair market value if the person objecting considers that estimate to be relevant to the objection.

47. Within thirty (30) days of the receipt of the notice of objection, the tax administrator must review the notice of objection and any other information the tax administrator considers relevant, and determine

(a) if claimed by the transferee, the applicability of an exemption to the transfer; and

(b) the amount of property transfer tax owing on the transfer, and the resulting taxes owing by the transferee, or the refund payable to the transferee, as applicable.

48. The tax administrator must deliver a notice of the decision made under section 47, and if the decision is to vary the assessment, a notice of reassessment

reflecting the variation, to the person who made the objection.

49. The time limit for delivering a notice of objection under section 44 may be extended at the discretion of the tax administrator if:

- (a) a written application for extension is made in respect of that notice before the expiry of the time allowed under section 44; and
- (b) the application contains the reason for the extension and specifies a requested time period.

PART XII

APPEAL TO COURT

50. An appeal lies from a decision of the tax administrator under Part XI to a court of competent jurisdiction.

51. An appeal under this Part must be filed in the court registry within ninety (90) days after the date on the tax administrator's notice under section 48 of the tax administrator's decision.

52. An appeal under this Part is a new hearing that is not limited to the evidence and issues that were before the tax administrator.

53. The court may dismiss the appeal, allow the appeal, vary the decision from which the appeal is made or refer the decision back to the tax administrator for reconsideration.

PART XIII

REFUNDS

54. If a person has paid property transfer tax under this Law pursuant to a Notice of Assessment issued under section 37 and, as a result of

- (a) a decision of the tax administrator under section 48, or
- (b) an order of the court under Part XII,

the property transfer tax payable is less than the amount actually paid, the tax administrator must refund the overpayment including any interest relating to the amount overpaid.

55. If, after a person has paid property transfer tax under section 12 of this Law,

- (a) the person withdraws the application for registration, or
- (b) the application for registration is rejected,
- (c) the tax administrator must refund the payment including any interest relating to the amount paid.

56. If a person is deemed to have paid tax under section 15 in respect of a

correcting transaction and the tax payable on that transaction is less than the amount deemed to have been paid, the tax administrator must refund the overpaid tax including any interest relating to the amount overpaid.

57. Where a person is entitled to be refunded an amount of property transfer tax paid under this Law, the tax administrator must pay the person interest as follows:

- (a) interest accrues from the date that the property transfer tax was originally paid to Tzeachten;
- (b) the interest rate during each successive three (3) month period beginning on April 1, July 1, October 1 and January 1 in every year, is two percent (2%) below the prime lending rate of the principal banker to Tzeachten on the 15th day of the month immediately preceding that three (3) month period;
- (c) interest will not be compounded; and
- (d) interest stops running on the day payment of the money owed is delivered or mailed to the person to whom it is owed, or is actually paid.

PART XIV

PENALTIES, INTEREST AND ENFORCEMENT

Penalty

58. If all or part of the property transfer tax under this Law remains unpaid after the deadline set out in a Notice of Assessment under Part X, a penalty of ten percent (10 %) of the portion that remains unpaid will be added to the amount of the unpaid tax and the amount so added is, for all purposes, deemed to be part of the tax.

Interest

59. If all or any portion of the property transfer tax remains unpaid after the date it is due, the unpaid portion accrues interest at fifteen percent (15%) per year.

Tax Collection and Enforcement

60. Taxes imposed under this Law are a debt recoverable by Tzeachten in a court of competent jurisdiction.

61. The use of one method of collection and enforcement does not prevent seeking recovery by one or more other methods.

62. A copy of the Notice of Assessment that refers to the taxes payable by a person, certified as a true copy by the tax administrator, is evidence of that person's debt for the taxes.



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PART XV
PAYMENT RECEIPTS AND TAX CERTIFICATES

Receipts for Payments

63. On receipt of a payment of taxes, the tax administrator must issue a receipt to the transferee and must keep a record of the taxes paid and receipts issued in respect of each transfer.

