

**PERSONAL INCOME TAX ADMINISTRATION AND TAX SHARING
AGREEMENT**

Between the

GOVERNMENT OF CANADA

and the

NUNATSIAVUT GOVERNMENT

**PERSONAL INCOME TAX ADMINISTRATION AND TAX SHARING
AGREEMENT**

BETWEEN:

**THE GOVERNMENT OF CANADA ("Canada")
acting through and represented by the Minister of Finance**

AND

**THE NUNATSIAVUT GOVERNMENT
acting through and represented by the President**

WHEREAS the Nunatsiavut Government desires to exercise its power of direct taxation pursuant to the *Labrador Inuit Land Claims Agreement*, brought into effect by the *Labrador Inuit Land Claims Agreement Act*, S.C. 2005, c. 27 and by the *Labrador Inuit Land Claims Agreement Act*, SNL 2004, c. L-3.1;

AND WHEREAS the *Nunatsiavut Personal Income Tax Act* imposes an income tax on individuals and provides that the President of Nunatsiavut may enter into a tax administration agreement;


AND WHEREAS the Nunatsiavut Government wishes to enter into a tax administration agreement with Canada, pursuant to which Canada will vacate a portion of personal federal income taxes payable and that Canada shall administer, collect and enforce Income Tax payable under the *Nunatsiavut Personal Income Tax Act* on behalf of the Nunatsiavut Government and make payments to the Nunatsiavut Government in respect thereof, in accordance with such terms and conditions as the tax administration agreement prescribes;

AND WHEREAS the *Federal-Provincial Fiscal Arrangements Act*, R.S.C., 1985, c. F-8, provides that where an Aboriginal government imposes a tax, the Minister of Finance, with the approval of the Governor in Council, may enter into a tax administration agreement with the Aboriginal government, on behalf of Canada.

AND WHEREAS the President of Nunatsiavut has the approval of the Nunatsiavut Assembly to enter into this agreement;

AND WHEREAS the Minister of Finance has the approval of the Governor in Council to enter into this agreement;

Nunatsiavut Government 

Manager, Aboriginal Tax Policy (Finance Canada) 

NOW, THEREFORE, in consideration of the terms, exchange of promises, covenants and conditions contained in this agreement, the parties to this agreement agree as follows:

INTERPRETATION

1. (1) The following definitions apply in this agreement:

"Act" means the *Nunatsiavut Personal Income Tax Act*, and includes any regulations made thereunder;

"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 Newfoundland and Labrador" means the amount determined in respect of Newfoundland and Labrador and in accordance with subsection 120(4) of the Federal Act;

"Income for the Year" means the amount determined in accordance with subsection 120(3) of the federal Act;

"Income Tax", means the tax imposed under the 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;

"Inuit" means those individuals defined in clause (b) of the definition of "Inuit" in section 1.1.1 of the *Labrador Inuit Land Claims Agreement*;

"Inuit Community" has the same meaning as in the *Labrador Inuit Land Claims Agreement*;

"Inuk" means the singular of Inuit;

"Labrador Inuit Land Claims Agreement" means the land claims agreement signed on behalf of the Inuit of Labrador, her Majesty the Queen in right of Newfoundland and Labrador and Her Majesty the Queen in right of Canada on January 22, 2005, including any amendments made to it;

"Labrador Inuit Lands" has the same meaning as in the *Labrador Inuit Land Claims Agreement*;

"Minister" means the Minister of Finance of Canada and includes, where circumstances require, the Deputy Minister or any officer or class of officers authorised by the Minister of Finance;

"Minister of National Revenue" means the Minister of National Revenue for Canada and includes, where circumstances require, the Commissioner, as defined in the *Canada Customs and Revenue Agency Act*, S.C. 1999, c. 17, or any officer or class of officers authorised by the Minister of National Revenue;

"President" means the President of Nunatsiavut under the Labrador Inuit Constitution;

"Year" means a taxation year; and

"Working Day" means a day on which the offices of the Department of Finance (Canada) situated in Ottawa are open for the conduct of business.

(2) The *Interpretation Act*, R.S.C. 1985, c. I-21 applies to this agreement as if it were an enactment.

COVENANTS BY CANADA

2. (1) Canada, as agent of the Nunatsiavut Government, shall administer and enforce the Act, collect Income Tax and remit amounts in respect thereof to the Nunatsiavut Government in accordance with this agreement.

