

1980

## c 269 Mining Tax Act

Ontario

© Queen's Printer for Ontario, 1980

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/rso>

---

### Bibliographic Citation

*Mining Tax Act*, RSO 1980, c 269

### Repository Citation

Ontario (1980) "c 269 Mining Tax Act," *Ontario: Revised Statutes*: Vol. 1980: Iss. 4, Article 44.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1980/iss4/44>

## CHAPTER 269

## Mining Tax Act

## 1. In this Act,

Interpretation

- (a) "associated persons" means associated persons as determined under subsection 3 (4);
- (b) "Deputy Minister" means the Deputy Minister of Natural Resources;
- (c) "mine" means any opening in the ground and any working of the ground from or by which any mineral substance is taken, and comprises the mining claim, mining location and the whole parcel of land in which any such workings are or have been carried on;
- (d) "mineral substance" means every type and kind of ore, rock and mineral, whether organic or inorganic, but does not include diatomaceous earth, limestone, marl, peat, clay, building stone, stone for ornamental or decorative purposes, non-auriferous sand or gravel, natural gas or petroleum, or sodium chloride recovered by the solution method;
- (e) "Minister" means the Minister of Natural Resources;
- (f) "Ministry" means the Ministry of Natural Resources;
- (g) "municipality" means a city, town, village, township or improvement district;
- (h) "operator", when used in reference to a mine, means the person that has the right to work the mine and win mineral substances from it, whether he does so himself or through his agents or servants, and "operate" and "operation", when used in reference to a mine, have a corresponding meaning;
- (i) "output" when used in reference to a mine means the mineral substances raised, taken or obtained from any mine in Ontario, if those mineral substances,
  - (i) are sold as such, or

- (ii) are not sold as such but are fed into a treatment plant at any mill, smelter or refinery and the product of their treatment or partial treatment is sold;
- (j) "person" includes corporation, syndicate, trust, partnership, co-owners and, where the context permits, the heirs, executors, administrators or successors of any person;
- (k) "processing" means, with respect to mineral substances, any form of beneficiation, concentrating, smelting, refining or semi-fabricating, or any combination thereof;
- (l) "social asset" means an asset that is incidental and ancillary to mining and processing operations and that relates directly to the provision of housing, recreational and service facilities, provided that the asset,
- (i) is necessary to attract or retain employees, and
- (ii) is available for the use of all employees;
- (m) "taxation year" means the period for which the accounts of the operator of a mine are ordinarily made up and accepted for the purposes of assessment under this Act, and any change in a usual and accepted taxation year shall, for the purposes of this Act, be made only with the approval of the Minister, but no taxation year shall be for a period greater than fifty-three consecutive weeks. 1972, c. 140, s. 1; 1974, c. 132, s. 1; 1978, c. 82, s. 1.

When taxes  
accrue and  
when payable

2.—(1) The taxes imposed under this Act accrue on the last day of the taxation year and the estimated amount thereof is payable to the Minister and must be in the hands of the Ministry not later than two months following the close of the taxation year.

Payment of  
balance

(2) Every operator of a mine and every other person liable to pay a tax under this Act shall, at the time he makes the return required under section 7, pay the amount, if any, by which any tax that he estimates to be payable in the return that is required under section 7 exceeds the amount paid under subsection (1). 1972, c. 140, s. 2.

**3.**—(1) Every mine, the profit of which as determined under <sup>Profit tax</sup> this section exceeds \$250,000 in a taxation year, is liable for and the owner, holder, tenant, occupier or operator of the mine shall pay a tax of,

- (a) 15 per cent on the excess of profit above \$250,000 and up to \$1,000,000; and
- (b) 20 per cent on the excess of profit above \$1,000,000 and up to \$10,000,000; and
- (c) 25 per cent on the excess of profit above \$10,000,000 and up to \$20,000,000; and
- (d) 30 per cent on the excess of profit above \$20,000,000. 1979, c. 40, s. 1.

(2) For the purpose of this section and section 7, all mines that are operated by, and the profits of which <sup>Mines operated together</sup> accrue to, the same person or associated persons shall, for the purpose of determining the amount of tax payable under this Act, be deemed to be and be dealt with as one and the same mine and not as separate mines.

(3) Subsection (2) does not apply to a mine brought into active <sup>Exception</sup> operation for the first time after the 9th day of April, 1974.

(4) Where two or more mines are worked, operated, <sup>Associated persons</sup> managed, or controlled by two or more persons and the Minister is satisfied, notwithstanding the separate existence of such persons,

- (a) that their separate existence in a taxation year is not solely for the purpose of carrying out the business of the different persons in the most effective manner; and
- (b) that one of the reasons for their separate existence is to reduce the amount of taxes that would be otherwise payable under this section,

the two or more different persons shall, if the Minister so directs, be deemed to be associated persons for the purpose of subsection (2) and section 7.

## Notice

(5) Written notice of a direction by the Minister under subsection (4) shall be mailed or delivered forthwith to the persons deemed to be associated persons.