Confirmation Letter or Tax Certificate

64. On receipt of a written request and payment of the fee set out in section 65, the tax administrator must issue a confirmation letter or a tax certificate substantially in the form set out in Schedule V showing whether the property transfer taxes have been paid in respect of a transfer of an interest in land and, if not, the amount of the property transfer taxes outstanding.

65. The fee for the property transfer tax confirmation letter or tax certificate is twenty-five dollars (\$25) plus HST.

PART XVI
GENERAL PROVISIONS

Disclosure of Information

66. The tax administrator or any other person who has custody or control of information or records obtained or created under this Law must not disclose the information or records except

- (a) in the course of administering this Law or performing functions under it;
- (b) in proceedings before a court of law or pursuant to a court order; or
- (c) in accordance with section 67.

67. The tax administrator may disclose to the agent of a holder confidential information relating to the property if the disclosure has been authorized in writing by the holder.

68. An agent must not use information disclosed under section 67 except for the purposes authorized by the holder in writing referred to in that section.

Disclosure for Research Purposes

69. Notwithstanding section 66, Council may disclose information and records to a third party for research purposes, including statistical research, provided

- (a) the information and records do not contain information in an individually identifiable form or business information in an identifiable form; or



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Date

(b) where the research cannot reasonably be accomplished unless the information is provided in an identifiable form, the third party has signed an agreement with Council to comply with Council's requirements respecting the use, confidentiality and security of the information.

Validity

70. Nothing under this Law must be rendered void or invalid, nor must the liability of any person to pay tax or any other amount under this Law be affected by

- (a) an error or omission in a valuation or a valuation based solely on information in the hands of tax administrator;
- (b) an error or omission in any notice given under this Law; or
- (c) a failure of Tzeachten or the tax administrator to do something within the required time.

Limitation on Proceedings

71. No person may commence an action or proceeding for the return of money paid to Tzeachten, whether under protest or otherwise, on account of a demand, whether valid or invalid, for taxes or any other amount paid under this Law, after the expiration of eighteen (18) months from the making of the payment.

72. If a person fails to start an action or proceeding within the time limit described in section 71, then money paid to Tzeachten must be deemed to have been voluntarily paid.


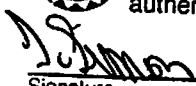
Notices

73. Where in this Law a notice is required to be given by mail or where the method of giving the notice is not otherwise specified, it must be given

- (a) by mail to the recipient's ordinary mailing address or the address for the recipient shown in the registry or on the tax roll;
- (b) where the recipient's address is unknown, by posting a copy of the notice in a conspicuous place on the recipient's property; or
- (c) by personal delivery or courier to the recipient or to the recipient's ordinary mailing address or the address for the recipient shown in the registry or on the tax roll.

74. Except where otherwise provided in this Law,

- (a) a notice given by mail is deemed received on the fifth day after it is posted;
- (b) a notice posted on property is deemed received on the second day after it is posted; and

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(c) a notice given by personal delivery is deemed received upon delivery.

Interpretation

75. The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

76. Where a provision in this Law is expressed in the present tense, the provision applies to the circumstances as they arise.

77. Words in this Law that are in the singular include the plural, and words in the plural include the singular.

78. This Law must be construed as being remedial and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

79. Reference in this Law to an enactment is a reference to the enactment as it exists from time to time and includes any regulations made under the enactment.

80. Headings form no part of the enactment and must be construed as being inserted for convenience of reference only.

81. The headings of parts and sections in this Law have been inserted as a matter of convenience and for reference only and in no way define or limit or any of its provisions.

