

RECIPROCAL TAXATION AGREEMENT

(Canada – Northwest Territories)

TABLE OF CONTENTS

PREAMBLE	2
PART I INTERPRETATION	3
Definitions.....	3
References.....	3
Application.....	4
PART II PAYMENT, COLLECTION AND REMITTANCE OF TAXES AND FEES.....	4
Agreement by Canada.....	4
Agreement by the Territory	4
Credit cards – Territory.....	5
PART III GOVERNMENT REBATE.....	5
Government Rebate	5
PART IV EQUALITY OF TREATMENT.....	6
Equality of treatment.....	6
PART V DISPUTE RESOLUTION.....	6
Settlement of disputes under the Agreement	6
PART VI EXCHANGE OF INFORMATION.....	7
Information	7
PART VII IMPLEMENTATION AND AMENDMENTS	8
Implementation	8
Amendments	8
PART VIII TERM AND COUNTERPARTS	9
Effective date	9
Duration	9
Review	9
Execution in counterparts	9
EXECUTION.....	10
SCHEDULE A.....	11

MEMORANDUM OF AGREEMENT

BETWEEN:

The Government of Canada (in this agreement referred to as "Canada"),
represented by the Minister of Finance (the "Federal Minister")

AND

The Government of the Northwest Territories (in this agreement referred to as
"the Territory"), represented by the Minister of Finance (the "Territorial
Minister")

TOGETHER referred to as the "parties".

PREAMBLE

WHEREAS:

the parties agree that the main objectives of this agreement are to

- (i) reduce compliance costs and promote simplicity for non-government vendors in respect of certain taxes and fees;
- (ii) enhance competitive equity as between government and non-government suppliers; and
- (iii) enhance consistency in reciprocal taxation between the parties and within Canada;

the parties agree to interpret and apply the provisions of this agreement in a manner that respects these objectives;

in order to achieve these objectives the parties agree to pay taxes and fees imposed by one another that are specified in this agreement; and

the Federal Minister is authorized by section 32 of the *Federal-Provincial Fiscal Arrangements Act*, R.S.C. 1985, c. F-8 to enter into this agreement.

NOW, THEREFORE, the parties agree as follows:

PART I INTERPRETATION

Definitions

1. In this agreement:

“Agreement” means this Reciprocal Taxation Agreement, entered into by Canada and the Territory, including all Schedules attached, and all instruments amending or restating it, or any successor agreement to it;

“Federal Act” means the *Excise Tax Act*, R.S.C. 1985, c. E-15;

“Federal Tax” means any tax imposed or levied under the Federal Act, other than the Value-Added Tax;

“FPFAA” means the *Federal-Provincial Fiscal Arrangements Act*, R.S.C. 1985, c. F-8;

“Government Rebate” means a rebate referred to in Part III of the Agreement;

“Territorial Tax or Fee” means a tax or fee imposed or levied by the Territory that would, if it were imposed or levied by a province, be a provincial tax or fee as defined in subsection 31(1) of the FPFAA, and includes any such tax or fee which is imposed or levied under any of the following statutes:

- (a) the *Motor Vehicles Act*, R.S.N.W.T. 1988, c. M-16,
- (b) the *Petroleum Products Tax Act*, R.S.N.W.T. 1988, c. P-5, and
- (c) the *Tobacco Tax Act*, R.S.N.W.T. 1988, c. T-5;

“Third-Party Purchases” means property or services acquired other than in the name of Canada or the Territory

- (a) by employees of Canada or by employees of the Territory, including expenses incurred in the course of employment-related travel, for example: supplies of transportation, meals, accommodation, taxi services and incidental travel-related expenses, or

- (b) out of petty cash; and

“Value-Added Tax” means any tax imposed under Part IX of the Federal Act.

References

2. In the Agreement, a reference to an Act of the federal Parliament or of the legislature of the Territory is a reference to that Act, and to the regulations made under that Act, as amended from time to time.

