

MAA-NULTH FIRST NATIONS SIDE AGREEMENT SUMMARY

MAA-NULTH FIRST NATIONS TAX TREATMENT AGREEMENT

Purpose

The Tax Treatment Agreement (“Agreement”) sets out the tax status of, and how certain tax laws will be applied to, Maa-nulth First Nations, corporations owned by Maa-nulth First Nations and Maa-nulth First Nation Citizens. The Agreement modifies or replaces the taxation rules and regulations that are currently applied to the Maa-nulth First Nations corporations owned by Maa-nulth First Nations and Maa-nulth First Nation Citizens.

How the Agreement Works

- *Parties:* The Parties to the Agreement are the Maa-nulth First Nations, Canada and British Columbia.
- *Term:* The Agreement commences on the Effective Date and has a minimum term of fifteen-years. The Agreement remains in effect indefinitely after the initial 15 years period subject to notice from any party, which would terminate the agreement at the end of March 31st of the second calendar year after receipt of notice.
- *Income Tax:* Each Maa-nulth First Nation is deemed to be a public body performing a function of government and is therefore exempt from income tax within the boundaries of its Maa-nulth First Nations Lands (“Lands”). Each Maa-nulth First Nation will be treated as a public authority under the *Cultural Property Export and Import Act*, and may receive cultural donations for which the donor will be entitled to claim a deduction for income tax purposes.
- *GST Refund:* A Maa-nulth First Nation and its eligible institutions and corporations are entitled to a refund of all GST paid on non-profit functions of government performed within the boundaries of its Lands.
- *Social Service Tax (PST) and Motor Fuel Tax Refund:* A Maa-nulth First Nation and its eligible institutions and corporations are entitled to a refund of all PST and Motor Fuel Tax paid, other than tax on liquor purchases, on non-profit functions of government performed within the boundaries of its Lands, Maa-nulth Domestic Fishing Area or Wildlife Harvest Area.
- *Property Transfer Tax:* Maa-nulth First Nations and Maa-nulth First Nations Public Institutions are exempt from property transfer taxes in respect their Lands. A Maa-nulth First Nation Citizen is also exempt from property transfer taxes in respect of the first registration of an interest in the Lands.

- *Real Property Tax:* Lands owned by a Maa-nulth First Nation or a Maa-nulth First Nation Government Corporation and used for government activities or not for profit activities are exempt from provincial property taxes. The following Lands are also exempt from provincial property taxes but may be taxed by a Maa-nulth First Nation Government:
 - Lands held or occupied for the purpose of harvesting timber;
 - Lands and improvements owned by a Maa-nulth First Nation and rented as social housing to persons based on an objective needs test.
- *Resource Taxes:* A Maa-nulth First Nation or Maa-nulth First Nation Government Corporation is exempt from taxation under the *Mineral Tax Act* and the *Petroleum and Natural Gas Act* for mineral resources, petroleum and natural gas extracted from the Lands.

British Columbia will pay to the applicable Maa-nulth First Nation the amount that British Columbia collects under the *Mineral Tax Act* for existing Tenured Subsurface Resources on that Maa-nulth First Nation's Land.

- *Maa-nulth Settlement Trust Designation:* Maa-nulth First Nations may create one or more trusts which, provided they meet the conditions in the Agreement will be designated as a Maa-nulth Settlement Trust ("Trust"). The conditions include Canadian residency requirements, eligible beneficiaries, permitted investments of Trusts assets, restrictions from some activities and sources of contributions.
- *Maa-nulth Settlement Trust Taxation:* The income of a Trust is exempt from income tax other than income earned on ineligible contributions and investments. Income earned by the Trust and paid to a beneficiary who is a Maa-nulth First Nation Citizen will be taxable income to the Citizen unless exempted by some other provision of the Treaty.
- *Maa-nulth First Nation Capital:* Any transfer of Maa-nulth First Nation Capital, meaning land and assets other than cash, between a Maa-nulth First Nation and its Maa-nulth First Nations Government Corporations, or any registration of interest in property, is not taxable.
- *Disposition of Capital Property:* The Agreement provides that a Maa-nulth-aht, who owns capital property situated on a reserve as of the Effective Date, may file an election with the Minister of National Revenue. The purpose of the election is to exempt from income tax any gain in value of the capital property between the date of purchase up to the twelfth anniversary of the Effective Date. This provision ensures that a Maa-nulth-aht receives the full benefit of their pre and post Effective Date personal tax exemption.

What Comes Next?

Each Maa-nulth First Nation Government may enact income tax laws and regulations and may negotiate and enter into tax sharing agreements with Canada and BC.