

**NUNATSIAVUT GOVERNMENT
PROVINCIAL TAX REVENUE SHARING AGREEMENT**

THIS AGREEMENT made the 22 day of November, 2005

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF NEWFOUNDLAND
AND LABRADOR, as represented by the Minister Responsible for
Aboriginal Affairs**

("Province")

AND:

**LABRADOR INUIT, as represented by the President of the
Labrador Inuit Association**

("Nunatsiavut Government")

WHEREAS:

1. The Labrador Inuit Land Claims Agreement provides that the Nunatsiavut Government, Canada and the Province will negotiate a Fiscal Financing Agreement; and
2. The Labrador Inuit Land Claims Agreement provides in section 2.2.2 that on the Effective Date of the Labrador Inuit Land Claims Agreement, the Nunatsiavut Government becomes the successor of the Labrador Inuit Association for the purposes of the Labrador Inuit Land Claims Agreement, and
3. Schedule C of the Nunatsiavut Government Fiscal Financing Agreement provides for the transfer of a portion of Provincial Tax Revenues from the Province to the Nunatsiavut Government; and
4. The Nunatsiavut Government and the Province have agreed to negotiate an agreement to provide for the sharing of 40% of Provincial Tax Revenues derived from Beneficiaries resident in the Inuit Communities on account of Personal Income Tax, Harmonized Sales Tax, Gasoline Tax and Tobacco Tax; and
5. Provincial Tax Revenues shared shall be used by the Nunatsiavut Government to contribute to the funding of provincial programs and services transferred to the Nunatsiavut Government by the Province.

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NOW, in consideration of the premises and the covenants and agreements set out below, the Parties agree as follows:

1.0 DEFINITIONS

1.1 Words and expressions not defined in this Agreement but defined in the Labrador Inuit Land Claims Agreement have the same meanings ascribed to them in the Labrador Inuit Land Claims Agreement.

1.2 In this Agreement the following definitions shall apply:

“Agreement” means this Nunatsiavut Government Provincial Tax Revenue Sharing Agreement;

“Beneficiaries” means those Beneficiaries who are resident in the Inuit Communities. For purposes of section 5, information collected from Statistics Canada Census assumes that Aboriginal people resident in the Inuit Communities are Beneficiaries;

“Chapter” means the Chapter of the Labrador Inuit Land Claims Agreement;

“Fiscal Year” means the period that commences on April 1st of a year and ends on March 31st of the next year;

“Gasoline Tax” means taxes imposed upon individuals under the *Gasoline Tax Act*;

“Harmonized Sales Tax” means Newfoundland’s entitlement under the Comprehensive Integrated Tax Co-ordination Agreement;

“Minister” means the provincial Minister of Finance and Treasury Board;

“Parties” means the parties to this Agreement and **“Party”** means any one of them;

“Personal Income Tax” means personal taxes under the *Income Tax Act, 2000*;

“Provincial Tax Revenues” means tax revenues collected by the Province from Beneficiaries resident in the Inuit Communities on account of:

- (a) Personal Income Tax;
- (b) Harmonized Sales Tax;
- (c) Gasoline Tax; and
- (d) Tobacco Tax.

“Schedule” means a Schedule of the Nunatsiavut Government Fiscal Financing Agreement; and

“Tobacco Tax” means taxes imposed upon individuals under the provincial *Tobacco Tax Act*.

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1.3 Except as provided in section 1.1 and 1.2, the provincial *Interpretation Act* applies to this Agreement.

1.4 A reference in this Agreement to Legislation refers to the Legislation as amended from time to time and includes replacement or successor Legislation.

2.0 GENERAL

2.1 This Agreement shall not form part of the Labrador Inuit Land Claims Agreement.

2.2 This Agreement is not a treaty or a land claim agreement and does not recognize or affirm aboriginal or treaty rights within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

3.0 PRINCIPLES OF THE AGREEMENT

3.1 Nothing in this Agreement is intended to alter the constitutional division of powers or to derogate from, diminish or otherwise affect the lawful authority of the provincial Minister or any provincial regulatory body with respect to the development, promulgation, administration and enforcement of provincial tax laws, tax agreements, tax policy and tax compliance. For greater certainty, nothing in this Agreement shall be interpreted as:

- (a) an explicit or implicit abdication in whole or in part by the Province of any of its taxation powers, authority or jurisdiction;
- (b) the vacating of tax room by the Province; or
- (c) the transfer or delegation to, conferral on, or assumption by the Nunatsiavut Government of any authority in respect of taxation which is in addition to or different from that provided by Chapter 20 of the Labrador Inuit Land Claims Agreement.