## Appeal

(6) Where two or more different persons are deemed to be associated persons by direction of the Minister under subsection (4), any such person or persons may, within thirty days after the day on which notice of the making of the direction is mailed or delivered, appeal the direction to the Divisional Court in accordance with the rules of court and any appeal to the Court of Appeal from a decision of the Divisional Court shall be upon notice delivered or served by the party appealing within fifteen days after the making of the decision that is appealed, and leave to appeal is not necessary. 1974, c. 132, s. 2 (2).

## Ascertainment of profit

(7) The profit for a taxation year is the difference between,

- (a) where the mineral substances raised, taken or gained from the mine are sold as such, the amount of the gross receipts from the output during the taxation year;
- (b) where the mineral substances or a part thereof are not sold as such, the amount of the actual market value at the pit's mouth of the mineral substances raised, taken or gained from the mine that are fed into a treatment plant at any mill, smelter or refinery and the product thereof is sold in the taxation year; or
- (c) if there is no means of ascertaining the actual market value at the pit's mouth of the mineral substances referred to in clause (b), the amount at which the mine assessor appraises the value of such mineral substances, provided that the mine assessor in appraising such value shall deduct,
  - (i) the processing costs incurred as prescribed or determined by the regulations, and
  - (ii) an allowance for profit in respect of processing at a rate or rates prescribed by the regulations or determined by the mine assessor,

from the proceeds of the processed mineral substances sold during the taxation year,

and the following expenses, payments, allowances and deductions,

- (d) the expenses incurred in respect of scientific research conducted in Canada and related to mining operations in Ontario;
- (e) the proper working expenses of the mine, both underground and above ground, including salaries and wages of all necessary employees employed at or about the mine and the proper salaries and office expenses for necessary office work done at the mine and at the head office of the mine and in immediate connection with the mining operations;
- (f) the proportion of the operating and maintenance expenses related to social assets in Ontario that is directly attributable to the mining operations after deducting therefrom all rents, fees, grants and other payments received during the taxation year by the mine operator in connection therewith, to the extent that such expenses are not otherwise deductible under the regulations;
- (g) the cost of power, light and transportation used in the mining operations and in handling the mineral substance taken from the mine;
- (h) the net cost of food and provisions if supplied by the operator to the employees of the mine;
- (i) the cost of explosives, fuel and any other supplies necessarily consumed in the mining operations;
- (j) any proper outlay incurred in safeguarding or protecting the mine, mineral substance or output;
- (k) the cost of proper insurance upon the output and upon the mining plant, machinery, equipment and buildings used for or in immediate connection with the mining operations or for storing the mineral substance, if paid or borne by the operator;
- (l) subject to subsections (8), (9) and (10),
  - (i) an allowance for depreciation in each taxation year of not more than 15 per cent of the

capital cost to the operator computed at the close of the taxation year of the mining plant, machinery, equipment and buildings,

- (ii) notwithstanding subclause (i), an allowance for depreciation in each taxation year not exceeding 30 per cent of the capital cost to the operator computed at the close of the taxation year of the mining plant, machinery, equipment and buildings acquired after the 9th day of April, 1974, that has not been used previously in mining operations, and
- (iii) notwithstanding subclause (i) or (ii), an allowance for depreciation in each taxation year on mining plant, machinery, equipment and buildings acquired at arm's length for use in a new mine or a major expansion of an existing mine after the 7th day of March, 1978 and before the completion of the project in an amount not exceeding the lesser of,
  - A. the profits for the taxation year from such new mine or major expansion of an existing mine, and
  - B. the undepreciated capital cost to the mine operator of the mining plant, machinery, equipment and buildings at the end of the taxation year before making any deduction under this subclause for the taxation year,

until the full cost thereof has been allowed as an expense under this clause;

- (m) donations actually made for charitable, educational or benevolent purposes that are approved by the mine assessor; and
- (n) notwithstanding anything in this subsection, up to 100 per cent of,
  - (i) the exploration and development expenditures incurred in Ontario after the 9th day of April, 1974 and prior to the date of commencement of production, with the object of finding, testing or opening up deposits of mineral substances, and

- (ii) the exploration and development expenditures, incurred in Ontario on and after the date of commencement of production with the object of finding, testing or opening up deposits of mineral substances,

if the following conditions are met:

1. The expenditure has not at any time in a previous taxation year been allowed as an expense or deduction under this Act.
2. The expenditure is approved by the mine assessor.
3. The expenditure does not include money paid for the purchase or acquisition of an option to purchase or in the acquisition of the right to mine or an option on the right to mine such deposits.
4. The expenditure was made or borne by the operator of the mine liable to taxation.
5. Separate accounts of the expenditure are kept and furnished to the mine assessor in reasonable detail with the return required under section 7. 1972, c. 140, s. 3 (3); 1974, c. 132, s. 2 (3-5, 7); 1978, c. 82, s. 2 (1-4).