(2) Canada, as agent of the Nunatsiavut Government, may administer and enforce any other provision of the Act as determined by the Minister.

(3) Subject to subclause 11(4), Canada shall administer the Act in accordance with this agreement free of charge. In particular, any costs, charges or expenses (including amounts required to be paid in respect of prosecutions or other legal proceedings) incurred in the collection by Canada of the Income Tax in respect of each Year to which this agreement applies shall be paid by Canada.

3. Canada shall, in respect of each Year of this agreement, vacate 95% of the Federal Tax payable by an Individual residing within Labrador Inuit Lands or within an Inuit Community on the last day of the Year.

COVENANTS BY THE NUNATSIAVUT GOVERNMENT

4. The Nunatsiavut Government shall, in respect of each Year to which this agreement applies, impose an Income Tax in the following manner:

(a) in the case of an Individual who resides within Labrador Inuit Lands or within an Inuit Community on the last day of the Year in respect of which

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Income Tax is imposed and who only has Income Earned in the Year in Newfoundland and Labrador, Income Tax shall be 95% of the Federal Tax payable by that Individual for the Year; and

- (b) in the case of an Individual who resides within Labrador Inuit Lands or within an Inuit Community on the last day of the Year in respect of which Income Tax is imposed and who has Income for the Year other than Income Earned in the Year in Newfoundland and Labrador, Income Tax shall be 95% of the Federal Tax payable by that Individual for the Year, the product of which is multiplied by the ratio of the Individual's Income Earned in the Year in Newfoundland and Labrador to the individual's Income for the Year.

5. The Nunatsiavut Government agrees that the obligations, authorities, rights and privileges imposed upon or granted to a person under the Act shall not depend on whether that person is an Inuk or an Individual other than an Inuk.

6. (1) Subject to subclause (2), the Nunatsiavut Government shall in respect of each Year to which this agreement applies, maintain an act that incorporates by reference, where appropriate, the provisions of the Federal Act relating to administration, enforcement and collection of the Federal Tax.

(2) No criminal offences and penalties shall be imposed under the Act.

7. The Nunatsiavut Government shall, in respect of each Year to which this agreement applies, ensure that the Minister may remit to a taxpayer any Income Tax or penalty imposed under the Act, including any interest paid or payable thereon, where any Federal Tax or penalty has been remitted to the taxpayer under section 23 of the *Financial Administration Act*, R.S.C. 1985, c. F-11.

8. (1) The Nunatsiavut Government shall, in respect of each Year to which this agreement applies, make best efforts to inform the Minister before amending the Act.


(2) The Nunatsiavut Government shall provide the Minister in a timely manner with a certified true copy of:

- (a) the Act, following its enactment; and
 (b) any amendment to the Act, following its enactment.

PAYMENTS TO THE NUNATSIAVUT GOVERNMENT

9. (1) Canada shall make payments to the Nunatsiavut Government, in accordance with the *Federal-Provincial Fiscal Arrangements Act*, in respect of each particular Year to which this agreement applies on account of Income Tax assessed for each particular Year.

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(2) The amount payable to the Nunatsiavut Government in respect of a particular Year to which this agreement applies is the amount that is equal to the aggregate of the following:

- (a) amounts assessed under the Act on or before December 31 of the Year following the particular Year in respect of:
 - (i) Income Tax for the particular Year; and
 - (ii) Income Tax, or adjustments of Income Tax, for all Years prior to the particular Year, and to which this agreement applies, not included in the calculation of the amount payable for a Year prior to the particular Year; and
- (b) 95 % of amounts, as determined by the Minister, that have been deducted at source or paid as instalments in accordance with the Federal Act and the Act for the particular Year and for all Years prior to the particular Year and to which this agreement applies, that have not been applied on or before December 31 of the Year following the particular Year on account of the tax payable under the Federal Act and the Act for the particular Year or for any Year prior to the particular Year and to which this agreement applies (referred to as "Unapplied Payments"), less any amount included in a determination under this paragraph in respect of a Year prior to the particular Year.

(3) In respect of a particular Year to which this agreement applies, the Minister shall:

- (a) estimate the amount of the payment that, in the Minister's opinion, is due to the Nunatsiavut Government under subclause (2);
- (b) subject to subclause (4), make payments to the Nunatsiavut Government on the basis of the estimate referred to in paragraph (a) in twelve instalments, once each month, throughout the twelve-month period, commencing on or before the last Working Day of the month of January of that Year; and
- (c) provide to the Nunatsiavut Government a statement outlining the method of calculating the estimate referred to in paragraph (a).

