

**AGREEMENT ON THE COLLECTION OF PROVINCIAL:
TOBACCO TAX,
GASOLINE TAX,
AND
SALES TAX**

BETWEEN:

**WOODSTOCK INDIAN FIRST NATION
As represented by Chief Leonard Tomah
And Band Council
(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 section 87 of the Indian Act, R.S.C. 1985, c.I-6, exempts from taxation the personal property of an Indian or Band situated on a reserve, and

WHEREAS it is the position of the First Nation that such exemption is applicable to cigarette and tobacco products and gasoline and motive fuel purchased by Indians on the Woodstock Reserve (hereinafter referred to as the Reserve), and

THE PARTIES AGREE AS FOLLOWS:

- 1.(a) Subject to paragraph 4, the quantity of tobacco products that are likely to be purchased on the Reserve each month by Status Indians for their own consumption is set out in Schedule "A".
- (b) Subject to paragraph 4, the quantity of gasoline and motive fuel that are likely to be purchased on the Reserve each month by Status Indians for their own consumption is set out in Schedule "B".
- 2.(a) The First Nation will advise, or cause the authorized retail vendor(s) as defined in the Tobacco Tax Act, R.S.N.B. 1973, c.T-7, to advise the Minister of the name of the wholesale vendor as defined in the Act from whom the retail vendor(s) will purchase tobacco.

- (b) The First Nation will advise, or cause the authorized retailer vendor(s) as defined in the Gasoline and Motive Fuel Tax Act, R.S.N.B. 1973, c.G-3 to advise the Minister of the name of the wholesaler as defined in the Act from whom the retail vendor(s) will purchase gasoline and motive fuel.
- 3. The Minister will then advise the wholesale vendor(s) that the wholesale vendor(s) is(are) not required to collect the tax on the quantity of tobacco products and gasoline and motive fuel agreed to by the First Nation and the Minister under paragraphs 1 or 4.
- 4. 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 agreed to under 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.
- 5.(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 the Social Services and Education Tax Act, R.S.N.B.1973, c.S-10, 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, the Social Services And Education 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 with the Minister to obtain a vendor's licence in accordance with the Social Services and Education Tax Act, R.S.N.B. 1973, c.S-10, and will collect from persons other than Status Indians the Social Services and Education Tax imposed under this Act, and will remit any such tax to the Minister in accordance with the provisions of this Act and the Revenue Administration Act, R.S.N.B. 1973, c.R-10.22.
- 6. The Minister will share the taxes in paragraph 5 with the First Nation in accordance with Schedule "C". 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 or goods taxable under the Social Services and Education Tax Act at prices which are unreasonably low or are designed to or have the effect of lessening competition or eliminating a competitor.

7. If the First Nation is a retail vendor of tobacco, gasoline and motive fuel, or goods taxable under the Social Services and Education Tax Act, 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.
8. The First Nation will cause each retail vendor of tobacco products, gasoline and motive fuel, and/or goods taxable under the Social Services and Education Tax Act 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.
- 9.(a) Retailers of tobacco products, gasoline and motive fuel, and goods taxable under the Social Services and Education 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 "D" 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 "E" in accordance with the provisions of the Tobacco Tax Act and the Revenue Administration Act.
10. Should the Minister and another Indian Band enter into an agreement respecting the taxation of tobacco products, gasoline and motive fuel, and goods taxable under the Social Services and Education 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.
11. 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.
12. Notwithstanding paragraph 11, the parties to this agreement may agree on a sole arbitrator, whose decision will be final and binding on the parties to this agreement.
13. 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.

14. Nothing in this agreement derogates 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.

SIGNED IN DUPLICATE:

This 30 day of January, 1995

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

Edmond B. Ouellet
MINISTER OF FINANCE

ON BEHALF OF THE

WOODSTOCK INDIAN FIRST NATION

Chief Leonard J. S.
CHIEF

COUNCILLORS:

Raymond J. S.
E. S.
W. S.
J. S.