3.2 Provincial Tax Revenue sharing under this Agreement shall be subject to normal tax interpretations and any policy or normal administrative changes affecting relevant tax laws having general application.

4.0 PROVINCIAL TAX REVENUE SOURCES TO BE SHARED

4.1 The Province shall share Provincial Tax Revenues with the Nunatsiavut Government as determined herein and applied in accordance with Schedule C of the Nunatsiavut Government Fiscal Financing Agreement.

4.2 The transfer of Provincial Tax Revenues will commence in the first Fiscal Year in which the Nunatsiavut Government agrees to deliver provincially funded programs and services pursuant to the Nunatsiavut Government Fiscal Financing Agreement in accordance with section 4.1 of Schedule C.

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5.0 TAX SHARING MECHANISM

5.1 Provincial Tax Revenues to be shared are amounts determined in 5.2, or other practical terms as may be agreed to by the Parties, multiplied by 40%, subject to Part C.4.0 of the Nunatsiavut Government Fiscal Financing Agreement. Where there are significant changes in the nature or quality of information or processes available for the purpose of this Part, then the Parties to this Agreement shall endeavour to agree upon other reasonable approaches or solutions.

5.2 (a) Provincial Personal Income Tax, as per Schedule A to this agreement.

(b) Provincial Gasoline Tax

(i) By April 1 of each year, the Province will make a written request for data from gasoline wholesalers that distribute product into the Inuit Communities, requiring information on the amount of product distributed into the Inuit Communities during the previous fiscal year. The Province will provide official confirmation of these amounts to the Nunatsiavut Government.

(ii) The full amount of gasoline, other than diesel fuel and jet fuel, will be deemed to be consumed by Beneficiaries and will be multiplied by the prevailing provincial Gasoline Tax rate per litre for the period under consideration, pro-rated where the rate changes within the period.

(iii) The amount of Gasoline Tax determined in 5.1(b)(ii) will be multiplied by the percentage of Beneficiaries who are 16 years of age or over resident in the Inuit Communities, using the most recent Statistics Canada Census data.

(c) Provincial Tobacco Tax

(i) Monthly shipment reports provided to the Province by tobacco manufacturers, or other information required of tobacco manufacturers by the Province, will be employed.

(ii) Within 30 days of the Province receiving relevant information referred to in 5.2(c)(i), the Province will divide the number of tobacco units (cigarettes plus grams of fine cut) brought into the Province in the previous fiscal year by the number of persons in the Province 19 years of age or over, using the most recent Statistics Canada Census data.

(iii) The result from the ratio in 5.2(c)(ii) will be multiplied by the number of Beneficiaries who are 19 years of age or over resident in the Inuit Communities, using the most recent Statistics Canada Census data.

(iv) The result from 5.2(c)(iii) will be multiplied by the prevailing Tobacco Tax rate per tobacco unit, where the rate for the period under consideration is weighted in

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accordance with the proportion of units that are cigarettes compared to fine cut grams, pro-rated where either the cigarette or fine cut tax rates changed within the period.

