

**OPASKWAYAK CREE NATION**  
**TOBACCO TAX LAW, 2016**  
**February 2016**

WHEREAS the Opaskwayak Cree Nation is a signatory to **Treaty #5**, and exercising inherent treaty and aboriginal rights and title, recognized and affirmed in the **Constitution Act, 1982**;

AND WHEREAS the Opaskwayak Cree Nation has inherent authority over its lands, peoples and resources;

AND WHEREAS the Opaskwayak Cree Nation Chief and Council as the elected government of the Opaskwayak Cree Nation, has jurisdiction over its lands, peoples and resources and is responsible for the establishment of Law;

AND WHEREAS the **First Nations Goods and Services Tax Act**, sc 2003, c15, s67, as amended, recognizes and affirms the right of First Nations, including Opaskwayak Cree Nation, to enact and enforce sales taxes on reserve lands, and to enter into agreements with Federal and Provincial governments for the collection and remission of taxes on reserve lands;

AND WHEREAS the Opaskwayak Cree Nation wishes to enact a Law, authorizing the enforcement and collection of Tobacco Taxes on Opaskwayak Cree Nation reserve lands, and the collection of the aforesaid tax monies for the purposes as set out herein;

AND WHEREAS the Opaskwayak Cree Nation has entered into negotiations and agreements with the Province of Manitoba for the collection and remission of tobacco taxes on reserve;

AND WHEREAS the Opaskwayak Cree Nation seeks to enter into an Administration Agreement, as set out in the **First Nations Goods and Services Tax Act**;

NOW THEREFORE BE IT RESOLVED that the Chief and Council of the Opaskwayak Cree Nation enacts the following Law, pursuant to section 23 of part 2 of the **First Nations Goods and Services Tax Act**:

  
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## SHORT NAME

1. This Law may be cited as the ‘**Opaskwayak Cree Nation Tobacco Tax Law, 2016.**’

## DEFINITIONS

2. The following definitions shall apply:

“Chief and Council” means the Chief and Council of the Opaskwayak Cree Nation, meeting or passing resolutions or motions in quorum;

“OCN Lands” means the reserve lands of the Opaskwayak Cree Nation, as administered by the Opaskwayak Cree Nation Land Authority, pursuant to the OCN Land Code, enacted under the First Nations Land Management Act, located in the province of Manitoba.

“Tobacco” means leaves and stems of the tobacco plant, as well as any product manufactured from raw leaf tobacco,, including cigars, cigarillos, cigarettes, tobacco sticks, fine cut tobacco and snuff, as defined in section 6 of the federal **Excise Act**.

“Tobacco Tax” means the tax as established in section 3, herein.

## TOBACCO TAX


3. Any person who purchases tobacco on any OCN Lands shall pay to the Opaskwayak Cree Nation a tax calculated on the value of consideration at a rate equivalent to the rate set out in the Provincial Tobacco Tax Act, as amended from time to time.

## RESTRICTION ON RETAIL PRICE

4. No person, corporation or association may sell Tobacco, and no person may purchase Tobacco, on OCN Lands for a retail price less than the sum of the wholesale price paid, plus the sum of the Opaskwayak Cree Nation tobacco tax.

## TOBACCO TAX AGREEMENTS WITH MANITOBA

5. The Chief and Council is authorized to enter into agreements with the Province of Manitoba from time to time, for the collection and remission of tobacco taxes on OCN Lands, pursuant to the authority granted in the **First Nations Goods and Services Tax Act**.

  
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#### OCN TAX ADMINISTRATOR AS AGENT

6. The Chief and Council shall authorize the position of OCN Tax Administrator as the lawful agent of the Chief and Council for the purposes of administering, implementing and enforcing this Law, and administering, implementing and enforcing any directions, regulations, mandates, resolutions or agreements made by the Chief and Council pursuant to this Law.

#### RETAILERS TOBACCO SALES LICENSE

7. The Chief and Council may require any person, corporation or association which sells or retails tobacco on any OCN Lands, to maintain a license issued by the Opaskwayak Cree Nation, by way of letter or council resolution, in addition to any license issued by the Province of Manitoba.

#### RETAILERS DISCLOSURE OF PURCHASE INVOICES

8. All persons, corporations or associations who sell tobacco on any OCN Lands shall provide to the Chief and Council, or their OCN Tax Administrator, copies of all purchase invoices for cigarettes and tobacco products, showing proof of purchase from wholesale dealers.

#### RETAILERS MAINTENANCE OF RECORDS

9. The Chief and Council may require any person, corporation or association which sells or retails tobacco on any OCN Lands to keep and maintain records of tobacco sales and purchases, as described or in form set out by the Chief and Council or their OCN Tax Administrator from time to time, and to make such records available for purposes of inspection and audit on demand.