Application

3. The Agreement is binding on Canada, the Territory and their respective agents.

PART II PAYMENT, COLLECTION AND REMITTANCE OF TAXES AND FEES

Agreement by Canada

4. Canada agrees:

- (a) to pay the Territorial Taxes or Fees in accordance with the territorial laws, as if these laws were applicable to it;
- (b) to collect and remit the Territorial Taxes or Fees in respect of the sale of property or services by Canada in accordance with the territorial laws, as if these laws were applicable to it;
- (c) to pay any other amounts on account of the Territorial Taxes or Fees collectible and remittable that Canada failed to collect or remit to the Territory; and
- (d) to pay interest, but not penalties, in respect of any Territorial Taxes or Fees collectible by Canada.

Agreement by the Territory

5. The Territory agrees:

- (a) to pay, subject to paragraph (b), any Federal Tax in accordance with the Federal Act;
- (b) to pay any tax imposed or levied under Part III of the Federal Act on goods imported by the Territory, to the same extent as Canada pays that tax on any importation of goods;
- (c) not to apply for, nor claim the benefit of, any refund of tax paid under Part III of the Federal Act, or any payment in respect of such tax for which provision is made in section 68.19 of the Federal Act, and that no refund or payment in respect of tax paid under that Part can be granted under that section to an importer, transferee, manufacturer, producer, wholesaler, jobber or other dealer;
- (d) to pay the Value-Added Tax in accordance with the Federal Act in respect of:
 - (i) supplies of property or services acquired by territorial entities other than the entities listed in Part II of Schedule A, and
 - (ii) Third-Party Purchases;

- (e) that the territorial entities, other than those listed in Part I of Schedule A, will not apply for, nor claim the benefit of, any refund, input tax credit, other rebate or remission of any Value-Added Tax where the Territory has agreed to the payment of that tax under subparagraph (d)(ii);
- (f) to collect and remit tax imposed or levied in accordance with the Federal Act;
- (g) to pay any other amounts on account of any tax imposed or levied under the Federal Act collectible and remittable under that Act, that it failed to collect or remit to Canada; and
- (h) to pay interest, but not penalties, in respect of any tax imposed or levied under the Federal Act collectible by the Territory.

Credit cards – Territory

6. (1) If a credit card is used by the Territory to pay for a supply of a property or service for which the Territory has not otherwise agreed to pay the Value-Added Tax, the Territory shall ensure
 - (a) that it is solely liable for the payment of the amounts owing under the relevant credit card agreement; and
 - (b) that there appears a clear indication on the credit card that it is for use in acquiring supplies exempt of Value-Added Tax.
- (2) The Territory agrees to provide to Canada, upon request, the necessary information to establish that property or a service was acquired by means of a credit card described in sub-clause (1).

PART III GOVERNMENT REBATE

Government Rebate

7. (1) Territorial entities listed in Part I of Schedule A are entitled, on application to Canada, to a Government Rebate in respect of any Value-Added Tax paid or payable by them. The rebate extends to any Value-Added Tax paid or payable on expenses incurred in the course of employment, by employees of those territorial entities.
- (2) Territorial entities listed in Part I of Schedule A shall not claim a Government Rebate described in sub-clause (1) in respect of tax for which it has claimed, or will claim, a refund, input tax credit or other rebate under the Federal Act.
- (3) The Territory agrees to provide Canada, upon request, with any information necessary to determine the amount of a Government Rebate described in sub-clause (1).

PART IV EQUALITY OF TREATMENT

Equality of treatment

8. (1) With respect to the imposition or administration of any tax or fee, each party agrees to treat the other party in a manner that is consistent with the rules of general application of the tax or fee.
- (2) For the purpose of this clause and any relevant territorial laws, the parties agree that:
- (a) any vessel operated by Canada is deemed to be a cargo or passenger vessel operated for the purposes of trade and commerce;
 - (b) any aircraft operated by Canada is deemed to be operated according to a regular flight schedule for the purposes of trade and commerce; and
 - (c) any tax levied in respect of the sale, rental or use of any such vessel or aircraft must be determined accordingly.