(d) Provincial Harmonized Sales Tax

- (i) The most recent entitlement year final data from the Harmonized Sales Tax economic model will be employed, as referred to in Annex A of the Comprehensive Integrated Tax Coordination Agreement between the Government of Canada and the Government of Newfoundland and Labrador (as amended), as shared annually with the Province on a confidential basis by the Federal Department of Finance.
- (ii) Within 30 days of the Province receiving the data referred to in 5.2(d)(i) the Province will calculate the ratio of the consumer expenditure base (plus any net HST incurred by Beneficiaries on housing costs to the extent these are not included in the consumer expenditure base, if reported and substantiated by the Nunatsiavut Government) to the total Harmonized Sales Tax base, which will be the portion of the total harmonized sales tax received that is available for tax sharing.
- (iii) Total Harmonized Sales Tax received by the Province as per the latest released provincial Public Accounts, net of provincial Harmonized Sales Tax credits, will be multiplied by the ratio referred to in 5.2(d)(ii).
- (iv) The amount of Harmonized Sales Tax determined in 5.2(d)(iii) will be multiplied by the percentage of the population of the Province that are Beneficiaries resident in the Inuit Communities, using the most recent Statistics Canada Census data.
- (v) The amount determined in 5.2(d)(iv) will be multiplied by the ratio of the average income of Beneficiaries resident in the Inuit Communities to the average income of all residents of the province, using the most recent Statistics Canada Census data.

6.0 GENERAL REPORTING REQUIREMENTS

- 6.1 A Provincial Tax Revenue Sharing report for a Fiscal Year shall be provided by the Province to the Nunatsiavut Government pursuant to this Agreement no later than October 31 of a year in respect of the Fiscal Year ended in that year which shall provide a summary of the calculations referred to in Part 5.0.

7.0 INFORMATION EXCHANGE

- 7.1 The Parties will share, in a timely manner, information reasonably required for purposes of implementation, monitoring, and renewal of this Agreement.
- 7.2 Information collected, shared and disclosed under this Agreement shall be done in a manner that:

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- (a) ensures the confidentiality of the information; and
- (b) is in accordance with applicable laws and Section 2.19 of the General Provisions Chapter of the Labrador Inuit Land Claims Agreement.

8.0 ADMINISTRATION

8.1 The Parties will:

- (a) meet at least once a year to review this Agreement;
- (b) do such things as are appropriate to facilitate the resolution of any issues relating to the interpretation, implementation, amendment and application of this Agreement; and
- (c) do such other things relating to this Agreement as the Parties may agree from time to time to be appropriate.

9.0 DISPUTE RESOLUTION

9.1 The Parties desire and expect that a dispute arising from this Agreement may be resolved by informal discussion between the Parties.

10.0 TERM

10.1 The term of this Agreement will begin on the Effective Date and will continue until terminated by the Parties or a successor agreement has been reached.

11.0 AMENDMENT AND WAIVER

11.1 No provision of this agreement shall be amended or modified by either Party unless such amendment or modification is in writing and signed by the parties hereto.

11.2 A provision of this Agreement or the performance by a Party of an obligation under this Agreement may not be waived unless the waiver is in writing and signed by the Party giving the waiver. A waiver by a Party of the strict performance of any covenant or provision of this Agreement shall not constitute a waiver of any subsequent breach of that covenant or provision or any other covenant or provision of this Agreement. The failure of a Party to require the fulfilment of any obligation or to exercise any right under this Agreement shall not constitute a waiver or surrender of those obligations or rights.

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12.0 SEVERABILITY

- 12.1 If any part of this Agreement is declared or held invalid for any reason, the invalidity of that part will not affect the validity of the remainder which will continue in full force and effect and be construed as if this Agreement had been executed without the invalid portion.

13.0 ENUREMENT

- 13.1 This Agreement will enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. On the Effective Date the Nunatsiavut Government becomes the successor of the Labrador Inuit Association for the purposes of the agreement.

14.0 ENTIRE AGREEMENT

This agreement is the entire agreement between the Parties concerning the subject matter of this agreement, and there are no representations, warranties, collateral agreements, or conditions, whether oral or in writing, applicable to or affecting this agreement unless expressly incorporated in this agreement.

15.0 ASSIGNMENT

- 15.1 Unless otherwise agreed by the Parties, this Agreement may not be assigned, either in whole or in part, by any Party to it.

16.0 NOTICES

- 16.1 Unless otherwise agreed, a notice, document, request, approval, authorization, consent or other communication (each a "communication") required or permitted to be given or made under this Agreement must be in writing and may be given or made in one or more of the following ways:

- (a) delivered personally or by courier;
- (b) transmitted by facsimile transmission; or
- (c) mailed by prepaid registered post in Canada.