PART XVII

COMING INTO FORCE AND TRANSITION MEASURES

82. This Law comes into force on the day after the Law is approved by the First Nations Tax Commission.

83. In order to enable holders of interests in land, developers and other potentially affected individuals to manage their affairs and prepare for the implementation of this Law, the following transition measures apply for the following periods of time:

(a) Despite Part V of this Law, the property transfer tax does not apply to a transfer or transaction for which there is a written purchase agreement accepted in writing by the vendor and duly executed by the purchaser on or before the date this Law comes into force even if the closing date is after this Law comes into force provided that:

(i) the agreement closes and the sale completes no later than 180 days after the date upon which the Law came into force; and



SCHEDULE I

TZEACHTEN FIRST NATION PROPERTY TRANSFER TAX RETURN

NOTE:

1. The transferee must file a return for each transfer of an interest in land even if no property transfer tax is payable.
2. The transferee must file a return and pay all taxes payable on or before the due date in order to avoid penalties and interest.
3. For late payments, a penalty of 10% will be assessed. Interest accrues on unpaid amounts at a rate of 15% per year.
4. Payments must be made at the offices of the Tzeachten First Nation Lands and Taxation Officer, at 29 – 6014 Vedder Road, Chilliwack, B.C. V2R 5M4, by cash, cheque or money order made payable to the Tzeachten First Nation.

REMITTANCE FORM

Name: _____

Address of Property or Interest in Land: _____

Legal Description: _____

Type of Transfer (lease assignment, etc.): _____

Transfer Date: _____

Price or value of interest in land transferred: \$ _____

Property transfer tax levied at 1%: \$ _____

Property transfer tax levied at 2%: \$ _____

Total property transfer tax payable: \$ _____

or



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Signature

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Date

Exemption claimed under section _____

Reason for claiming exemption _____

AMOUNT ENCLOSED: \$ _____
(make cheque or money order payable to the Tzeachten First Nation)

I do hereby certify that this return is in compliance with the requirements of the *Tzeachten First Nation Property Transfer Tax Law, 2013* to the best of my knowledge and belief. The information I have provided on this form is true and complete and fully discloses the information required by law.

Signature: _____

Print name & title: _____

Date: _____



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Simon
Signature

JUL 02 2013
Date

SCHEDULE II
PROPERTY TRANSFER TAX NOTICE OF ASSESSMENT OR
REASSESSMENT

NAME: _____

ADDRESS: _____

LEGAL DESCRIPTION OF INTEREST IN LAND: _____

SUMMARY OF ASSESSMENT OR REASSESSMENT:

DATE OF TRANSFER: _____

PRICE OR VALUE OF INTEREST IN LAND TRANSFERRED:

\$ _____

PROPERTY TRANSFER TAX OWING:

\$ _____

Less Property Transfer Tax Paid by Transferee:

\$ _____

Plus Penalty added as of date of this Notice:

\$ _____

Plus Interest added as of date of this Notice:

\$ _____

TOTAL TAXES DUE AND OWING:

\$ _____

OR

The above taxes were due and owing on _____ and are now
overdue.

Unpaid taxes must be paid immediately, including all penalties and interest.
Interest on unpaid amounts continues to accrue each day that the taxes remain
unpaid.



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Payments must be made at the offices of the Tzeachten First Nation, located at 45855 Promontory Road, Chilliwack, B.C. V2R 0H3, during normal business hours. Payment must be by cash, money order or cheque.

This Notice is given pursuant to the *Tzeachten First Nation Property Transfer Tax Law, 2013*. You are entitled to file a Notice of Objection under Part XI of the Act if you wish but you must still pay the tax owing and any such objection must be filed within ninety (90) days of this Notice of Assessment or Reassessment. Please contact our office if you require a copy of the Act or have any questions about this Notice or how to file a Notice of Objection.

Tax Administrator for the Tzeachten First Nation

Dated: _____, 201__

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 / JUL 02 2013
Signature Date

SCHEDULE III
REQUEST FOR INFORMATION
BY THE TZEACHTEN FIRST NATION TAX ADMINISTRATOR
In Relation to Property Transfer Taxes

TO: _____

ADDRESS: _____

LEGAL DESCRIPTION OF LAND: _____

PURSUANT to section ____ of the _____ *Tzeachten Property Transfer Tax Law, 2013*, I hereby request that you provide to me, in writing, no later than _____ [Note: must be a date that is at least fourteen (14) days from the date of request], the following information relating to the above-noted land or interest in land:

- (1)
- (2)
- (3)

Tax Administrator for the Tzeachten First Nation

Dated: _____, 201____.