(8) Notwithstanding clause (7) (l), no allowance for depreciation on any asset that is a social asset shall be deducted under subsection (7). 1978, c. 82, s. 2 (5). Depreciation on social assets not allowed

(9) No allowance for depreciation shall be made under subclause (7) (l) (iii) unless, Qualification of new mine or major expansion

(a) the new mine or major expansion of an existing mine has been designated by the Minister for the purposes of this subsection; and

(b) the operator or other person liable to pay the tax under this Act has elected that the project be treated as a new mine or a major expansion of an existing mine under subclause (7) (l) (iii).

(10) An election under clause (9) (b) shall be made in the return delivered under section 7 in which the first claim for depreciation When election to be made



is made for the new mine or the major expansion of an existing mine under subclause (7) (l) (iii) and shall be binding upon the person by whom it is made and shall not subsequently be altered or revoked. 1978, c. 82, s. 2 (6).

Allowances  
and  
deductions  
not  
permitted

- (11) No allowance or deduction shall be made in respect of,
- (a) the cost of mining plant, machinery, equipment and buildings except as provided in subsection (7) and in section 4;
  - (b) capital invested, or interest or dividend upon capital or stock or investment;
  - (c) depreciation in the value of the mine, mining land or mining property by reason of exhaustion or partial exhaustion of the ore or mineral;
  - (d) royalties paid for or in respect of the output of a mine situated on lands not the property of the Crown. 1972, c. 140, s. 3 (4); 1974, c. 132, s. 2 (8); 1978, c. 82, s. 2 (7).

Part-year  
production

(12) In determining the amount of the tax under this section where the period of production is, in the opinion of the mine assessor, for a period of less than twelve months, the amount of the profit for the period of production shall be multiplied by the quotient of 365 divided by the number of days of production, and the rate mentioned in subsection (1) shall be applied to the product thereof in the same manner as though such product was the true profit for the taxation year, and the amount so determined shall be multiplied by the quotient of the number of days of production divided by 365. 1972, c. 140, s. 3 (5).

Recapture

(13) The undepreciated capital cost of the mining plant, machinery, equipment and buildings, herein referred to as "the assets", at any time means the amount by which the aggregate of,

- (a) the capital cost to the operator of the assets acquired before that time; and
- (b) all amounts included in profits by virtue of subsection (14) for a taxation year ending prior to that time,

exceeds the aggregate of,

- (c) the total depreciation deducted for the assets by the operator before that time; and
- (d) for each disposition of any asset or part thereof, the lesser of,
  - (i) the proceeds of disposition of that asset or part, and
  - (ii) the capital cost to the operator of that asset or part.

(14) Where, at the end of a taxation year, the aggregate of all amounts determined under clauses (13) (c) and (d) exceeds the aggregate of all amounts determined under clauses (13) (a) and (b), the excess shall be included in computing the profits for the taxation year. <sup>Idem</sup>

(15) Where mining plant, machinery, equipment or buildings or any part thereof were not acquired or disposed of at arm's length and the Minister considers it necessary or advisable, he may determine in accordance with the regulations the capital cost to the operator and the proceeds of disposition of the mining plant, machinery, equipment and buildings for the purposes of this section. <sup>Minister may make determination</sup>

(16) For the purposes of this section, the rules determining "at arm's length" in section 251 of the *Income Tax Act* (Canada) apply with necessary modifications. 1978, c. 82, s. 2 (8). <sup>Meaning of "at arm's length" R.S.C. 1952, c. 148</sup>

4.—(1) In this section,

<sup>Interpretation</sup>

- (a) "agent" means an agent of Ontario Hydro for the purpose of receiving on behalf of Ontario Hydro any uranium pursuant to a subsequent contract;
- (b) "Ontario Hydro" includes its successors and assigns;
- (c) "original contract" means any contract entered into with Ontario Hydro and approved by the Lieutenant Governor in Council subsequent to the 31st day of December, 1977 and prior to the 8th day of March, 1978 to supply uranium to Ontario Hydro;
- (d) "specified uranium undertaking" means any undertaking in Ontario carried out pursuant to an original or subsequent contract to supply uranium to Ontario Hydro and includes any other undertaking that may be prescribed by the regulations;

(e) "subsequent contract" means any contract to supply uranium to Ontario Hydro or any of its agents entered into on or after the 8th day of March, 1978,

(i) made with a party, other than Ontario Hydro, that was a party to the original contract, or

(ii) granting, transferring or assigning any rights under the original contract to supply uranium to Ontario Hydro;

(f) "undertaking" means any mining or processing operation that produces uranium.

No deduction for certain operating expenses

(2) Notwithstanding clause 3 (7) (f), no deduction shall be made under that clause for the proportion of expenses that is attributable to a specified uranium undertaking.

Allowance for depreciation

(3) Notwithstanding subclause 3 (7) (l) (i), an allowance under that clause for depreciation in each taxation year shall be not less than 5 per cent and not more than 15 per cent of the capital cost to the operator computed at the close of a taxation year of the mining plant, machinery, equipment and buildings that is attributable to the operation of a specified uranium undertaking.