- 16.2 A communication will be considered to have been given or made, and received:

- (a) if delivered personally or by courier, at the start of business on the next business day after the business day on which it was received by the addressee or a responsible representative of the addressee;

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- (b) if sent by facsimile transmission and if the sender receives confirmation of the transmission, at the start of business on the next business day after the business day on which it was transmitted; or
- (c) if mailed by prepaid registered post in Canada, when the postal receipt is acknowledged by the addressee.

16.3 A communication must be delivered, transmitted to the facsimile number or mailed to the address of the intended recipient set out below:

For: Newfoundland and Labrador
Attention: Minister of Finance and President of Treasury Board
P.O. Box 8700
Confederation Building
St. John's, Newfoundland and Labrador A1B 4J6
Fax Number: 709-729-2070

For: Nunatsiavut Government
Attention: The President
Nunatsiavut Government
17 Sandbanks Road
P.O. Box 70
Nain, Newfoundland and Labrador A0P 1L0
Fax Number: 709-922-2931

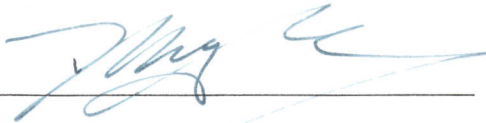
16.4 A Party may change its designate, address, or facsimile number by giving a notice of the change to the other Party in the manner set out above in 16.1.

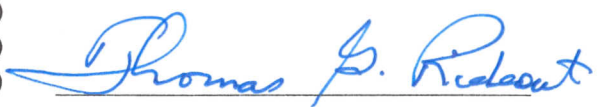
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THIS AGREEMENT HAS BEEN EXECUTED as of the day and year first above written.

EXECUTED in the presence of:

) **HER MAJESTY THE QUEEN IN RIGHT**
) **OF NEWFOUNDLAND AND**
) **LABRADOR as represented by the**
) **Minister Responsible for Aboriginal**
) **Affairs**

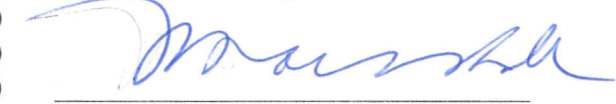


) 

EXECUTED in the presence of:

) **Minister for Intergovernmental Affairs**




) 

EXECUTED in the presence of:

) **LABRADOR INUIT as represented by the**
) **President of The Labrador Inuit**
) **Association**



) 

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**Schedule A
Personal Income Tax Determination**

$$G \text{ (total Personal Income Tax)} = D+F$$

Where,

$$C \text{ (Provincial Public Accounts less taxfiler database)} = A-B$$

$$E \text{ (LIA percentage of total PIT)} = D/B$$

$$F \text{ (LIA share of the difference "C")} = E*C$$

And where,

“A” is Personal Income Tax received by Newfoundland and Labrador for the most recent year extracted from latest available Provincial Public Accounts data (Actuals), which represents the federal transfer to the province of provincial Personal Income Tax under the Tax Collection Agreement between the Government of Canada and the Government of Newfoundland and Labrador.

“B” is Personal Income Tax received by Newfoundland and Labrador for the most recent year extracted from final taxfiler data shared by the Canada Revenue Agency with the Province on a confidential basis under the *Income Tax Act* (Canada).

“C” is the difference between Provincial Public Accounts data and Canada Revenue Agency taxfiler data.

“D” is Personal Income Tax received in respect of the five Inuit communities of Nain, Postville, Rigolet, Makkovik and Hopedale for the most recent year extracted from final taxfiler data shared by the Canada Revenue Agency with the Province on a confidential basis under the *Income Tax Act* (Canada), and adjusted by the percentage of the population in the Inuit communities that are Beneficiaries, using the most recent Statistics Canada Census data.

“E” is Personal Income Tax received by the five Inuit communities as per “D”, as a percent of Personal Income Tax received by Newfoundland and Labrador for the most recent year as per “B”

“F” is the LIA share of the difference as per “C”

“G” is total Personal Income Tax determined for the purposes of 5.2 of this agreement.