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| Issue Date:<br><b>May 2008</b>         | Effective Date:<br><b>May 20, 2008</b> | Responsible Agency:<br><b>Financial Operations,<br/>Department of Finance</b> | Directive No:<br><b>917-2</b> |
| Chapter:<br><b>Control of Revenues</b> |                                        |                                                                               |                               |
| Directive Title:<br><b>FORGIVENESS</b> |                                        |                                                                               |                               |

## 1. POLICY

The forgiveness of any debt owing to the Government of Nunavut must be in accordance with S.25 of the *Financial Administration Act (FAA)*. This section provides that the Financial Management Board may forgive debts or obligations that do not exceed \$1,000. Debts or obligations that exceed \$1,000 may only be forgiven by express authority of an Act.

## 2. DIRECTIVE

2.1 Forgiveness of a debt will be considered when one or more of the following apply:

- a) contractual obligations have been fulfilled;
- b) the debtor is incapable of repaying in whole or in part and is not reasonably expected to have the capacity to repay the debt in the foreseeable future, and does not own assets that could be reasonably expected to be applied toward discharging the debt in whole or in part;
- c) it is in the public interest to forego collection and to forgive the debt, in whole or in part, by reason that the collection of the debt would likely cause severe hardship, suffering or privation due to the debtor's limited income or incapacity;
- d) where a compromise settlement of debt is arranged with the concurrence of all parties;
- e) where the forgiveness will contribute to an objective or initiative that the Government wishes to accomplish or undertake; and
- f) any other reason approved by the Financial Management Board.

2.2 In certain cases forgiveness of a debt may be authorized even though the debt is collectable. Such cases would normally arise when any of the following three conditions are met:

- a) the debt arose as a result of an administrative error made by a public officer in the process of making payment or conferring a benefit to the

- debtor and the recovery from the debtor would likely result in severe hardship, suffering or privation;
- b) the debtor was not advised of the debt within a reasonable period of time; or
  - c) the demand for payment at such a late date would be inequitable, or cause undue hardship to the debtor.

- 2.3 Any forgiveness of debt must be approved by the Financial Management Board, except for that which has been delegated, under Regulation 9918 of the *FAA*, to the Minister responsible for administering the *Social Assistance Act* or to those loans under the *Student Financial Assistant Act* that the Commissioner may forgive or remit.

### 3. PROVISIONS

- 3.1. Finality of Forgiveness  
The forgiveness of an amount owing to the Government extinguishes the right of the Government to collect that debt.
- 3.2. Charging the forgiveness  
Any forgiveness of an amount owing to the Government must be charged against an appropriation of the department to whom the debt is owed.
- 3.3. Approval by Comptroller General  
All requests for forgiveness of debt submitted to the Financial Management Board must first be approved by the Comptroller General.
- 3.4. Consultation with Department of Justice  
The Comptroller General may consult with the Department of Justice prior to approving any request for forgiveness of debt. If such consultation has taken place, a copy of any opinion or advice received from the Department of Justice must accompany the Financial Management Board request.
- 3.5. Forgiveness requiring Legislative approval  
The submission to the Financial Management Board must distinguish between those requests that require legislative approval and those that do not.
- 3.6. Reporting requirements for the Public Accounts
- 3.6.1. The Executive Finance Officer (EFO) in the department responsible for administering the *Social Assistance Act* must provide the Comptroller General with a list of all accounts forgiven by his/her Minister during the year under the *Social Assistance Act*. This list

must be provided within the time limits established by the Comptroller General as part of the year end closing procedures.

- 3.6.2. The EFO in the department responsible for administering the *Student Financial Assistance Act* shall provide the Comptroller General with a list of all accounts forgiven or remitted by his/her Minister during the year under the *Student Financial Assistance Act*. This list must be provided within the time limits established by the Comptroller General as part of the year end closing procedures.
- 3.6.3. The Comptroller General shall report in the Public Accounts, all forgiveness of debt under S.21 of the *FAA* that exceeds \$500.
- 3.7. Conditional Forgiveness  
Amounts receivable may be forgiven conditionally. The approval of the Financial Management Board and/or the Legislature is required before any commitment to forgive an amount owing can be made. The forgiveness does not take effect until the conditions have been fulfilled. The department to whom the debt is owed is responsible for monitoring the conditions attached to the forgiveness.