

**Memorandum of Agreement
Concerning a Canada-Prince Edward
Island Comprehensive Integrated Tax
Co-ordination Agreement**

May 2012

**Memorandum of Agreement Concerning a Canada-Prince Edward Island
Comprehensive Integrated Tax Co-ordination Agreement**

BETWEEN:

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

AND:

The Government of Prince Edward Island (referred to as "Prince Edward Island"), as represented by the Minister of Finance, Energy and Municipal Affairs of Prince Edward Island,

TOGETHER referred to in this Memorandum of Agreement ("MOA") as the "Parties".

Preamble

This MOA reflects the strong commitment by the Parties to work collaboratively to build a stronger economic foundation.

Recognizing that a Prince Edward Island Value-Added Tax ("PEIVAT") implemented as a provincial component of the Harmonized Sales Tax ("HST") will support broader economic growth and job creation in both Canada and Prince Edward Island, both Parties will make substantial investments into implementing the PEIVAT.

Pursuant to this MOA, both Parties commit to using their best efforts to negotiate a new Canada-Prince Edward Island Comprehensive Integrated Tax Co-ordination Agreement (hereafter referred to as the "Canada-Prince Edward Island CITCA") based on terms similar to those in the current Comprehensive Integrated Tax Coordination Agreements that were entered into between Canada and provinces transitioning from a retail sales tax to the HST (hereafter referred to as the "HST CITCAs"), together with any necessary related agreements, whereby the Canada Revenue Agency ("CRA") and the Canada Border Services Agency ("CBSA") will administer the PEIVAT.

This MOA forms the framework for concluding the Canada-Prince Edward Island CITCA.

Canada-Prince Edward Island CITCA

1. The Parties undertake to enter into the Canada-Prince Edward Island CITCA based on terms similar to those in the HST CITCAs. This includes, with respect to Canada, seeking the approval of the Governor in Council to enter into an agreement under Part III.1 of the *Federal-Provincial Fiscal Arrangements Act* and, with respect to Prince Edward Island, seeking the authorization of the Lieutenant Governor in Council pursuant to section 10 of the *Executive Council Act*. The Parties understand that this MOA does not constitute an agreement pursuant to subsection 8.3(1) of the *Federal-Provincial Fiscal Arrangements Act*.
2. The Parties will make their best efforts to enter into the Canada-Prince Edward Island CITCA before October 1, 2012.

3. The Parties agree to make their best efforts to fulfill the undertakings set out in this MOA by January 1, 2013, except where otherwise specified in this MOA, including
 - a) the finalization of all policy and administrative details, including the necessary legislative processes;
 - b) the signing of all agreements relevant to the Canada-Prince Edward Island CITCA; and
 - c) the proposal by Prince Edward Island of legislation to ratify the Canada-Prince Edward Island CITCA and any other provincially administered measures appropriate to the transition to the PEIVAT.

Implementation Date

4. Subject to the Parties having signed the Canada-Prince Edward Island CITCA, and subject to legislative approval, the Parties will work toward implementing the PEIVAT on April 1, 2013. Subject to these approvals, the CRA/CBSA will have the necessary systems in place to effectively implement the PEIVAT on April 1, 2013. The date of implementation of the PEIVAT is hereafter referred to as the "Implementation Date".

Federal Transitional Assistance to Prince Edward Island

5. To support the transition associated with the implementation of the PEIVAT and the winding down of the retail sales tax administration in Prince Edward Island and because moving to a PEIVAT will support economic growth and job creation, Canada will make payments totaling \$39 million (the "Assistance Amount") to Prince Edward Island conditional on the execution and ratification of the Canada-Prince Edward Island CITCA by Prince Edward Island.
6. The schedule of payments of the Assistance Amount that Canada will pay to Prince Edward Island is, unless otherwise agreed in the Canada-Prince Edward Island CITCA, as follows:

<u>Time</u>	<u>Amount</u>
<ul style="list-style-type: none">▪ within 7 days of the first reading of legislation to wind-down the retail sales tax of Prince Edward Island	<ul style="list-style-type: none">▪ \$25 million
<ul style="list-style-type: none">▪ on the first business day following the Implementation Date	<ul style="list-style-type: none">▪ \$14 million

Minimum Term of the Canada-Prince Edward Island CITCA

7. Prince Edward Island agrees to remain a party to the Canada-Prince Edward Island CITCA for a period of at least five years following the Implementation Date.