No allowance for proportion of depreciation attributable to specified uranium undertaking

(4) Notwithstanding subclause 3 (7) (l) (iii), no allowance under that clause for depreciation shall be allowed for the proportion of depreciation on any mining plant, machinery, equipment or buildings that is attributable to the operation of a specified uranium undertaking.

Deduction for exploration and development expenditures

(5) Notwithstanding clause 3 (7) (n), at least 15 per cent and not more than 100 per cent of the exploration and development expenditures permitted under subclauses (i) and (ii) of that clause shall be deducted for the proportion of exploration and development expenses that is attributable to the operation of a specified uranium undertaking. 1978, c. 82, s. 3.

Duty to give notice of active operations

5.—(1) The operator of every mine from which any mineral substance is raised, taken or gained shall, within ten days after the commencement of the active operation of the mine, give written notice to the mine assessor of the fact that the mine is in active operation, and such notice shall state the name and address of the operator of the mine and of the owner, holder, tenant and occupier of the mine if other than

the operator and shall forthwith give written notice to the mine assessor of every change in the name or address of any of such persons and such notice shall further clearly set forth an address for service for each of them where any notice or demand that may be given under this Act may be given or served.

(2) Any notice or demand required or provided for by this Act shall be deemed to have been properly and sufficiently given or served to the owner, holder, tenant, occupier or operator if mailed by registered mail to the address for service for such person given by the operator, and in case no address for service is given as herein required, then any notice or demand required or provided for by this Act is sufficiently given or served if the same is mailed by registered mail to any address that the official or person sending the notice or demand considers most likely to bring the notice or demand to the attention of the person to whom it is directed. Service of notice

(3) The operator of every mine shall forthwith give written notice to the mine assessor of every discontinuance of the active operation of the mine and of every recommencement thereof after discontinuance. 1972, c. 140, s. 4. Notice of change of interest or discontinuance

6.—(1) No person shall ship, send, remove or carry away or permit to be shipped, sent, removed or carried away from the mine from which the same has been taken any mineral substance or any product thereof until notice has been given to the mine assessor as required by section 5 that the mine from which the mineral substance or product is taken is in active operation. Shipping forbidden before notice

(2) Every person who contravenes subsection (1) is guilty of an offence and, on conviction, is liable to a fine of not more than \$5,000. 1972, c. 140, s. 5. Offence

7.—(1) On or before the last day of the month that ends six months following the close of the taxation year, every operator of every mine in Ontario shall, without notice or demand, deliver to the mine assessor a return containing an estimate of the tax for which the mine of which he is the operator is liable, and the return shall contain full particulars of every calculation and fact upon which the estimate is based, and the return shall be verified by a certificate stating that the information included in the return is in agreement with the books required to be kept under this Act, and such certificate shall be signed by a person who has personal knowledge of the affairs of the mine, but the mine assessor may require the person who certifies the return to verify Return

under oath the return or any part thereof, and any person so required shall forthwith make and file with the mine assessor an affidavit verifying the truth of the matters and facts contained in the return.

Idem

(2) The mine assessor, or any officer of the Ministry who is authorized by the Minister so to do, may in writing demand from any person liable to pay the tax imposed by section 3 or from any person believed to have knowledge relevant to the proper assessment of tax under this Act that such person make a return to the mine assessor containing the information required by subsection (1), or that such person furnish to the mine assessor any information necessary to enable the mine assessor to make a full and complete assessment under this Act or a proper estimate of any tax that may be due under this Act and every such person upon receipt of the demand shall make and deliver the return to the mine assessor or officer of the Ministry, as the case may be. —1972, c. 140, s. 6.

Notice of assessment

8.—(1) The mine assessor shall examine the returns delivered under section 7 together with any other information furnished under this Act, and shall send to every person liable to pay the tax imposed by section 3 a notice of assessment confirming or altering the amount of tax that has been estimated to be payable and any amount of tax that is assessed to be payable over the estimated amount shown in the return shall be paid within one month after the mailing of the notice of assessment, whether or not an appeal of the assessment is taken under this Act. 1972, c. 140, s. 7 (1).

Assessment where no return

(2) Where an operator fails to make a return under section 7 or a remittance as required under this Act or the regulations or if his returns are not substantiated by his records and any information furnished under this Act, the mine assessor may assess the tax, interest or penalties payable by the operator.

Notice of assessment

(3) Where the mine assessor has made an assessment under subsection (2), he may send to the operator or person liable to pay the tax a notice of assessment requiring that the amount of the assessment made under subsection (2) be paid to the Minister within one month after the mailing of the notice of assessment, whether or not the assessment is appealed under this Act. 1978, c. 82, s. 4, *part.*

Refunds

(4) Where the amount of the tax that is assessed is less than the amount paid to the Minister on account of tax for the taxation year with respect to which the assessment is made, the amount that has been paid to the Minister in

excess of the tax assessed shall be remitted forthwith to the person who paid such excess amount.