PART V DISPUTE RESOLUTION

Settlement of disputes under the Agreement

9. (1) If the parties fail to agree on the interpretation or application of the Agreement, a party can refer the matter in dispute to a Board established in accordance with sub-clause (2).
- (2) A Board consists of three members. Canada and the Territory shall each appoint a member. The third member shall be appointed by the two members already selected. If the two selected members fail to agree as to the third member, the parties shall request the Chief Justice of the Federal Court of Canada to select the third member. In the event of the absence or inability of the Chief Justice or a vacancy in that office, the request shall be made to the Acting Chief Justice of the Federal Court of Canada.
- (3) The parties agree to facilitate the constitution and functioning of the Board and to supply promptly any information required by the Board.
- (4) Canada agrees:
- (a) to inform the Territory of any dispute arising under an agreement similar to the Agreement with any other province or territory at least thirty days before the selection of a Board under any provision of the agreement with the other province or territory similar to sub-clause (2);

- (b) that any other province or territory that enters into an agreement similar to the Agreement is an interested party, for all purposes, in any proceeding before the Board and has the right to intervene and to make representations in the same manner as the parties; and
 - (c) to include a provision similar to this provision in any agreement similar to the Agreement with any other province or territory.
- (5) The Board shall review any matter in dispute. The report of the majority of the Board, including any findings and recommendations, shall be submitted as soon as possible to the parties to the Agreement and to the other interested parties. The Federal Minister shall within a reasonable time thereafter forward the report to all other provinces and territories that have entered into similar agreements. Upon submission of its report, the Board will be dissolved.
- (6) Within a reasonable time after receiving the report, the parties to the Agreement and all provinces and territories that are interested parties shall approve or reject the recommendations of the Board and inform all other interested parties of their decision. When Canada and the Territory agree with the recommendations, the recommendations become applicable at the time specified therein or at any time and manner agreed to by them.
- (7) The Board determines its own rules of procedure.
- (8) Canada shall pay, in the first instance, all reasonable expenses incurred by the Board, including the members' remuneration, witness fees, travel expenses and any other administrative costs. In its report, the Board shall apportion these expenses, in its sole discretion, between the parties to the Agreement and amongst any other parties who may have made any representations to the Board.
- (9) This clause does not apply where a difference arises between the parties as to any matter related to the administration or enforcement of any Act that imposes a tax that a party has agreed to pay.

PART VI EXCHANGE OF INFORMATION

Information

10. Canada agrees to provide the Territory, upon request and by notice in writing, with:

- (a) all agreements similar to the Agreement between Canada and any province or territory, including any related amendments and administrative procedures; and

- (b) all findings or decisions and recommendations of any Board established in accordance with clause 9 (or under similar provisions of agreements or arrangements entered into for purposes similar to that of the Agreement with any province or territory) and any decision of the interested parties regarding a matter in dispute reviewed by the Board under such clause.

PART VII IMPLEMENTATION AND AMENDMENTS

Implementation

11. Canada and the Territory agree to introduce legislative measures and undertake the administrative measures they deem necessary to give effect to the Agreement.

Amendments

12. (1) Subject to sub-clause (2), the parties may amend, alter or change the Agreement by an exchange of letters between the Federal Minister and the Territorial Minister.
- (2) The parties may amend, alter or change any Schedule to the Agreement by exchange of letters between, in the case of Canada:

The Director
Intergovernmental Tax Policy Evaluation and Research Division
Department of Finance
Government of Canada
Ottawa, Ontario
K1A 0G5

and, in case of the Territory:

The Director
Fiscal Policy Division
Department of Finance
Government of the Northwest Territories
P.O. Box 1320
Yellowknife, Northwest Territories
X1A 2L9

PART VIII TERM AND COUNTERPARTS

Effective date

13. The Agreement is effective as of January 1, 2017.

Duration

14. (1) The Agreement will continue in full force and effect, in accordance with and subject to the provisions of this Part, until the date that is specified by a party in a written notice referred to in sub-clause (2).
- (2) Either party may terminate the Agreement at any time by providing six months' notice in writing to the other party.
- (3) No rights or obligations which may have accrued to either party during the term of the Agreement are affected if the Agreement ceases to have effect.