SCHEDULE "A"

AGREED QUANTITY OF EXEMPT TOBACCO

The First Nation and the Minister determine and agree upon a consumption rate of 227 cartons of cigarettes (or the equivalent quantity of other tobacco products) for the members of the First Nation per week. This is based upon current population, ages, and smoking demographics of the First Nation, calculated as follows:

Band membership 19 years of age or over 454

Rate of smokers 50%

227 cartons per week

SCHEDULE "B"

AGREED QUANTITY OF EXEMPT GASOLINE
AND MOTIVE FUEL

The First Nation and the Minister have determined and agreed upon a consumption rate of 9,310 litres of gasoline for the First Nation and the members of the First Nation per week. This is based upon current motor vehicle demographics and average consumption rates for the First Nation, calculated as follows:

125 vehicles @ 62 litres per week	= 7,750
10 Band owned vehicles @ 125 litres per week	= 1,250
31 recreational vehicles @ 10 litres per week	= 310
	<hr/>
	9,310
	<hr/>

SCHEDULE "C"

EXTENT OF SHARING OF TAX

The Minister and the First Nation agree that the Minister will share the Tobacco Tax, the Gasoline and Motive Fuel Tax, and the Social Services and Education Tax collected by the First Nation or retail vendors on tobacco products, gasoline and motive fuel, and goods taxable under the Social Services and Education Tax Act sold on the First Nation to persons other than Status Indians in the following ratio:

Band's share	95%
Minister's share	5%

SCHEDULE "E"



TOBACCO

Tobacco Tax Act

<u>Period Being Reported</u>
to
<u>Account Number</u>

Retailer's Return for On Reserve Sales

Product		A. Beginning Inventory	B. Purchases During Month	C. Ending Inventory	(A + B - C) Sales
Cigarettes	Marked	_____	_____	_____	_____
	Unmarked	_____	_____	_____	_____
Tobacco Sticks	Marked	_____	_____	_____	_____
	Unmarked	_____	_____	_____	_____
Loose Tobacco	Marked	_____	_____	_____	_____
	Unmarked	_____	_____	_____	_____
Pipe Tobacco	Taxed	_____	_____	_____	_____
	Untaxed	_____	_____	_____	_____
Snuff	Taxed	_____	_____	_____	_____
	Untaxed	_____	_____	_____	_____
Chewing Tobacco	Taxed	_____	_____	_____	_____
	Untaxed	_____	_____	_____	_____
Cigars	Taxed	_____	_____	_____	_____
	Untaxed	_____	_____	_____	_____

Detailed records must be maintained for audit purposes

Signature _____ Date: _____ 19 _____ Telephone _____

Volumes to be recorded as follows:
 cigarettes - in units (number of cigarettes)
 tobacco sticks - in units (number of sticks)
 loose tobacco, pipe tobacco, snuff, and chewing tobacco - in grams
 cigars - in units (number of cigars)

Loose tobacco - Includes all tobacco except cigarettes, tobacco sticks, pipe tobacco, snuff, chewing tobacco and cigars.

Send completed form by the 25th of the month to:

Department of Finance
 Revenue Division
 P.O. Box 3000
 Fredericton, NB
 E3B 5G5

Telephone: (506)453-2255

SCHEDULE "D"



ACCTS MGMT
FUEL

Gasoline and Motive Fuel Tax Act

Retailer's Report for On Reserve Sales

Account Number

Reporting Period
to

	<u>Gasoline</u>	<u>Diesel</u>
1. Beginning Inventory (Litres)	_____	_____
2. Purchases (Litres) Taxed	_____	_____
3. Purchases (Litres) Exempt	_____	_____
4. Ending Inventory	_____	_____
5. Sales (Litres) (1+2+3-4)	_____	_____
6. Native Sales	_____	_____
7. Taxable Litres Sold (5-6)	_____	_____

Detailed records must be maintained for audit purposes

Signature _____

Date: _____ 19 _____

Telephone : _____

*Send completed form by
the 25th of the month to:*

**Department of Finance
Revenue Division
P.O. Box 3000
Fredericton, NB
E3B 5G5**

Telephone: (506)453-2255