(5) Where an assessment made under this Act is not appealed within the time provided by this Act, the amount of tax shown in the assessment is the amount of tax for which the mine assessed is liable and which the owner, holder, tenant, occupier or operator of that mine is required to pay, and the Minister may forthwith take all remedies available to him under this Act or at law to recover all taxes, penalties and interest provided for by this Act, and all taxes the assessment of which has not been appealed within the time provided for by this Act and all penalties and interest provided for by this Act are a debt due to Her Majesty in right of Ontario for which every person by whom such taxes, interest and penalties are payable is accountable. 1972, c. 140, s. 7 (2, 3). Recovery of taxes

(6) An assessment, subject to being varied or vacated on an appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. 1978, c. 82, s. 4, *part*. Assessment deemed valid

9. The mine assessor may at any time assess tax, interest or penalties, or notify in writing any person by whom a return for a taxation year has been filed that no tax is payable for the taxation year, and may, Reassessment

(a) at any time, if the operator or person filing the return,

- (i) has made any misrepresentation or committed any fraud in filing the return or supplying any information under this Act, or
- (ii) has failed to file the financial information with the return required to be filed under section 7, or
- (iii) has been negligent in supplying any information under this Act, or
- (iv) has filed with the Minister a waiver in a prescribed form within four years from the date of mailing of a notice of an original assessment or of a notification that no tax is payable for a taxation year; and

(b) within four years from the date referred to in subclause (a) (iv), in any other case,

reassess or make additional assessments or assess a tax, interest or penalties, as the circumstances require. 1978, c. 82, s. 5.

**Appeal**

**10.**—(1) Where any person who is assessed to pay any taxes levied on a mine under this Act is not satisfied with the notice of assessment of such tax that is sent to him under section 8, he may appeal the assessment within thirty days after the day on which the notice of assessment is mailed but shall, before commencing the appeal, pay to the Minister the amount of taxes and interest, if any, required to be paid by the notice of assessment, and may then commence the appeal by delivering to the Minister either personally or by registered mail a written notice of his appeal setting out the reasons for his objection to the assessment and the allegations of fact and law on which he relies to support his objection to the assessment. 1972, c. 140, s. 8 (1).

**Referral for hearing**

(2) Subject to subsection (4), where notice of appeal of an assessment is delivered as provided for in this section, the Minister shall, in writing, refer the appeal to the Mining and Lands Commissioner or to the Ontario Municipal Board to be tried and determined and shall forthwith inform the appellant and furnish to him a copy of the writing by which the appeal has been referred. 1972, c. 140, s. 8 (2); 1973, c. 105, s. 4.

**Hearing of appeal**

(3) When the Minister has referred an appeal under this Act, the Mining and Lands Commissioner or the Ontario Municipal Board, as the case may be, shall proceed to try and dispose of the appeal, and for all purposes of hearing, inquiring into and disposing of the appeal has the same power to enforce the attendance of witnesses and to compel them to give evidence and to produce documents and things as is vested in any court in civil cases, and the disposition of the appeal that is made by the Mining and Lands Commissioner or the Ontario Municipal Board, as the case may be, is, for the purposes of this Act, final and conclusive subject to the right of appeal therefrom to the Divisional Court as hereinafter provided. 1972, c. 140, s. 8 (3); 1973, c. 105, s. 4.

**Hearing by judge where all facts agreed upon**

(4) Where an appellant under this section and the Minister agree in writing upon a statement of all the facts that are relevant and in issue on an appeal under this section, the appellant may, whether or not the matter has been previously referred by the Minister to the Mining and Lands Commissioner or the Ontario Municipal Board, set the appeal down for hearing and determination by the Divisional Court in accordance with the practice and procedure of that court in mat-

ters or causes where all the facts in issue have been agreed upon. 1972, c. 140, s. 8 (4); 1973, c. 105, s. 4.

(5) An appeal lies to the Divisional Court in accordance with the rules of court from any decision of the Mining and Lands Commissioner or the Ontario Municipal Board under subsection (3) and any appeal to the Court of Appeal from a decision of the Divisional Court under this section shall be upon notice delivered or served by the party appealing within fifteen days after the making of the decision that is appealed, and leave to appeal is not necessary. 1972, c. 140, s. 8 (5); 1973, c. 105, s. 4, *revised*.

Appeal to  
Court of  
Appeal

(6) In any appeal that is heard under subsection (3), the Mining and Lands Commissioner or the Ontario Municipal Board hearing the appeal may make such order as to the payment of the costs of the proceedings as seems just, and may direct that such costs be taxed by a taxing officer of the Supreme Court and any costs so taxed shall be paid forthwith after the taxation thereof. 1972, c. 140, s. 8 (6); 1973, c. 105, s. 4.

Costs

(7) Where the amount of tax that is finally determined to be payable pursuant to an appeal under this Act is less than the amount of tax that has been assessed and paid, the difference shall be refunded to the appellant, and where the amount of tax that is finally determined to be payable pursuant to an appeal under this Act is more than the amount of tax that has been assessed and paid, the appellant shall pay the difference forthwith to the Minister.

