

TAX AGREEMENT

BETWEEN:

THE CITY OF EDMONTON

-and-

EDMONTON ARENA CORP.

-and-

REXALL SPORTS CORP.

-and-

EDMONTON MAJOR JUNIOR HOCKEY CORP.

Dated FEBRUARY 10, 2014

THIS TAX AGREEMENT MADE THIS 10th DAY OF FEBRUARY, 2014

BETWEEN:

THE CITY OF EDMONTON

- and -

EDMONTON ARENA CORP.

-and-

REXALL SPORTS CORP.

-and-

EDMONTON MAJOR JUNIOR HOCKEY CORP.

- A. The City wishes to encourage Edmonton's economic growth and a vibrant downtown community.
- B. The City, through its Capital City Downtown Plan, has stated goals and policies to:
- (i) Support strategic public and private investment in the downtown,
 - (ii) Encourage and embrace new arts, culture, sports and entertainment concepts in the downtown,
 - (iii) Attract more people to the downtown area to work and live.
- C. EAC has agreed to manage and occupy the Arena Lands pursuant to a lease agreement with the City ("Arena Lease").
- D. RSC, the corporation that owns the National Hockey League team, the Edmonton Oilers, wishes to manage or occupy the Arena Lands for the purpose of operating a professional sports franchise on the Arena Lands.
- E. EMJHC, the corporation that owns the Western Hockey League team, the Edmonton Oil Kings Hockey Club, wishes to occupy the Arena Lands which are owned by the City.
- F. This Agreement is made pursuant to section 333.1 of the *Municipal Government Act*, RSA 2000, c M-26.

- G. The assessment of the Arena Lands must be done in accordance with all of the requirements under the *Municipal Government Act*, RSA 2000, c M-26.

IN CONSIDERATION OF the City agreeing to this Agreement, in the manner stated in this Agreement, EAC, RSC and EMJHC and the City agree as follows

1. DEFINITIONS

- 1.1 In this Agreement unless there is something in the subject matter or context inconsistent therewith:

1.1.1 "Act" means the *Municipal Government Act*, RSA 2000, c M-26;

1.1.2 "Affiliate" has the meaning set out in the *Business Corporations Act* (Alberta), R.S.A. 2000, c. B-9, as amended from time to time. In respect of a partnership or joint venture, "Affiliate" means a partnership or joint venture in which a party holds a majority of the partnership or joint venture interests;

1.1.3 "Agreement" means this agreement and the attached Schedule "A";

1.1.4 "Arena Lands" means the land and portions of the building cross-hatched and outlined in red on the attached Schedule A as reconfigured or redesigned from time to time. The Parties agree that Schedule A shall be mutually amended to be replaced by as built drawings no later than 6 months after the Commencement Date or within 6 months of any reconfigurations or renovation;

1.1.5 "Arena Lease" is defined in the preamble to this Agreement;

1.1.6 "Assessed Person" has the meaning as set in section 304(1)(c) of the Act;

1.1.7 "City" means the City of Edmonton, a municipal corporation in the Province of Alberta;

1.1.8 "Commencement Date" means the date as defined in the Arena Lease;

1.1.9 "Council for the City" means the council of the City of Edmonton;

1.1.10 "Due Date" means June 30 in each and every year of the Term, unless determined otherwise in writing between the Parties or extended pursuant to this Agreement;

1.1.11 "EAC" means Edmonton Arena Corp.;