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[Signature]
Signature

JUL 02 2013
Date

SCHEDULE IV
(PART IX)
NOTICE OF INSPECTION

TO: _____

ADDRESS: _____

DESCRIPTION OF INTEREST IN LAND: _____
(the "taxable interest")

DATE OF REQUEST: _____

TAKE NOTICE that, pursuant to section ____ of the *Tzeachten First Nation Property Transfer Tax Law, 2013*, the tax administrator or the tax administrator's designate for the Tzeachten First Nation proposes to conduct an inspection of the above-referenced interest on _____, 20__ at _____ a.m./p.m.

If the above date and time is not acceptable, please contact _____ on or before _____ [date], at _____ [contact phone number], to make arrangements for an alternate time and date.

If the property or interest is occupied by a person other than you, you must make arrangements with the occupant to provide access to the person carrying out the inspection.

AND TAKE NOTICE that if, on attending at the property, no occupant eighteen (18) years of age or older is present or permission to inspect the property is denied, the tax administrator may assess the fair market value of the property or interest based on the information available to the tax administrator.

Tax Administrator for the Tzeachten First Nation

Dated: _____, 20__ .



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[Signature]
Signature

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Date

SCHEDULE V
PROPERTY TRANSFER TAX CERTIFICATE

In respect of the land or interest in land with a legal description,
_____ and pursuant to the *Tzeachten First Nation*
Property Transfer Tax Law, 2013, I hereby certify as follows:

That all property transfer taxes due and payable in respect of the above-
referenced interest in land have been paid as of the date of this certificate.

OR

That unpaid property transfer taxes, including interest, penalties and costs in the
amount of _____ dollars (\$_____) are due and owing on the above-
referenced interest in land as of the date of this certificate.

The following persons are jointly and severally liable for all unpaid property
transfer taxes:

Tax Administrator for the Tzeachten First Nation

Dated: _____, 201__.



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signature

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Date

(b) Despite section 17 of this Law, the rate of the property transfer tax payable for the first year this Law is in force until 11:59 p.m. on the first anniversary of the date upon which the Law came into force is:

(i) 1% of the first \$200,000 of the fair market value of the interest in land; and

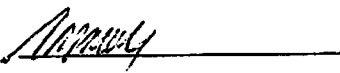
(ii) 0% of the remaining fair market value of the interest in land, resulting in a maximum Property Transfer Tax of \$2000 on any single transfer.


BE IT KNOWN that this Law entitled the *Tzeachten Property Transfer Tax Law, 2013* is hereby enacted by a quorum of Council at a duly convened Council of the Tzeachten First Nation held on FEB-13, 2013.


Chief Glenda Campbell


Councilor Cathy Hall


Councilor Melanie Williams


Councilor Anthony Malloway


Councilor Lawrence Roberts

A quorum consists of 3
Council Members




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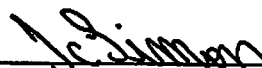
JUL 02 2013
Date



First Nations Tax Commission
Commission de la fiscalité des premières nations

I, Tracey C. Simon, do hereby affirm as the FMA Registrar for the First Nations Tax Commission that the attached copy is a true copy of the original law, *Tzeachten First Nation Property Transfer Tax Law, 2013*, duly made on February 13, 2013 by the Council of the Tzeachten First Nation and as such has been stamped  on each of the twenty-seven (27) pages.

Signed at Kamloops, British Columbia this 2nd day of July, 2013.



Tracey C. Simon, FMA Registrar
First Nations Tax Commission





First Nations Tax Commission
Commission de la fiscalité des premières nations

The First Nations Tax Commission, pursuant to the *First Nations Fiscal Management Act*, hereby approves the following law made by the Tzeachten First Nation in the Province of British Columbia,

Tzeachten First Nation Property Transfer Tax Law, 2013

Dated at Saskatoon, Saskatchewan this 26th day of June, 2013.

On behalf of the First Nations Tax Commission

C.T. (Manny) Jules – Chief Commissioner
First Nations Tax Commission

