

## Chapter 20: Taxation

### Part 20.1 Definitions

#### 20.1.1 In this chapter:

"Direct" has the same meaning, for the purposes of distinguishing between a direct tax and an indirect tax, as in section 92(2) of the *Constitution Act, 1867*;

"Inuit Capital" means all land, cash, and other assets transferred to the Nunatsiavut Government, Inuit, a Designated Inuit Organization or an Inuit Community Government under the Agreement, or recognized as owned by the Nunatsiavut Government, an Inuit Community Government or Inuit under the Agreement; and

"Successor Legislation" includes any Provincial Legislation to amend or replace, in whole or in part, the *Mining and Mineral Rights Tax Act*, the *Petroleum and Natural Gas Act*, the *Quarry Materials Act* or the *Mineral Act*, or to levy a new or additional amount in respect of a Subsurface Resource that is a tax, royalty, rent, fee, excluding a fee levied for administrative purposes, or other payment in the nature of a royalty, and, where the Province enters into a tax collection, tax rental or similar arrangement with Canada or any other jurisdiction in respect of Revenue shared under parts 7.3, 7.4 and 7.5, any such arrangement.

#### 20.1.2 In section 20.3.1, 'Person' includes an individual, a partnership, a corporation, a trust, a joint venture, an unincorporated association or other entity, a government or any agency or subdivision of a government, and their respective heirs, executors, administrators and other legal representatives.

### Part 20.2 Taxation Powers

#### 20.2.1 The Nunatsiavut Government may make laws in relation to:

- (a) Direct taxation of Inuit within Labrador Inuit Lands and the Inuit Communities, in order to raise revenue for Nunatsiavut Government purposes;
- (b) harmonization and coordination of taxation by the Inuit Community Governments under section 20.2.2; and
- (c) the implementation of any taxation agreement entered into between it and Canada or the Province, or both.

#### 20.2.2 The powers of an Inuit Community Government to make laws in relation to the Direct taxation of Inuit shall be the same as the powers of a municipality under Provincial Legislation but in no case shall the powers of the Inuit Community Government to make laws in relation to Direct taxation of Inuit be less than the

powers that may be exercised by a municipality under Provincial Legislation on the Effective Date.

20.2.3 The powers of the Nunatsiavut Government and the Inuit Community Governments under sections 20.2.1 and 20.2.2 shall not limit the taxation powers of Canada or the Province.

20.2.4 An Inuit Law or Bylaw under this chapter is subject to the relevant obligations of Canada under International Agreements respecting taxation.

### **Part 20.3 Taxation Powers Agreements**

20.3.1 Subject to section 20.3.2, from time to time Canada and the Province, together or separately, may negotiate an agreement with the Nunatsiavut Government respecting:

- (a) the extent to which the power of the Nunatsiavut Government under subsection 20.2.1(a) may be extended to apply to Persons other than Inuit within Labrador Inuit Lands and the Inuit Communities;
- (b) the extent to which the powers of an Inuit Community Government under section 20.2.2 may be extended to apply to Persons other than Inuit; and
- (c) the manner in which the taxation powers of the Nunatsiavut Government or of an Inuit Community Government will be coordinated with existing federal or Provincial tax systems.

20.3.2 On the Effective Date, the Province and the Nunatsiavut Government shall enter into an agreement referred to in subsection 20.3.1(b) that may be amended from time to time.

20.3.3 A taxation agreement referred to in this part:

- (a) shall not form part of the Agreement; and
- (b) is not intended to be a treaty or land claims agreement and is not intended to recognize or affirm aboriginal or treaty rights within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

### **Part 20.4 Lands**

20.4.1 Within Labrador Inuit Lands and the Inuit Communities, the Nunatsiavut Government is not subject to taxation of land, or interests in land, on which there is no improvement or on which there is an improvement all or substantially all of which is used for a public purpose and not for a profitable purpose.

- 20.4.2 Within its Inuit Community, an Inuit Community Government is not subject to taxation of land, or interests in land, on which there is no improvement or on which there is an improvement all or substantially all of which is used for a public purpose and not for a profitable purpose.
- 20.4.3 For greater certainty, the exemption from taxation in sections 20.4.1 and 20.4.2 does not apply to a taxpayer other than the Nunatsiavut Government or an Inuit Community Government, nor does it apply in respect of a disposition of capital by the Nunatsiavut Government or an Inuit Community Government.
- 20.4.4 For federal and Provincial income tax purposes, proceeds of disposition received by the Nunatsiavut Government on Expropriation of Labrador Inuit Lands will not be taxable.

### **Part 20.5 Transfer of Inuit Capital**

- 20.5.1 A transfer under the Agreement of Inuit Capital and a recognition under the Agreement of ownership of Inuit Capital are not taxable.
- 20.5.2 For purposes of section 20.5.1, an amount paid to a Beneficiary is deemed to be a transfer of Inuit Capital under the Agreement if the payment:
- (a) reasonably can be considered to be a distribution of a Capital Transfer received by a Designated Inuit Organization; and
  - (b) becomes payable to the Beneficiary within 90 clear days and is paid to the Beneficiary within 270 clear days from the date that the Designated Inuit Organization receives the Capital Transfer.
- 20.5.3 For federal and Provincial income tax purposes, Inuit Capital is deemed to have been acquired by the Nunatsiavut Government or the Inuit Community Government, as the case may be, at a cost equal to its fair market value on the later of:
- (a) the Effective Date; and
  - (b) the date of transfer of ownership or the date of recognition of ownership, as the case may be.

### **Part 20.6 Provincial Royalties on Revenue Sharing**

- 20.6.1 Amounts received or receivable under parts 7.3, 7.4 and 7.5 and amounts received or receivable by the Nunatsiavut Government under an Inuit Impacts and Benefits Agreement shall not be subject to taxation under the *Mining and Mineral Rights Tax Act*, the *Petroleum and Natural Gas Act*, the *Mineral Act* or any Successor Legislation.

**Part 20.7 Tax Treatment Agreement**

- 20.7.1 The Parties shall enter into a tax treatment agreement in relation to the tax treatment of Inuit Capital, Inuit Government, corporations or other entities of Inuit Government and an Inuit settlement trust. This tax treatment agreement comes into effect on the Effective Date.
- 20.7.2 A tax treatment agreement referred to in this part:
- (a) shall not form part of the Agreement; and
  - (b) is not intended to be a treaty or land claims agreement and is not intended to recognize or affirm aboriginal or treaty rights within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.
- 20.7.3 Canada will recommend to Parliament and the Province will recommend to the House of Assembly that the tax treatment agreement be given effect and force of law through Legislation referred to in section 22.8.1 or 22.8.2, as the case may be.