- 1.1.12 "EMJHC" means Edmonton Major Junior Hockey Corp.;
- 1.1.13 "Event" means an event or program held on the Arena Lands including, but not limited to, hockey games, sporting activities, trade shows or concerts;
- 1.1.14 "Event Hours" means the period commencing two hours prior to an Event and ending two hours following an Event;
- 1.1.15 "Gambling" means to play games of chance for money except for gambling specifically related to Events such as, but not limited to, 50/50 draws, and trivia or skill contests;
- 1.1.16 "Municipal Property Taxes" means only the municipal property tax or equivalent municipal property tax for the purpose of a community revitalization levy imposed under Part 10 of the Act and does not include School Taxes, business taxes, business revitalization tax, local improvement charges and any rates, assessments or charges which now are, or may be levied, rated, charged or assessed against the Arena Lands or any portions thereof, by any lawful taxing authority, whether municipal, provincial, school or otherwise during the Term of this Agreement;
- 1.1.17 "Professional Sports Franchise" has the meaning set out in the Act and its regulations;
- 1.1.18 "Province" means the Government of the province of Alberta;
- 1.1.19 "RSC" means Rexall Sports Corp.;
- 1.1.20 "School Taxes" means the amount of money which the City is required to pay to the Province relating to the requisitions and the Alberta School Foundation Fund under sections 359, 359.1 and 359.2 of the Act as calculated under sections 317 and 319 of the Act or equivalent school taxes for the purpose of a community revitalization levy under the Act;
- 1.1.21 "Tax Notice" means a written notice of the amounts owing by the Assessed Person for School Taxes and any other taxes, including the amount as set out in section 2 below;
- 1.1.22 "Term" is defined in Section 2.1.

2. TAX AGREEMENT

2.1 The term ("Term") of this Agreement is 35 years, commencing on the Commencement Date, unless terminated earlier pursuant to this Agreement.

2.2 This Tax Agreement shall terminate immediately on the earliest of the following:

2.2.1 termination of the master agreement between the City and EAC dated August 29, 2013;

2.2.2 an amendment to the Act causes this Agreement to no longer be in force; or

2.2.3 agreement of the Parties.

2.3 This Agreement applies in respect of Municipal Property Taxes otherwise owing by EAC, RSC, EMJHC and its Affiliates as Assessed Persons in respect of the Arena Lands. Council for the City agrees that:

2.3.1 EAC, instead of paying Municipal Property Taxes otherwise owing, shall make an annual payment of 16(1) to the City for each and every year of the Term of this Agreement. The City shall accept this annual payment in place of the Municipal Property Taxes which would otherwise be due and owing for the Arena Lands.

2.3.2 RSC, instead of paying Municipal Property Taxes otherwise owing, shall make an annual payment of 16(1) to the City for each and every year of the Term of this Agreement. The City shall accept this annual payment in place of the Municipal Property Taxes which would otherwise be due and owing for the Arena Lands.

2.3.3 EMJHC, instead of paying Municipal Property Taxes otherwise owing, shall make an annual payment of 16(1) to the City for each and every year of the Term of this Agreement. The City shall accept this annual payment in place of the Municipal Property Taxes which would otherwise be due and owing for the Arena Lands.

2.4 Notwithstanding the foregoing, EAC, RSC and EMJHC shall continue to be responsible for the payment of any and all School Taxes, and any taxes, other than Municipal Property Taxes, that may be due and payable on the Arena Lands pursuant to Part 10 of the Act.

2.5 This Agreement does not apply to any portion of the Arena Lands, including land or improvements, that:

(a) is occupied or managed by an Assessed Person other than EAC, RSC or EMJHC or their Affiliates

- (b) is not used for the purpose of operating or managing a municipal property or operating or managing a Professional Sports Franchise; or
- (c) is used for any of the following:
 - (i) parking except for 50 dedicated parking stalls;
 - (ii) Gambling;
 - (iii) restaurants/ bars that are operated outside of Event Hours or open to non-ticket holders or the general public ; or
 - (iv) other retail and commercial operations that are operated outside of Event Hours or open to non-ticket holders or the general public.

2.6 Notwithstanding the foregoing, if the aggregate amount of the Municipal Property Taxes collected from Assessed Persons other than EAC, RSC or EMJHC or their Affiliates within the Arena Lands exceeds \$250,000 per annum, then the amount owing by EAC, RSC or EMJHC or their Affiliates shall each be reduced proportionately (based on the proportion that the annual amount paid by such corporation bears to the aggregate annual payment made under this Agreement) by any amounts exceeding \$250,000 per annum. In no event shall the Municipal Property Taxes for any of EAC, RSC, or EMJHC or their Affiliates be reduced below zero.