Adjustment  
of tax  
after  
appeals

(8) In any appeal under this section or in any action under this Act, any person and any officer or servant of any corporation, whether or not the person or corporation is a party to the appeal or to the action, may be examined upon oath and shall make production upon oath of any documents, records or things that may be in the possession or under the control of the person or corporation in the same manner as a party to an action in the Supreme Court may be required to attend for examination and to make production, but this subsection does not apply to the Minister or to any officer or servant of the Crown other than the mine assessor, an assistant mine assessor or a special mine assessor. 1972, c. 140, s. 8 (7, 8).

Examinations  
and  
production of  
documents

11.—(1) Every person liable to pay the tax imposed by section 3 shall keep at or near the mine proper books of account showing the quantity, weight, value, composition and other

Books to  
be kept



particulars of the mineral substances raised, taken or gained from the mine, and such books shall also show the returns from the mill, smelter or refinery and all receipts derived from the sale of the output or the product of the output of the mine and no mineral substance raised, taken or gained from any mine shall be removed from the mining premises or treated at any mill, smelter or refinery until the weight of the mineral substance has been correctly ascertained and entered in the books of account, and such person shall also keep proper books of account showing each of the several expenses, payments, allowances and deductions mentioned in section 3, and showing any other facts and circumstances necessary or proper for ascertaining the amount of tax imposed by this Act.

Power of  
mine assessor  
as to books

(2) The mine assessor may determine the number and character of books required to be kept under subsection (1) and may require that the books of account mentioned in subsection (1) be kept at such place in Ontario as the mine assessor determines. 1972, c. 140, s. 9.

Appointment  
of mine  
assessor

**12.**—(1) The Lieutenant Governor in Council may appoint an officer to be known as the mine assessor.

Appointment  
of assistant  
mine  
assessors

(2) The Minister may appoint one or more officers of the Ministry to be assistant mine assessors.

Appointment  
of special  
mine  
assessors

(3) The Minister may from time to time appoint any officer of the Ministry or any other person to be a special mine assessor and to perform for a specified time or in a specified locality or in any special matter or case the duties of the mine assessor set out in this Act, and every special mine assessor, while he acts in that capacity, shall be deemed to be an officer of the Ministry, and it is his duty, under the direction of the Minister, to perform the specific duties assigned to him by the Minister and to report to the Minister at the times and in the manner directed by the Minister. 1972, c. 140, s. 10.

Assessors  
may enter  
mines

**13.**—(1) It is lawful at all times for a mine assessor, assistant mine assessor or special mine assessor to enter upon any mining premises in Ontario for the purpose of making inquiries, obtaining information and otherwise performing his duties under this Act, and for any of these purposes a mine assessor, assistant mine assessor or special mine assessor may descend all pits and shafts, and may use all tackle, machinery, appliances and things belonging to the mine as he considers necessary or expedient, and shall be given free ingress and egress to, from and over all buildings, erections, structures and vessels used in connection with the mine and any mill, smelter or refinery at which the mineral substance taken from the mine is treated

or in any way modified and shall be allowed to take from time to time from any mining premises such samples or specimens of mineral substance as he desires for the purpose of determining by assay or otherwise the value of any mineral substance being taken from the mine or the value of any product of the output of the mine that results from the treatment or modification of any mineral substance taken from the mine and shall be given full and complete access to all books of account, letters and other documents kept or used for or in connection with the work and business of the mine or with the sale of the output or the product of the output from the mine, and may examine the same and take copies thereof or extracts therefrom, but any information of a private or confidential nature acquired by a mine assessor, assistant mine assessor or special mine assessor under this section shall not be communicated or disclosed to anyone except in so far as it is necessary to do so for the purposes of this Act.

(2) In this section, "mineral substance" includes diatomaceous earth, limestone, marl, peat, clay, building stone, stone for ornamental or decorative purposes, non-auriferous sand or gravel, natural gas or petroleum or sodium chloride recovered by the solution method. 1972, c. 140, s. 11. Interpretation

14.—(1) No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act or allow any such person to inspect or have access to any written statement furnished under this Act. Confidentiality

(2) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than \$200. Penalty

(3) Notwithstanding subsection (1), the Minister may, for the purpose of aiding in an investigation for taxation purposes under this or any other Act, enter into an agreement with the Government of Canada or of any province under which officers of such government will be allowed access to information obtained or any written statement furnished under this Act and officers of the Government of Ontario will be allowed access to information obtained or any written statement furnished under any Act of such government. 1978, c. 82, s. 6. Agreements to exchange information

15. Where a person that is liable for payment of tax under section 3 is also, during any taxation year in which such tax is payable, liable to a municipality for a tax under Allowance for tax paid to municipality

R.S.O. 1980,  
c. 31

section 19 of the *Assessment Act* the tax that, in the taxation year, is payable and paid under section 19 of the *Assessment Act* may be deducted from the tax payable for the taxation year under this Act. 1972, c. 140, s. 12.