(4) If, for a particular Year in respect of which payments are being made in accordance with this clause, it becomes apparent to the Minister that the estimate made in paragraph (3)(a) in respect of that Year should be revised, the Minister shall make a new estimate and the remaining instalments in respect of that Year shall be adjusted accordingly.

(5) For each particular Year in respect of which payments have been made in accordance with this clause, Canada shall provide to the Nunatsiavut Government information on amounts assessed under paragraph (2)(a) as of the last day of May following the end of that Year and as of the last day of each subsequent month until the

last day of December following the end of that Year (each of these days referred to hereafter as the "Cut-off Date"), which information shall be provided to the Nunatsiavut Government no later than one month following the relevant Cut-off Date.

(6) Following the end of a particular Year in respect of which payments have been made in accordance with this clause, and in no case later than November 30 of the Year following that Year, the Minister shall, on the basis of information available on September 30 of the Year following that Year,

- (a) make an interim recalculation of the amount payable to the Nunatsiavut Government in accordance with subclause (2),
- (b) provide the Nunatsiavut Government with a statement outlining the method and result of that interim recalculation, and
- (c) pay to the Nunatsiavut Government, upon request, within 30 days following December 31 of the Year following that Year, all or any part of the amount that the Minister may determine, of that interim recalculation that exceeds the total payments made to the Nunatsiavut Government during that Year.

(7) Following the end of a particular Year in respect of which payments have been made in accordance with this clause, and in no case later than the last day of the fourteenth month following the end of that Year, the Minister shall, on the basis of information available on December 31 of the Year following that Year,

- (a) make a revised recalculation of the amount payable in accordance with subclause (2),
- (b) provide the Nunatsiavut Government with a statement outlining the method and result of that revised recalculation, and
- (c) pay to the Nunatsiavut Government, no later than the last day of the fifteenth month following the end of that Year, the amount, if any, of that revised recalculation that exceeds the total payments made to the Nunatsiavut Government in respect of that Year.

DEBTS DUE TO CANADA

10. Where, under this agreement, the Nunatsiavut Government has received an amount in excess of the amount to which it is entitled, the Minister shall recover that excess amount as a debt due to Canada, in the following manner:

- (a) unless Canada and the Nunatsiavut Government agree otherwise, in any case where this agreement is in effect, the Minister shall recover any overpayment through a set-off against future payments from Canada to the Nunatsiavut Government pursuant to this agreement, in twelve equal

instalments, beginning in the month following the month in which the statement referred to in paragraph 9(7)(b) is provided to the Nunatsiavut Government and subject to any adjustments that may be required as set out in the Auditor General's report, referred to in subclause 16(1); or

- (b) in any case where this agreement has been terminated, an amount equal to any overpayment shall be paid to Canada by the Nunatsiavut Government within sixty days from the date that the Auditor General's report, referred to in subclause 16(1), is provided to the Nunatsiavut Government.

ADMINISTRATION

11. (1) The Nunatsiavut Government shall ensure, in respect of each Year to which this agreement applies, that the Minister of National Revenue has and may exercise all the powers of the Nunatsiavut Government for the administration, enforcement and collection of Income Tax, all of which shall operate concurrently with, but not in duplication of, the Federal Act.

(2) If requested by the Minister of National Revenue for the purposes of administering the Act, the Nunatsiavut Government shall provide free of charge to the Minister of National Revenue information that it may have relating to:

- (a) any person liable to Income Tax or the determination of any liability of any person to Income Tax; and
- (b) real property valuations and transactions.

(3) The Nunatsiavut Government, except in its capacity as a taxpayer, shall accept as final and binding all interpretations, assessments, decisions and other steps made or taken by the Minister of National Revenue under the Act pursuant to this agreement.

(4) Canada shall retain interest and penalties collected by the Minister of National Revenue in respect of the Act.

12. (1) Where, in the opinion of the Minister, the Minister of National Revenue or the Nunatsiavut Government, an amendment to the Act, or to this agreement would improve the effective administration, collection or enforcement of the Act, the Minister and the Nunatsiavut Government shall discuss the issue.

(2) Should Canada and the Nunatsiavut Government find that a solution is required, Canada and the Nunatsiavut Government agree to take whatever steps are in their respective powers, subject to any necessary approvals, authorisations or legislative requirements, to effect the solution.