2.7 EAC, RSC and EMJHC and their Affiliates shall pay Municipal Property Taxes in accordance with the Act for any land and improvements not subject to this Agreement.

3. ANNUAL PAYMENT

3.1 Annually, the City shall send a Tax Notice to EAC, RSC and EMJHC at least 30 days before the Due Date.

3.2 In the event the Tax Notice is not sent to EAC, RSC and EMJHC at least 30 days before the Due Date, then the Due Date shall automatically be extended to a due date which is 30 days from the actual date of the mailing of the Tax Notice.

4. LATE PAYMENT

4.1 If the full amount of the annual payment, as stated on the Tax Notice, is not paid by the Due Date, the outstanding amount thereof becomes a debt owing to the City and shall bear the penalty on unpaid taxes as set out in the City's Bylaw 12914, Tax Penalty, Interest and Monthly Payment Bylaw, as amended. In addition, EAC, RSC and EMJHC agree to indemnify the City for

all costs associated with collecting the outstanding amount of the annual payment. EAC, RSC and EMJHC are jointly and severally liable for the obligations under this Agreement.

4.2 If an outstanding amount of an annual payment is not paid by any one or more of EAC, RSC or EMJHC for a period of 2 years from the Due Date, then the City may terminate this Agreement by providing written notice to EAC, RSC and EMJHC.

4.3 This Section 4 shall survive the termination or expiry of this Agreement.

5. ASSIGNMENT

5.1 This Agreement shall remain in full force and effect for the Term of the Agreement.

5.2 Any of EAC, RSC and EMJHC may assign this Agreement with the consent of the City, such consent not to be unreasonably withheld.

5.3 In the event an assignee of EAC, RSC or EMJHC fails to make the full annual payment required under this Agreement, the assignor, namely EAC, RSC or EMJHC as the case may be, shall remain fully liable for the outstanding amount of the annual payment and agrees to fully indemnify the City for any and all costs associated with collecting the annual payment. This Section 5.3 shall survive the termination or expiry of this Agreement.

6. NEW LEASE

6.1 In the event that the Arena Lease is terminated and RSC enters into a new lease with the City of Edmonton for the purpose of operating a Professional Sports Franchise on the Arena Lands, then commencing on the effective date of the new lease between the City and RSC:

(a) EAC shall cease to be a party to this Agreement, this Agreement shall be interpreted as if EAC is no longer a party, and any reference to EAC in this Agreement shall be disregarded; and

(b) The reference to 16(1) in Section 2.3.2 shall be deemed to be replaced with 16(1) ".

7. OTHER ACTS

Each of the parties covenants and agrees with the other that each shall, from time to time and at all times hereafter, make, do, and execute or cause or procure to be made, done or executed such further acts, deeds and assurances as may be necessary for the more effectual carrying into effect the terms of this Agreement.

8. NON-WAIVER

The waiver of any covenant, condition or provision hereof must be in writing. The failure of any party, at any time, to require strict performance by the other party of any covenant, condition or provision hereof shall in no way affect such party's right thereafter to enforce such covenant, condition or provision, nor shall the waiver by any party of any breach of any covenant, condition or provision hereof be taken or held to be a waiver of any subsequent breach of the same or any covenant, condition or provision.

9. CITY CAPACITY

The City, in entering into this Agreement, is doing so in its capacity as a municipal corporation and not in its capacity as a regulatory, statutory or approving body pursuant to any law of the Province of Alberta and nothing in this Agreement shall constitute the granting by the City of any approval or permit as may be required pursuant to the Act and any amendments thereto, and any other legislation in force in the Province of Alberta. The City shall be bound to comply with and carry out the terms and conditions stated in this Agreement and nothing in this Agreement restricts the City, its Municipal Council, its officers, servants or agents in the full exercise of any and all powers and duties vested in them in their respective capacities as a municipal government, as a municipal council and as the officers, servants and agents of a municipal government.