Compromise  
of tax

**16.** Where any doubt arises as to the liability of any person to pay the whole or any part of the taxes and penalties imposed under this Act, or where owing to exceptional circumstances, it is considered inequitable to demand payment of the whole amount of any taxes and penalties imposed under this Act, the Lieutenant Governor in Council may compromise and settle the matter by accepting such amount as he considers proper and in case the taxes or the penalties or both have been paid he may refund them or part of them to the person making the payment. 1972, c. 140, s. 13.

Remission  
of tax on  
iron ore  
profits

**17.** The Lieutenant Governor in Council may remit the tax imposed by section 3 upon the profits arising out of the mining of iron ore where he is satisfied that the iron ore has been smelted in Canada or delivered to a blast furnace in Canada for the purpose of being smelted in Canada. 1972, c. 140, s. 14.

Interest on  
unpaid tax

**18.**—(1) Where the amount of tax paid under subsection 2 (1) is less than the amount payable as shown in the notice of assessment issued under subsection 8 (1) or (3), the person liable to pay the tax shall pay interest, at such rate per annum as is prescribed by the regulations, on any outstanding balance of tax, from the date set out under subsection 2 (1) to the date such balance is paid, provided such interest charge shall be suspended for the period from the date that all information, as required by the mine assessor so that he may complete the assessment, has been submitted to him in writing, to the date one month following the mailing of the notice of assessment. 1972, c. 140, s. 15 (1); 1979, c. 40, s. 2 (1).

Penalty

(2) If any such balance is not in the hands of the Ministry within one month of the mailing of the notice of assessment, a penalty as provided for under subsection (4) or (5) shall be added to the amount of tax outstanding, and the person liable to pay the tax shall pay such interest on that amount from the date one month following the mailing of the notice of assessment to the date final payment is in the hands of the Ministry. 1972, c. 140, s. 15 (2); 1979, c. 40, s. 2 (2).

Interest on  
overpayment  
of tax

(3) Where the amount of tax paid under sections 2, 7, 8 and 10 is more than the amount shown on the notice of assessment issued under subsection 8 (1) or (3) or more than the amount finally

determined where an appeal is taken under section 10, interest at such rate per annum as is prescribed by the regulations shall be paid to the person liable for such tax from the date that all information as required by the mine assessor so that he may complete the assessment has been submitted to him in writing, or from the date payment of any additional tax as required by the notice of assessment referred to herein is made, to the date the amount of the tax has been assessed under section 8 or has been determined under section 10, as the case may be. 1972, c. 140, s. 15 (3); 1979, c. 40, s. 2 (3).

(4) Where any tax imposed under this Act is not paid at the time provided, 10 per cent shall be added thereto forthwith and 10 per cent shall be added on the same day of each year thereafter so long as the tax remains unpaid, and such additional amounts shall for all purposes be deemed to be a tax payable under this Act. 1972, c. 140, s. 15 (4). <sup>10 per cent to be added for default</sup>

(5) Every person who wilfully fails to comply with this Act at the time or times provided, <sup>Penalty</sup>

(a) by failing to make a payment of tax under section 2;

(b) by making a payment of tax under section 2 that is an unreasonable estimate of the tax payable by him or is a deliberately underestimated amount of the tax payable by him; or

(c) by failing to file a return as required by section 7,

is liable to a penalty of 10 per cent of the amount by which the amount of tax payable as shown in the notice of assessment sent under section 8 exceeds the amount of tax, if any, paid under section 2, and such additional amount shall for all purposes be deemed to be a tax payable under this Act. 1978, c. 82, s. 7.

(6) Any payment, other than a payment of penalties, made to the Minister under this Act shall first be applied in payment of any interest that may be payable on the tax imposed by this Act. 1972, c. 140, s. 15 (5). <sup>Payment of interest</sup>

**19.** Every person who fails to deliver a return that he is required to deliver under section 7 is liable for and shall pay to the Minister a penalty of \$50 for each day during which he fails to deliver the return and any such penalty may be demanded in any notice of assessment provided for in this Act and may be recovered in any manner provided in this Act <sup>Penalty for failure to comply with s. 7</sup>

for the recovery or collection of tax but interest shall not be charged, recovered or collected on any such penalty. 1972, c. 140, s. 16.

Offence,  
false  
information

**20.** Every person who knowingly makes or signs any false statement or furnishes any false or incorrect information to the mine assessor, an assistant mine assessor, a special mine assessor or to any officer of the Ministry authorized by the Minister under section 7, with respect to any matter or thing as to which information is required under this Act or who keeps or causes or permits to be kept any false or incorrect book or accounts regarding anything required under this Act is, in addition to any other liability under this Act, guilty of an offence and on conviction is liable to a fine of not more than \$5,000. 1972, c. 140, s. 17.