Review

15. (1) The parties agree that they will, at a minimum of once every five years after the coming into force of the Agreement, review the Agreement to ensure its intended operation and amend any such clauses as necessary.
- (2) As part of the review referred to in sub-clause (1), the parties will review the entities listed on Schedule A, as well as any other entities put forward by the Territory for inclusion on that Schedule. Based on the results of this exercise, the parties will amend, alter or change Schedule A, as necessary.
- (3) Each party will communicate the results of the review referred to in sub-clause (1), including any amendments, alterations or changes made to Schedule A as a result of the exercise referred to in sub-clause (2), to the Federal and Territorial Ministers.

Execution in counterparts

16. (1) The Agreement, and any amendments made pursuant to clause 12, may be executed in counterparts each of which so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.
- (2) A party may accept and rely on an executed counterpart as an original, notwithstanding that it is received in the form of a facsimile or a portable document format file (pdf) if the party delivering the document in such form promptly provides the counterpart bearing the original signature.

EXECUTION

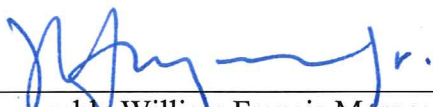
IN WITNESS WHEREOF, THIS AGREEMENT IS SIGNED IN DUPLICATE,

THE GOVERNMENT OF CANADA

AT OTTAWA

THIS 15th DAY OF December 2016

BY



The Honourable William Francis Morneau, P.C., M.P.
Minister of Finance

THE GOVERNMENT OF THE NORTHWEST TERRITORIES

AT YELLOWKNIFE

THIS 19th DAY OF December 2016

BY

 Premier
for The Honourable Robert C. McLeod, M.L.A.
Minister of Finance

SCHEDULE A

Part I (Pay and rebate)

There is no entity in this Part.

SCHEDULE A

Part II (Point-of-sale exemption)

All Northwest Territories Government Departments and Legislative Assembly

Education Authorities and Councils

Aklavik District Education Authority
Beaufort-Delta Divisional Education Council
Colville Lake District Education Authority
Commission scolaire francophone, Territoires du Nord-Ouest
Dehcho Divisional Education Council
Délne District Education Authority
Dettah District Education Authority
Tłı̨chǫ Community Services Agency
Fort Liard District Education Authority
Fort McPherson District Education Authority
Fort Providence District Education Authority
Fort Resolution District Education Authority
Fort Simpson District Education Authority
Fort Smith District Education Authority
K'atlodeeche First Nations District Education Authority
Hay River District Education Authority
Ulukhaktok District Education Authority
Inuvik District Education Authority
Jean Marie River District Education Authority
Kakisa Lake District Education Authority
K'ásho Got'iné District Education Authority
Łutsel K'e District Education Authority
Nahanni Butte District Education Authority
Norman Wells District Education Authority
Paulatuk District Education Authority
Rae Lakes District Education Authority
Rae-Edzo District Education Authority
Sachs Harbour District Education Authority
Sahtu Divisional Education Council
Snare Lake District Education Authority
South Slave Divisional Education Council
Trout Lake District Education Authority
Tsiigehtchic District Education Authority
Tuktoyaktuk District Education Authority
Tulita District Education Authority
Wha Ti District Education Authority

Wrigley District Education Authority

Other

Aurora College

Legal Services Board of the Northwest Territories

Northwest Territories Business Development and Investment Corporation

Northwest Territories Health and Social Services Authority

Northwest Territories Human Rights Commission

Public Trustee (for the Northwest Territories)

Public Utilities Board

Status of Women Council of the Northwest Territories

Tłıchǫ Community Services Agency

Workers' Safety and Compensation Commission of the Northwest Territories and Nunavut