(3) This provision in no way obligates Canada to consult or advise the Nunatsiavut Government in respect of any amendments or contemplated amendments to the Federal Act.

13. (1) Notwithstanding that this agreement has been terminated, the Minister of National Revenue shall continue to assess and collect Income Tax in respect of Year 2005 to the Year of termination of this agreement.

(2) The Nunatsiavut Government shall ensure that, for the purposes of assessing and collecting the Income Tax as described in subclause (1), the Minister of National Revenue shall have all the powers with respect to the assessment and collection of Income Tax after its termination in respect of each Year to which this agreement applies, that the Minister of National Revenue would have had if the assessment were made and the collection effected during the term of this agreement.

(3) If this agreement has been terminated, and if payment has been made to the Nunatsiavut Government for the amount of Income Tax assessed in respect of a Year to which this agreement applies, any amount collected in respect of that assessment at any time thereafter shall be retained by Canada.

(4) If this agreement has been terminated and any loss is incurred by Canada because the Nunatsiavut Government has failed to provide the Minister of National Revenue with authority sufficient to collect the Income Tax, an amount equal to the amount of the loss may be recovered by Canada as a debt due to Canada payable by the Nunatsiavut Government.

14. (1) Any actions, suits, prosecutions or other legal proceedings instituted by the Crown or against the Crown or the Nunatsiavut Government in respect of the Act shall be conducted by Canada on behalf of the Nunatsiavut Government

- (a) in the same name in which that action, suit, prosecution or other legal proceeding would have been instituted if instituted under corresponding provisions of the Federal Act, or
- (b) in any other name that would be appropriate if that action, suit, prosecution or other legal proceeding were instituted by the Nunatsiavut Government on the Nunatsiavut Government's own behalf,

and the Nunatsiavut Government shall assist Canada with respect to the conduct of that action, suit, prosecution or other legal proceeding or any matter related or incidental thereto.

(2) The Nunatsiavut Government shall forward to the Minister of National Revenue, with all due dispatch, any document that may be received by the Nunatsiavut Government relating to any assessment made under the Act or relating to any action, suit, prosecution or other legal proceeding instituted under the Act.

COLLECTION

15. Where, in respect of any Year to which this agreement applies, amounts are required to be paid by a taxpayer on account of tax payable under the Act and under the Federal Act, and the Minister of National Revenue receives a payment on account of the tax payable by the taxpayer for that Year under either the Act or the Federal Act, or both, the payment so received shall be applied by the Minister of National Revenue towards the tax payable by the taxpayer under the Act for that Year, and the remainder, if any, shall be applied towards the tax payable by the taxpayer for that Year under the Federal Act.

REPORTING

16. (1) The Nunatsiavut Government shall receive an annual report, signed by the Auditor General of Canada, on the results of applying specified auditing procedures to the reconciliation procedures described in subclause 9(7), in a format consistent with current auditing and reporting practices.

(2) The Auditor General's report shall constitute the only specified auditing procedures conducted with respect to Canada's obligations under this agreement and the Nunatsiavut Government hereby shall have no right to inspect the books and records of Canada.

REVIEW

17. The parties shall discuss, prior to July 1, 2006, an amendment to this agreement which relates to the circumstances in which Canada will review the amount of tax room vacated by Canada in favour of the Nunatsiavut Government pursuant to clause 3, with a view to including such amendment in this agreement before December 31, 2006.

DISPUTE RESOLUTION

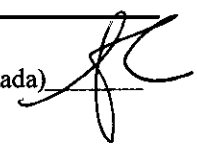
18. (1) In the event of a dispute between the Nunatsiavut Government and the Minister arising out of the interpretation of this agreement, the parties agree to use the procedure set out in subclauses (2) to (6) prior to pursuing any other legal remedy.

(2) Within thirty (30) days of either party receiving written notice from the other of a dispute under this agreement, a meeting shall be held between the parties to attempt in good faith to settle the dispute.

(3) If, within sixty (60) days after this meeting, the parties have failed to resolve the dispute, they agree to submit the dispute to mediation and to equally bear the costs of that mediation.

(4) The parties shall jointly select a mediator. If after thirty (30) days the parties are unable to agree upon the choice of a mediator, then the parties shall apply to a judge of the Supreme Court of Newfoundland and Labrador to appoint a mediator.