10. SEVERABILITY

If any of the terms and conditions as contained in this Agreement are at any time during the continuance of this Agreement held by any Court of competent jurisdiction to be invalid or unenforceable in the manner contemplated herein, then such terms and conditions shall be severed from the rest of the said terms and conditions, and such severance shall not affect the enforceability of the remaining terms and conditions in accordance with the intent of these presents.

11. GOVERNING LAWS

This Agreement shall be construed and governed by the laws of the Province of Alberta.

12. GENDER

All references shall be read with such changes in number and gender as may be appropriate according to whether the reference is to a male or female person, or a corporation or partnership.

13. NOTICE

Notice in writing or other correspondence required or permitted to be given to the Parties pursuant to this Agreement shall be sufficiently given when delivered to the following addresses (or to any other address or to the attention of any other person as may be designated in writing by a party):

To the City:

The City of Edmonton
3rd Floor, City Hall
1 Sir Winston Churchill Square
Edmonton, Alberta T5J 2R7
Attention: City Manager

To EAC, RSC and EJMHC:

1702 Bell Tower
10104 – 103 Ave
Edmonton, Alberta T5J 0H8
Attention: Brad Gilwich

14. AMENDMENTS

An amendment to any term of this Agreement, including the Schedule, must be in writing and signed by the Parties.

15. FOIP

EAC, RSC and EJMHC acknowledge that (i) the City is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, (FOIP); (ii) the City may be requested to disclose any records relating to this Agreement and under the custody or control of the City, including, without limitation, the contents of this Agreement; and (iii) any such disclosure if required by FOIP shall only be made in accordance with and to the extent

required by the provisions of FOIP. For greater certainty, the foregoing shall not limit or restrict the rights of objection to disclosure that EAC, RSC or EJMHC has under FOIP.

16. ENTIRE AGREEMENT

This Agreement and the Schedule to this agreement shall constitute the entire agreement between the Parties relating to Municipal Property Taxes on the Arena Lands and there are no other related representations, conditions, covenants or warranties other than those expressed herein.

17. CONFLICT

If there is a conflict between this Agreement and the master agreement between the City and EAC dated August 29, 2013, the provisions of this Agreement shall prevail.

18. EXECUTION

This Agreement may be executed by exchange of faxed or electronically transmitted signatures of the parties. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

19. HEADINGS

The insertion of headings is for convenience of reference only and shall not be construed so as to affect the interpretation or construction of this Agreement.

20. LEGISLATIVE REFERENCES

The reference to any legislation in this Agreement shall be deemed to include all amendments thereto and all regulations thereunder and all statutes, including all amendments thereto and regulations thereunder, that may be substituted for that legislation.

21. INTERPRETATION

In this Agreement:

(a) the word "shall" is to be read and interpreted as mandatory.

THE CITY AND EAC AND RSC AND EMJHC HAVE EXECUTED THIS AGREEMENT ON THE 10TH DAY OF FEBRUARY, 2014.

Legally Reviewed and Approved

THE CITY OF EDMONTON

As to Form:

Law Branch

ANNE JARMAN

Approved

As to Content:

Per:

(seal)

As represented by Simon Farbrother, City Manager

Approved by City Council:
January 23, 2013 (Item 6.2)

EDMONTON ARENA CORP.

Per:

John D. Karvellas, Director

REXALL SPORTS CORP.

