

RESIDENCY GRANT ACT

Recognizing that two of the objects of the Teslin Tlingit Council set out in the Teslin Tlingit Council Constitution are to promote and enhance the general welfare of the Teslin Tlingit Council people and to use, manage and administer the money and other assets of the Teslin Tlingit Council; and

Recognizing that the Teslin Tlingit Council wishes to provide an economic incentive for individuals who are not currently residents of settlement land to become and remain residents of settlement land in order to encourage growth in the population inhabiting settlement land and thereby encourage economic development on settlement land,

The General Council enacts as follows:

Short Title

1. This Act may be cited as the *Residency Grant Act*.

Definitions

2. In this Act,

“applicant” means a new resident whose residency grant application has been approved;

“application year” means a year during the grant period in respect of which an individual who is a new resident makes an application to Teslin Tlingit Council under this Act;

“Federal Tax Act” means the *Income Tax Act*, R.S.C. 1985, c.1 (5th Supp.), as amended from time to time;

“grant” means any one of a series of grants to which an individual may become entitled under this Act, the amount of which is determined pursuant to subsection 3(4) hereof;

“grant period” means a period of 1828 consecutive days commencing with the first day that an individual became resident on settlement land and in respect of which a residency program application grant is approved;

“individual” means “individual” as defined in the TTC Tax Act;

“new resident” means an individual who:

- (a) became resident on settlement land after July 17, 2001;
- (b) has not ceased to be resident on settlement land after July 17, 2001; and
- (c) has not been resident on settlement land for more than 1828 consecutive days;

“notice of assessment” means a notice of assessment or notice of reassessment for purposes of the Federal Tax Act;

“residency grant application” means an application made under this Act in prescribed form, containing prescribed information and submitted in the prescribed time;

“resident” means an individual who is a resident of settlement land as that concept has been interpreted for the purposes of the Federal Tax Act;

“settlement land” means the lands identified in the final agreement and the self-government agreement as the settlement land of the Teslin Tlingit Council;

“TTC Tax Act” means the *Teslin Tlingit Council Income Tax Act* enacted by the Teslin Tlingit Council effective January 1, 1999, as amended from time to time; and

“year” means an individual’s taxation year for purposes of the Federal Tax Act.

Residency Grant Program

3.(1) An individual who is a new resident may apply for a series of grants by submitting a residency grant application together with a copy of the individual’s notice of assessment for the initial application year to the General Council, or a person designated by the General Council, on or before December 31st of the year following that initial application year.

(2) Where a residency grant application is approved by the General Council, or by a person designated by the General Council, in respect of a new resident, the Teslin Tlingit Council shall pay the grant attributable to the initial application year to that new resident on or before the later of

- (a) June 30th of the second year following the initial application year; and
- (b) 90 days following the date of the residency grant application is approved.

(3) Where a grant in respect of an initial application year has been paid under subsection 3(2) hereof in respect of a new resident, the Teslin Tlingit Council shall pay to that new resident the grant attributable to each subsequent application year on or before the later of

- (a) June 30th of the second year following the particular application year; and
- (b) 90 days following the date that the General Council receives:
 - (i) the notice of assessment for the particular application year, and
 - (ii) all other information and documentation that is prescribed by regulation for that particular application year.

(4) The amount of the grant payable to an individual in respect of each application year during the grant period shall be an amount equal to the prescribed percentages of the income tax that the individual paid in respect of that year pursuant to the TTC Tax Act;

Conditions

4. No grant shall be paid to an individual unless:

- (a) the General Council, or a person designated by the General Council, has received
 - (i) a timely residency grant application,
 - (ii) a copy of the individual’s notice of assessment in respect of the particular application year, and
 - (iii) a copy of the individual’s notice of assessment in respect of each application year preceding the particular application year;
- (b) the General Council has approved the residency grant application of the individual; and
- (c) the General Council is satisfied that the individual was a new resident on December 31st of the particular application year.

5. For greater certainty, no individual is entitled to a grant in respect of any year that ends after the grant period.

6. No grant is payable to a new resident for a particular application year if the amount of tax owing in respect of that year is being disputed with the Canada Customs and Revenue Agency by way of

- (a) a notice of objection;
- (b) a notice of appeal filed in the Tax Court of Canada;
- (c) an appeal of a decision of the Tax Court of Canada to either the Federal Court of Appeal or the Supreme Court of Canada; or

(d) an application for a remission order.

7. No grant is payable to a new resident for a particular application year if the right or entitlement to a grant for a prior application year is being challenged by the General Council or that grant is otherwise in jeopardy.

Recovery of grant

8.(1) The Teslin Tlingit Council has a cause of action in debt against an individual to whom a grant is paid for the entire amount of the grant together with interest at a prescribed rate in the following circumstances:

- (a) where the individual was not a new resident of settlement land during the particular application year to which a grant relates or a previous application year;
- (b) where the individual has breached a condition prescribed in this Act or the regulations to this Act; or
- (c) where the residency grant application contained any false statement or misrepresentation that was material to the decision made by the General Council to approve the application.

(2) Where the amount assessed or reassessed, as the case may be, in the notice of assessment for a particular application year or any previous application year is decreased for any reason, the Teslin Tlingit Council has a cause of action in debt against the individual to whom the grant is paid for the amount determined by formula

$$C - \left(\frac{A}{B} \times C \right)$$

where

- A is the amount of income tax payable in the revised notice of assessment (*i.e.*, the notice of reassessment) for the particular application year;
- B is the amount of income tax payable in the previous notice of assessment for the particular application year; and
- C is the amount of the grant for the particular application year as calculated prior to the application of this formula.

(3) An action under this section may be brought with respect to one or more grants in respect of one or more of the application years.

(4) If Teslin Tlingit Council establishes an entitlement to recover a grant, or any portion thereof, in a court of competent jurisdiction, it shall have set-off rights against the individual to the maximum extent permitted by law.

Regulations

9. The Executive Council may make regulations:

- (a) governing the residency grant application, including prescribing the application form and the information to be provided in, with and in support of, the application form;
- (b) prescribing the conditions on which a grant will be made;
- (c) prescribing amounts to be used in determining the amount payable to an individual as a grant;
- (d) prescribing the manner in which a grant will be paid;
- (e) prescribing the manner of repayment of any grant paid to an individual who was not entitled to a grant for a particular application year, and the interest charged thereon at prescribed rates;
- (f) detailing the additional reporting obligations that an individual has and the additional information that an individual must provide, including, *inter alia*,
 - (i) the individual's duty to advise General Council in writing that they have been assessed or reassessed, as the case may be, in respect of an application year, and

- (ii) circumstances when the individual will be required to submit a copy of their income tax return for a particular application year to General Council, or a person designated by the General Council;
- and
- (g) generally, governing any other matter or procedure incidental to the administration or enforcement of this Act.

Offences and Penalties

10. An individual who makes a residency grant application and who
- (a) fails to notify the Teslin Tlingit Council if the individual ceases to be a resident at any time during the grant period;
 - (b) breaches a condition prescribed by the regulations;
 - (c) makes any false statement or misrepresentation in a residency grant application that was material to the decision made by the General Council to approve the application;
 - (d) accepts a grant in respect of a particular application year during the grant period when the individual was not a resident; or
 - (e) contravenes a provision of this Act or the regulations,
- is guilty of an offence and liable to a fine of not exceeding \$5,000 or to imprisonment for a term not exceeding six months or both.