

**AGREEMENT ON THE COLLECTION OF PROVINCIAL:  
TOBACCO TAX,  
GASOLINE & MOTIVE FUEL TAX,  
AND  
HARMONIZED SALES TAX**

**BETWEEN:  
TOBIQUE FIRST NATION  
As represented by Chief Gerald Bear  
(Hereinafter referred to as the First Nation)  
Of the First Part**

**- and -**

**Her Majesty the Queen in Right of the  
PROVINCE OF NEW BRUNSWICK**

**As Represented by the Minister of Finance  
(Hereinafter referred to as the Minister)  
Of the Second Part.**

**AGREEMENT**

**WHEREAS** the Parties are desirous of co-operating with each other so as to facilitate section 87 of the Indian Act, R.S.C. 1985, c.I-6, which exempts from taxation the personal property of an Indian or Band whilst at the same time protecting the integrity of the provincial administration of tax in the Province of New Brunswick.

**THE PARTIES AGREE AS FOLLOWS:**

1. That the Province will monitor the volumes of tobacco, gasoline and motive fuel sold exempt of tax to natives on the Reserve to ensure that the volumes are appropriate for satisfying Section 87 of the *Indian Act*.
2. At the request of either the First Nation or the Minister, the First Nation and the Minister will review the quantity of tobacco products and gasoline and motive fuel referred to in paragraph 1. During the course of the first six

months of this agreement this review may occur at most, every two months, and thereafter not within six months of a previous review.

3. (a) Tobacco retailers on the Reserve will register with the Minister to obtain a vendor's licence in accordance with the Tobacco Tax Act, and will collect from persons other than Status Indians any tax imposed by the Province on the sale of tobacco products, and will remit any such tax to the Minister in accordance with the provisions of the Tobacco Tax Act, and the Revenue Administration Act, R.S.N.B. 1973, c.R-10.22.
  - (b) Gasoline and motive fuel retailers on the Reserve will register with the Minister to obtain a retailer's licence in accordance with the Gasoline and Motive Fuel Tax Act and will collect from persons other than Status Indians any tax imposed by the Province on the sale of gasoline and motive fuel, and will remit any such tax to the Minister in accordance with the provisions of the Gasoline and Motive Fuel Tax Act, and the Revenue Administration Act, R.S.N.B. 1973, c.R-10.22.
  - (c) Vendors on the Reserve will register in accordance with Part IX of the Excise Tax Act, of Canada, and will collect from persons other than Status Indians the Harmonized Sales Tax imposed under this Act, and will remit any such tax in accordance with the provisions of this Act.
4. (a) Subject to subsection (b), the Minister will share the taxes in subparagraph 3(a), 3(b) and 3(c) with the First Nation in accordance with Schedule "A". The First Nation agrees that it will not apply or permit the application by any retail vendor of any taxes so shared by the Minister so as to permit the retail vendor to sell tobacco products, gasoline and motive fuel at prices which are unreasonably low or are designed to or have the effect of lessening competition or eliminating a competitor.
  - (b) Notwithstanding the provisions contained herein, tax revenue collected, and subsequently distributed to a jurisdiction other than New Brunswick pursuant to the International Fuel Tax Agreement (IFTA) shall be specifically and expressly excluded from allocations or distributions contemplated by this Agreement.
5. If the First Nation is a retail vendor of tobacco and / or gasoline and motive fuel it will permit representatives of the Minister to inspect, audit and examine the First Nation's accounts pertaining to these sales to determine if

the First Nation has complied with the terms of this Agreement and the Provincial legislation.