Per:

John D. Karvellas, Director

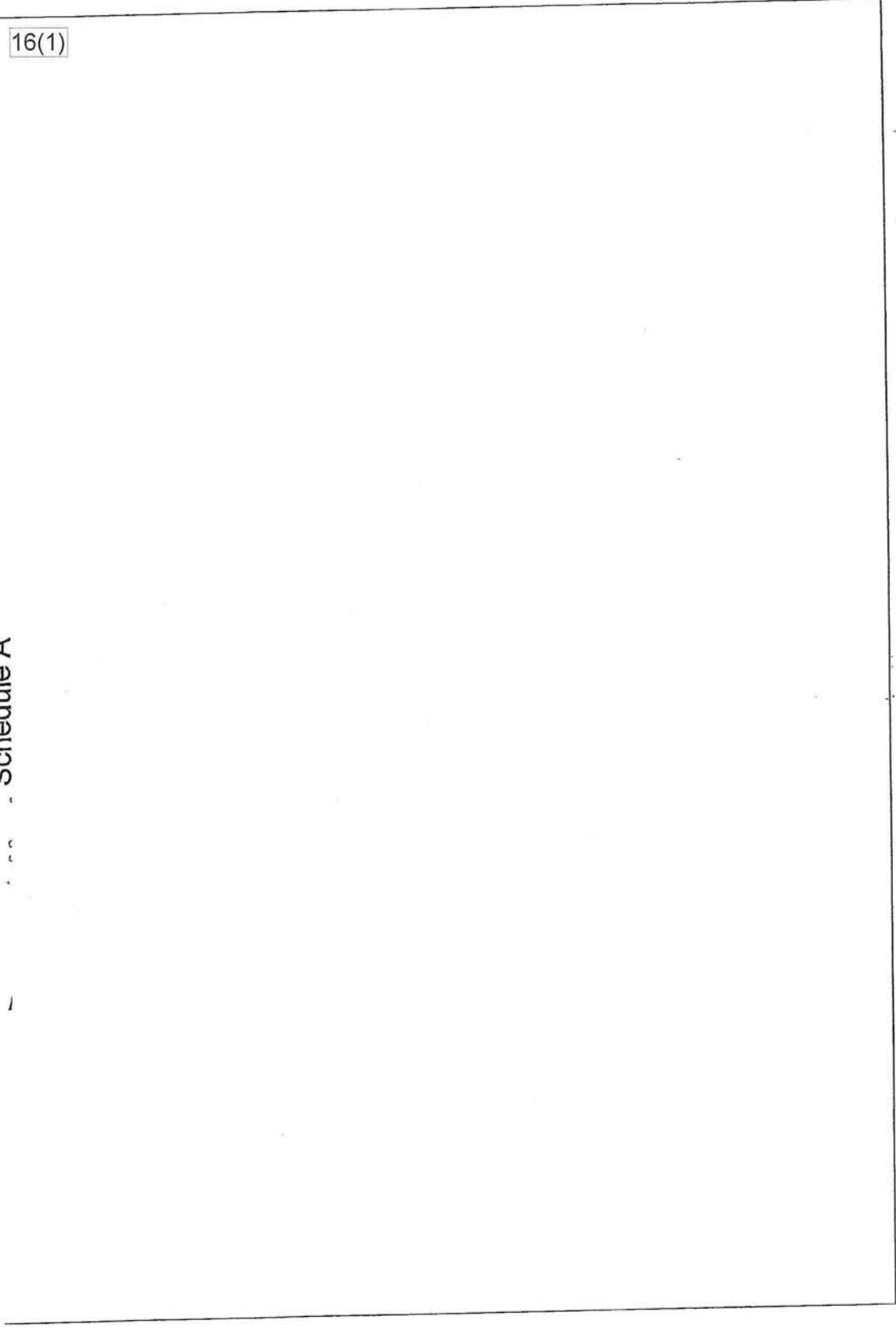
EDMONTON MAJOR JUNIOR HOCKEY CORP.

Per:

John D. Karvellas
Authorized Signatory/ Agent of
Edmonton Major Junior Hockey Corp.