Special  
lien and  
priority  
of the tax

**21.** All taxes, penalties and interest payable under this Act are a special lien on the mine and upon the leases of and rights respecting the mine and upon all machinery upon or connected with the mine in priority to every claim, privilege, lien or encumbrance of any person, whether the right or title of such person has accrued before or accrues after the attaching of such lien, and this priority shall not be lost or impaired by any neglect, omission or error of any official, officer or person, or by want of registration, and such lien may be realized by action for sale of any or all property, leases and rights that are subject to such lien. 1972, c. 140, s. 18.

Injunction  
or  
receiver

**22.** In addition to any other remedy for the recovery of any tax imposed under this Act, an injunction or an order in the nature of an injunction or the appointment of a receiver with all necessary powers, or such other relief or remedy as seems necessary or expedient for securing payment of the tax may, in any case where any tax under this Act is overdue or where the payment of any accrued or future tax seems in danger, be obtained by application to a judge of the Supreme Court or county or district court at the instance and in the name of the Minister to prevent the removal, transportation or transmission of any ore, mineral substance or mineral-bearing substance, or to prevent or restrict mining operations, or to provide for such operations upon such terms and conditions as the judge considers proper. 1972, c. 140, s. 19.

Production  
of records

**23.** Where, contrary to this Act, any person refuses or neglects to permit the mine assessor, assistant mine assessor or special mine assessor to examine, inspect or make copies of any books, records or documents in the custody of or under the control of such person, or where any person obstructs the

mine assessor, assistant mine assessor or special mine assessor in the performance of any duty imposed or authorized by this Act, the Minister or Deputy Minister may apply *ex parte* to a judge of the Supreme Court or county or district court, and the judge may order the production and delivery of such books, records or documents for inspection and copying or enjoin such person from such obstruction. 1972, c. 140, s. 20.

**24.** Where default is made in the payment of any taxes, interest or penalties imposed under this Act, the taxes, interest and penalties may be levied and collected by distress, together with all costs of distress, upon the goods and chattels wherever found of the person or any person liable therefor under a warrant signed by the Minister or Deputy Minister directed to the sheriff of any county or district in which the person in arrear may have any goods or chattels, and in such case the sheriff shall realize the amount directed to be realized by the warrant together with all incidental costs by sale of the goods and chattels distrained or of so much thereof as may be necessary to satisfy the amount directed to be levied by the warrant together with the costs of the distress and sale. 1972, c. 140, s. 21. Distress

**25.—(1)** If any tax, interest or penalty imposed by this Act is not paid when due, the same may be recovered with costs from any person liable for payment of the tax, interest or penalty by an action to be tried without a jury at the suit of the Minister in any court of competent jurisdiction. Action to recover tax

(2) Any action that may be brought under this Act may be brought by the Minister as plaintiff, and it is not necessary to name the Minister, and the action does not abate by reason of a change in the person of the Minister or by reason of the office being vacant at any time, but the action may proceed as if no change had been made or no vacancy existed. Action by Minister does not abate

(3) The remedies and the rights of action provided in subsections (1) and (2) are in addition to all other rights and remedies that may be exercised under this Act. 1972, c. 140, s. 22. Remedies in subs. (1), (2) additional to all other remedies

**26.—(1)** The Lieutenant Governor in Council may make regulations, Regulations

(a) prescribing the rates of interest payable under subsections 18 (1) and (3);

(b) prescribing forms and providing for their use;

- (c) determining the amounts to be included or allowed as deductions by the mine assessor in appraising the value of mineral substances at the pit's mouth for the purposes of clause 3 (7) (c);
- (d) prescribing the manner of determining and the matters to be taken into account in determining whether or not,
  - (i) there is to be disaggregation of a mine under subsection 3 (3), and
  - (ii) there is a mine project that is a new mine or a major expansion of an existing mine for the purposes of subclause 3 (7) (l) (iii);
- (e) prescribing or determining anything that, by this Act, is required or permitted to be prescribed or determined by the regulations;
- (f) providing for the manner of determining the time at which a mine project is complete or a mine is brought into active operation;
- (g) authorizing and providing for the recapture of depreciation where such recapture is not otherwise authorized and provided for in this Act;
- (h) providing for the manner of determining the capital cost and proceeds of disposition for the purposes of subsection 3 (15) and the regulations;
- (i) prescribing the methods to be used in calculating the proportion of allowances and deductions available or attributable to a specified uranium undertaking;
- (j) prescribing an undertaking as a specified uranium undertaking;
- (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1972, c. 140, s. 23; 1974, c. 132, s. 3 (1); 1978, c. 82, s. 8.

Regulation  
re value of  
output at  
pit's mouth

(2) A regulation under clause (1) (c) may provide that no amounts may be deducted for processing costs or that no allowance or different rates of allowance for profit in respect of processing may be deducted in calculating the value of output at the pit's mouth in different areas prescribed in the regulation.

(3) A regulation made under subsection (1) may be made effective retroactively to a date not earlier than the 1st day of January, 1974. 1974, c. 132, s. 3 (2). <sup>Regulation may be retroactive</sup>