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(5) The parties agree to participate in good faith in the mediation process for a period of sixty (60) days.

(6) The parties may mutually determine time periods other than those referred to in subclauses (2) to (5).

(7) A party to this agreement shall not give a notice under subclause (2) where a notice to terminate this agreement has been given by either party.

TERMINATION

19. The Nunatsiavut Government may, at any time and for any reason, terminate this agreement by giving the Minister written notice of termination of this agreement.

20. Except where clause 21 applies, the Minister may, at any time and for any reason, terminate this agreement by giving the Nunatsiavut Government written notice of termination of this agreement.

21. (1) Where, in the opinion of the Minister, the Act or a regulation made under the Act does not:

- (a) comply with this agreement,
- (b) provide the Minister of National Revenue authority sufficient to administer and enforce the Act and to collect amounts imposed under that Act,
- (c) admit of sufficient uniformity between the Act and the Federal Act, or
- (d) respect the covenant set out in clause 5;

the Minister shall so notify the Nunatsiavut Government in writing and shall specify the amendments and alterations to the Act, or to the regulation, that the Minister considers necessary.

(2) Where the Nunatsiavut Government fails to amend or alter the Act or the regulation within six months of the receipt of the notice referred to in subclause (1), the Minister may terminate this agreement by giving written notice.

22. Where a notice of termination has been given, this agreement shall terminate:

- (a) in the case of a notice given by Canada,
 - (i) on December 31 of the Year following the Year in which the notice was given, or
 - (ii) if a subsequent Year is specified in the notice, on December 31 of that Year.

- (b) in the case of a notice given by the Nunatsiavut Government,
- (i) if the notice was given prior to October 1 of a Year, on December 31 of that Year; or
 - (ii) if the notice was given after September 30 of a Year, on December 31 of the Year following that Year.

23. (1) Subject to subclause (2), termination of this agreement shall not affect the operation of any clause of this agreement in respect of Year 2005 to the Year of termination of this agreement, and upon such termination the provisions of this agreement shall apply with any necessary modifications in respect of those Years as if this agreement had been entered into only for the period of those Years, and the provisions of this agreement relating to payments to the Nunatsiavut Government in respect of Income Tax for that period shall be adjusted to take into account such termination.

(2) Unless the Minister otherwise directs, payments under this agreement shall no longer be made to the Nunatsiavut Government five Years after its termination.

NO ASSIGNMENT

24. This agreement may not be assigned, either in whole or in part, by either party.

SAVING

25. Nothing in this agreement shall limit or restrict, or be construed as limiting or restricting, Canada's right to alter or vary, in such manner as Canada may determine, the Federal Act or the regulations made thereunder.

26. (1) Nothing in this agreement shall be or be construed as an undertaking by Canada to collect Income Tax or take any action with respect to the collection of Income Tax where, in the opinion of the Minister, a doubt exists that the Nunatsiavut Government has provided sufficient statutory or other authority for the administration, enforcement or collection of such Income Tax.

(2) Where Canada cannot collect Income Tax or amounts payable on account of Income Tax by reason of there being, in the opinion of the Minister, doubtful authority to do so as referred to in subclause (1), the amount that, in the opinion of the Minister, Canada has thereby failed to collect may be recovered by Canada as a debt due to Canada by the Nunatsiavut Government notwithstanding that payments on account have been made to the Nunatsiavut Government as if there were sufficient authority.

TERM

27. The term of this agreement is the period commencing with the Year 2005 and ending on the date of termination of this agreement in accordance with clause 22.

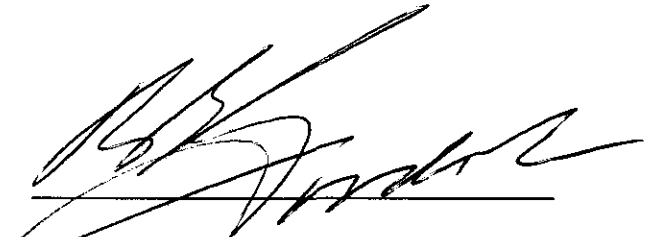
SIGNATURE

28. This document may be signed in counter part. Each signature hereon shall be deemed to be an original and all of the signatures together shall constitute one and the same executed document as of the date on which the last party signs.



President, on behalf of the
Nunatsiavut Government

Date: Dec 1 / 05



Minister of Finance, on behalf of the
Government of Canada

Date: NOV 25 2005