#### RETAILERS RECORDS AND SALES DIRECTIVES

10. The Chief and Council may, from time to time, require any person, corporation or association which sells or retails tobacco on any OCN Lands to comply with administrative directions by the Chief and Council, with regards to the sale of Tobacco.

  
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## EXPENDITURES

11. Expenditures made out of monies raised pursuant to this Law shall be made for the following purposes only:
- a) Advancing Opaskwayak Cree Nation's aboriginal and treaty rights;
  - b) Education and training;
  - c) Economic development;
  - d) Recreation and Social and Cultural development;
  - e) Health and Welfare; and
  - f) Such direct or indirect beneficial purposes as the Chief and Council may specifically authorize.

## CONFIDENTIALITY

12. No person shall divulge or provide access to any information obtained in the administration of this Law, except:
- a) for the purpose of administering and enforcing this Law;
  - b) for the purpose of administering, implementing or enforcing any agreement with the Province of Manitoba made pursuant to this Law, including disclosing said information to the Province of Manitoba.;
  - c) for the purpose of legal proceedings; and
  - d) to the Chief and Council and its OCN Tax Administrators for the purpose of formulating or implementing fiscal policy.

## OFFENCE

13. Every person who contravenes this Law is guilty of an offence and liable on summary conviction to a fine of not more than \$25,000 or to imprisonment for a term not more than 12 months or both.

## PARALLEL PROVINCIAL LAW

14. *The Tobacco Tax Act*, CCSM T-80, shall be designated and deemed a 'Parallel Provincial Law' to this Law, pursuant to the **First Nations Goods and Services Tax Act**, and the provisions of the **Tobacco Tax Act**, except where they are contrary or incompatible to this Law, any regulations, policy, directives or agreements made pursuant to this Law, and any other Law, Band By-Law, Land Law or Federal statute, shall be incorporated by reference.

  
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## ADMINISTRATIVE AGREEMENT

15. A Tobacco Tax Agreement entered into pursuant to this Law with the Province of Manitoba shall be designated and deemed as an 'Administration Agreement' pursuant to the **First Nations Goods and Services Tax Act**.

## LISTING UNDER SCHEDULE 2 OF THE FIRST NATIONS GOODS AND SERVICES ACT

16. The Opaskwayak Cree Nation, concurrent with the passage of this Law, and the entering into of a Tobacco Tax Agreement with the Province of Manitoba, hereby requests that Opaskwayak Cree Nation, as represented by the names of Chief and Council; OCN Lands in the Province of Manitoba; and the Province of Manitoba thereto, all be listed in Schedule 2 of the **First Nations Goods and Services Tax Act**.

## PUBLICATION

17. This Law shall be published in the next available issue of the First Nation's Gazette and in the Natotawin newspaper of the Opaskwayak Cree Nation.

## HEADNOTES

18. Headnotes, marginal notes and headings form no part of the enactment but shall be construed as being inserted for convenience of reference only.

## REGULATIONS

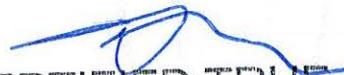
19. The Chief and Council may enact directives, forms, policies and regulations pursuant to this Law in order to give effect to the provisions of this Law.

## SEVERANCE

20. A finding by a Court that a provision of this Law is void or invalid shall not affect the validity of the rest of the Law.

## AMENDMENT

21. This Law may be amended from time to time by three separate readings, each passed by vote of a majority of a quorum of sitting members of Chief and Council. Notwithstanding the foregoing, any amendment which is found to contravene the **First Nation's Goods and**

  
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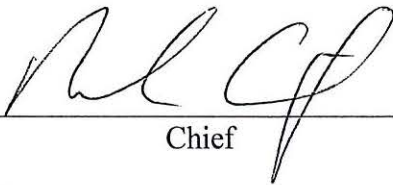
Services Tax Act, Parallel Provincial Law or Administrative Agreements as referred to herein shall be of no force and effect.

COMING INTO FORCE

22. This Law shall come into force upon the later of the following:
- a) The date of passage or signing of this Law by the Chief and Council of the Opaskwayak Cree Nation at a meeting in quorum;
  - b) The day that an Administration Agreement, pursuant to this Law is signed with the Province of Manitoba.


APPROVED AND PASSED BY CHIEF AND COUNCIL at a duly convened meeting held on the OCN Lands, this 8<sup>th</sup> day of FEBRUARY, 2016.

(A quorum of the Opaskwayak Cree Nation Chief and Council shall consist of five)

  
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Chief

  
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Councillor

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Councillor

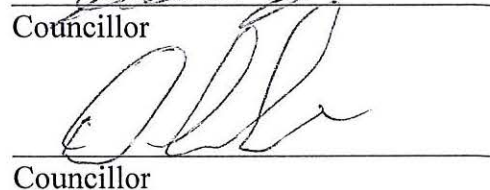
  
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D. VALDERRA, 02/23/2016