Prince Edward Island Value-Added Tax

8. A 9% PEIVAT will be implemented under the federal *Excise Tax Act*.

9. The PEIVAT will have the same tax base as the Goods and Services Tax ("GST"), subject to the exceptions described below.

Provincial Tax Policy Flexibility

10. Based on terms similar to those in the HST CITCAs, the Canada-Prince Edward Island CITCA will confirm Prince Edward Island's flexibility, subject to reasonable notice provisions, as follows:
- a) Prince Edward Island may increase or decrease the PEIVAT rate after two years from the Implementation Date. Following that two-year period, any change in the PEIVAT rate will not occur more often than once in any twelve-month period.
 - b) Prince Edward Island may designate a limited number of PEIVAT point-of-sale rebates, not exceeding 5%, in aggregate, of the estimated GST base for Prince Edward Island subject to data availability and definitions used in the Canadian System of National Accounts or other mutually agreed upon data sources, definitions and methodologies. For greater certainty, and subject to the foregoing, point-of-sale rebates that Canada agrees to administer for Prince Edward Island will include children's clothing, children's footwear and heating oil.
 - c) Prince Edward Island may temporarily deny for a period of up to five years all or a portion of allowable business input tax credits ("ITCs") based on a select list of items to be determined by Prince Edward Island (not to apply beyond the items subject to the current ITCs denials under the GST/HST legislation). Following this period, full ITCs will be phased-in, in equal annual proportions, over a period of up to three years. Prince Edward Island would advance the timeline for the phase-in of full ITCs should fiscal circumstances allow.
 - d) Prince Edward Island may set PEIVAT rebate rates for municipalities, universities, schools, colleges, hospitals, charities and qualifying non-profit organizations, and the PEIVAT rebate rates and thresholds for new housing, subject to matching other federal GST administrative and structural parameters.

Common Tax Base

11. Except as provided for in this MOA under the heading Provincial Tax Policy Flexibility, Prince Edward Island will be bound by tax base changes made by Canada with respect to the GST. However, based on terms similar to those in the HST CITCAs, where Canada proposes a tax base change that would result in a reduction of more than one percent of PEIVAT revenues (taking into account PEIVAT rebated, refunded or remitted), Canada may implement the change if Prince Edward Island provides written agreement to the change prior to implementation. Also based on those terms, if Canada implements the tax base change without consulting Prince Edward Island, or proceeds without Prince Edward Island's written agreement, Canada agrees to fully compensate Prince Edward Island for the revenue reduction for every year that the change remains in place and the Canada-Prince Edward Island CITCA remains in force.

Collection and Administration

12. The PEIVAT, including rebates and temporarily restricted ITCs provided for in this MOA under the heading Provincial Tax Policy Flexibility, will be collected and administered, at mutually agreed upon service and compliance levels, by the CRA/CBSA at no charge

to Prince Edward Island. In addition, Canada will be solely responsible for all CRA/CBSA startup and ongoing costs, including their development and systems costs.

13. For greater clarity, these costs will not reduce or be offset against the \$39 million in total payments provided for in this MOA under the heading Federal Transitional Assistance to Prince Edward Island.

Payment of Revenues Collected

14. The Parties agree that revenues payable to Prince Edward Island will be based on the revenue allocation framework of the HST CITCAs, as set out under the Canada-Prince Edward Island CITCA.
15. Canada agrees to pay Prince Edward Island its revenue entitlements on a 48-payment per calendar year basis. For greater clarity, the allocation for a tax entitlement year will be paid to Prince Edward Island in estimated amounts, four times monthly, determined using the revenue allocation framework beginning on the Implementation Date. These payments will also include adjustments relating to scheduled revisions and reconciliations as provided for under the revenue allocation framework.

Exchange of Information and Other Agreements

16. There will be full co-operation between the Parties with respect to the exchange of information relating to the PEIVAT. The specific terms on information exchange and mutual assistance will be provided for in agreements to be entered into between the Parties (i.e., the CRA and Prince Edward Island and the CBSA and Prince Edward Island). Such agreements will ensure the timely provision of available PEIVAT specific data and other PEIVAT-related information to Prince Edward Island, as may be disclosed pursuant to the appropriate laws and regulations.
17. The Parties will work to establish mechanism(s)/agreement(s) to provide for the management of issues related to client services, compliance and enforcement of the PEIVAT by the CRA/CBSA.