Schedule A

16(1)



Legend for Tax Agreement Schedule A

16(1)

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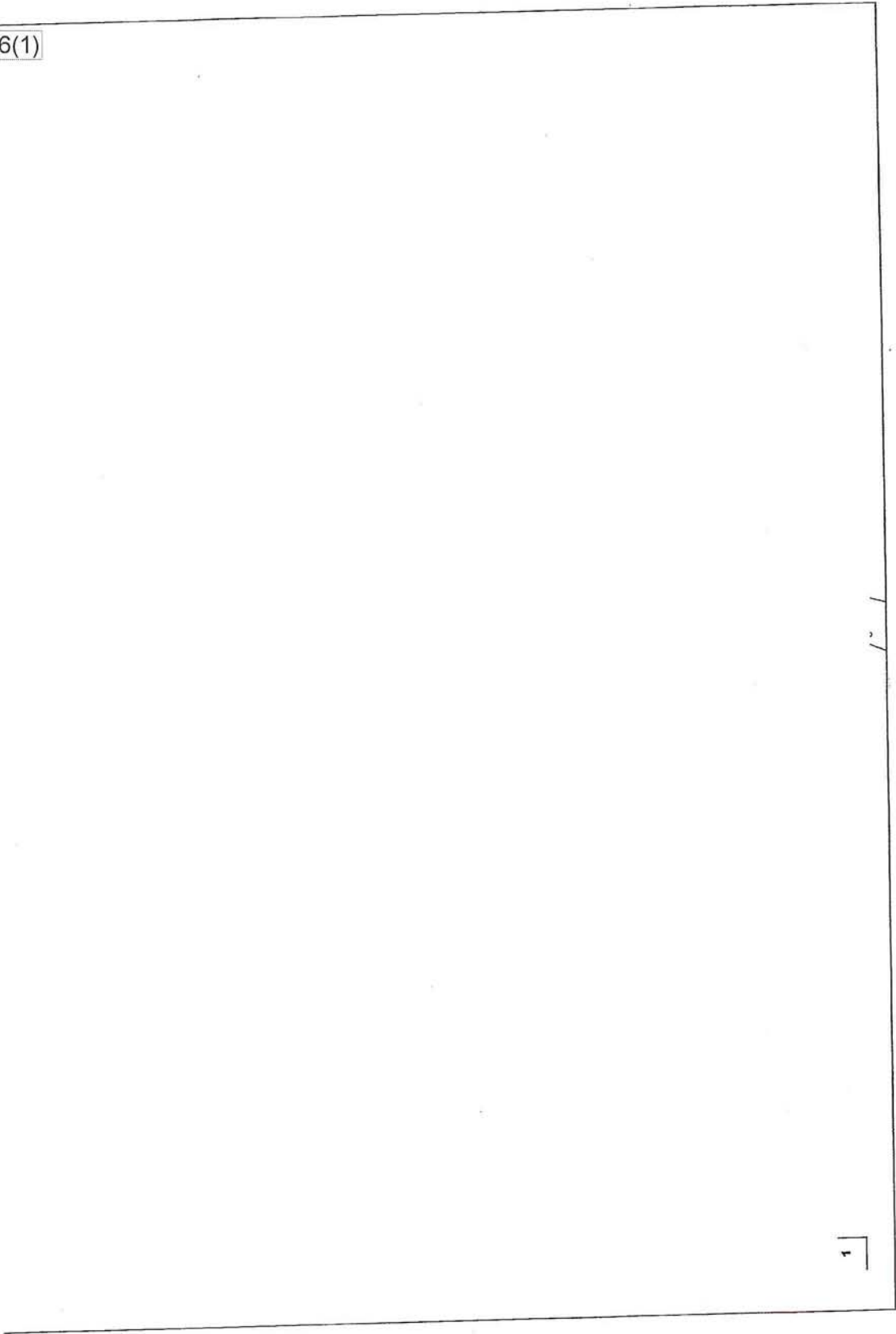
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Legend for Tax Agreement Schedule A

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Legend for Tax Agreement Schedule A

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