6. The First Nation will cause each retail vendor of tobacco products and / or gasoline and motive fuel on the Reserve to permit representatives of the Minister to inspect, audit and examine the retail vendor's accounts in respect to these sales to determine if the retail vendor has complied with the terms of this Agreement and the provisions of Provincial legislation.
- 7.(a) Retailers of tobacco products, gasoline and motive fuel, and supplies taxable under Part IX of the Excise Tax Act located on the Reserve will record the purchaser's Status Indian band number and identification card number on individual exempt sales.
- (b) Retailers of gasoline and motive fuel products on the Reserve will submit to the Minister and to the First Nation at the end of each calendar month the information contained in Schedule "B" in accordance with the provisions of the Gasoline and Motive Fuel Tax Act and the Revenue Administration Act.
- (c) Retail vendors of tobacco products located on the Reserve will submit to the Minister and to the First Nation at the end of each calendar month the information contained in Schedule "C" in accordance with the provisions of the Tobacco Tax Act and the Revenue Administration Act.
8. Should the Minister and another Indian Band enter into an agreement respecting the taxation of tobacco products, gasoline and motive fuel, and supplies taxable under Part IX of the Excise Tax Act which the First Nation considers more favorable than this agreement, the First Nation will, in spite of paragraph 4, have the option of amending this Agreement to make it the same as the agreement entered into with the other Indian Band.
9. Disputes concerning the interpretation or application of this agreement may, by joint agreement, be referred to a Dispute Resolution Committee consisting of one representative appointed by the First Nation, one representative appointed by the Minister, and a third person to be chosen by the two representatives to act as Chairman.
10. Notwithstanding paragraph 9, the parties to this agreement may agree on a sole arbitrator, whose decision will be final and binding on the parties to this agreement.

11. Either party to this agreement may terminate this agreement by providing ninety (90) days notice in writing to the other party, and such notice is sufficiently given if delivered personally or sent by prepaid ordinary mail posted in Canada to the normal business address of the other party.
12. Nothing in this agreement derogates from the Aboriginal, treaty or other rights or freedoms of the First Nation or its members or from the powers, rights or privileges of the legislature or government of the Province.
13. This agreement is effective as of July 1, 2007.

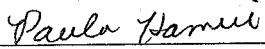
**SIGNED IN DUPLICATE:**

This 3<sup>rd</sup> day of June, 2008

ON BEHALF OF Her Majesty  
the Queen in Right of the  
PROVINCE OF NEW BRUNSWICK

  
\_\_\_\_\_  
MINISTER OF FINANCE

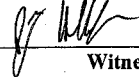
In the presence of:

  
\_\_\_\_\_  
Witness

ON BEHALF OF THE  
TOBIQUE FIRST NATION

  
\_\_\_\_\_  
CHIEF GERALD BEAR

In the presence of:

  
\_\_\_\_\_  
Witness

## **SCHEDULE "A"**

### **EXTENT OF SHARING OF TAX**

The Minister and the Band agree that the Minister will share the Tobacco Tax, the Gasoline and Motive Fuel Tax and the provincial portion of the Harmonized Sales Tax (HST) collected by the First Nation or retail vendors located on reserve, on sales of tobacco products, gasoline and motive fuel and any other goods or services which are taxable under the *Excise Tax Act* (Canada) sold on the Tobique Reserve to persons other than Status Indians in the following ratio:

Band's share of Provincial: Tobacco Tax, Gasoline and Motive Fuel Tax and HST: 95%

Minister's share of Provincial: Tobacco Tax, Gasoline and motive Fuel Tax and HST: 5%

## **SCHEDULE "B"**

The licensed gasoline retailers located on the reserve shall file, on a form provided by the Minister, the following information for each calendar month.

- beginning and ending meter readings for each gasoline /motive fuel pump;
- total number of litres of gasoline/motive fuel sold to Status Indians for their own consumption;
- total number of litres of gasoline/motive fuel purchased;
- total number of litres of gasoline/motive fuel in inventory at the end of the month;
- any other information the Minister may require.

## **SCHEDULE "C"**

The licensed tobacco retailers located on the reserve shall file, on a form provided by the Minister, the following information for each calendar month:

- total inventory of tobacco products at the beginning of the month;
- total inventory of tobacco products at month's end;
- total volume of tobacco products purchased during the month;
- total volume of tobacco products sold during the month;
- any other information the Minister may require.

FILE COPY

MEMORANDUM/NOTE

**Date :** June 10, 2008 **Ref./Réf. :**  
**To/Dest. :** Chief Gerald Bear  
**From/Exp. :** Ian Hollohan  
**Copies :**  
**Subject/objet :** Tax revenue sharing agreement

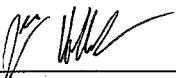
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Chief Bear,

Attached for your files, please find an original signed copy of the *Agreement on the Collection of Provincial Tobacco Tax, Gasoline & Motive Fuel Tax, and Harmonized Sales Tax* between Tobique First Nation and the Province. The agreement was signed June 3, 2008 and was effective retroactive to July 1, 2007.

If you have any further questions, don't hesitate to get in touch.

Thank you,  
Ian

  
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Ian Hollohan  
Economist  
First Nations/Gaming Policy