Human Resources

18. The Parties acknowledge that the CRA, the Treasury Board and Prince Edward Island must consider all relevant legislation and policies and that the CRA, the Treasury Board and Prince Edward Island have collective agreement obligations with their respective bargaining agents. In this context, each of the CRA and, only if required, the appropriate delegates of the Public Service Commission agree to negotiate the best possible arrangements, to be contained in a human resources agreement, for employment within Prince Edward Island at the CRA or, only if required, other departments or agencies of Canada of public service employees of Prince Edward Island affected by this MOA.
19. The Parties agree that the CRA will take steps to maximize the number of activities and operations related to the PEIVAT that are carried on in Prince Edward Island. Where it can be demonstrated, with respect to specific activities and operations related to the PEIVAT, that the effective administration of the PEIVAT would be jeopardized if the activities and operations are performed in Prince Edward Island, each of the CRA and, only if required, the Treasury Board agree to use best efforts to maximize employment opportunities in Prince Edward Island for a corresponding number of employees of

Prince Edward Island affected by this initiative within the CRA and, only if required, other departments or agencies of Canada.

Audit

20. The Prince Edward Island Minister of Finance, Energy and Municipal Affairs may designate a person to examine such books and records, excluding information which is protected by law, as may be relevant in order to permit such person to report in respect of the payments made to Prince Edward Island under the Canada-Prince Edward Island CITCA.

Prince Edward Island Retail Sales Tax

21. Prince Edward Island will be responsible for winding down its retail sales tax to the extent that it is to be replaced by the PEIVAT.

Amendment and Termination

22. Prince Edward Island and Canada agree that the Canada-Prince Edward Island CITCA will include provisions, based on terms similar to those in the HST CITCAs, outlining the manner by which the Canada-Prince Edward Island CITCA may be amended or terminated.
23. Based on terms similar to those in the HST CITCAs, if, at any time before the day that is five years after the Implementation Date, Prince Edward Island is considered to have committed a material breach of the Canada-Prince Edward Island CITCA, the Assistance Amount will become immediately due and repayable by Prince Edward Island as a debt due to Canada to the extent that the Assistance Amount has been received by Prince Edward Island and the remainder, if any, of the Assistance Amount will not be paid to Prince Edward Island. In such case, Canada will be entitled to set off any debt owed, or amount payable, in respect of the Assistance Amount to Canada at any time by Prince Edward Island against any amount due, or becoming due, to Prince Edward Island from Canada for any reason and at any time, until such indebtedness of Prince Edward Island is fully paid to Canada. This right of set-off will survive any termination of the Canada-Prince Edward Island CITCA.

Execution

24. This MOA may be executed in any number of counterparts, each of which will constitute an original and all of which taken together will constitute one and the same instrument. Counterparts may be executed in original, electronic or faxed form and the Parties adopt any signatures received by electronic mail or by a receiving fax machine as the original signatures of the Parties; provided, however, that a Party providing its signature in such manner will promptly forward to the other Party an original of the signed copy of this MOA.

Constitutional Jurisdiction Not Waived

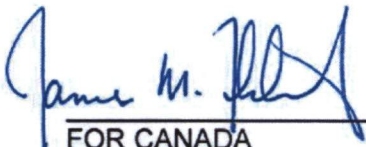
25. Neither Canada nor Prince Edward Island shall be deemed to have surrendered or abandoned any of its powers, rights, privileges or authorities under the *Constitution Acts, 1867-1982*, and any amendments thereto, or otherwise, or to have impaired any such powers, rights, privileges, or authorities.

Confidentiality

26. Subject to mutual agreement in writing or requirement by law, the Parties commit to taking all steps to embargo the existence of this MOA and to not disclose in any way federal-provincial discussions relating to the development, negotiation and execution of this MOA or the Canada-Prince Edward Island CITCA. The Parties agree, however, that this MOA may be released by a Party after the public announcement by Prince Edward Island of its intention to enter into the Canada-Prince Edward Island CITCA.


THIS MEMORANDUM OF AGREEMENT ENTERED INTO ON:

22 May 2012, 2012



FOR CANADA
The Honourable James M. Flaherty
Minister of Finance

May 30th, 2012



FOR PRINCE EDWARD ISLAND
The Honourable Wesley J. Sheridan
Minister of Finance, Energy and Municipal
Affairs