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c 3 Mining Tax Amendment Act, 1990

Ontario

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CHAPTER 3

An Act to amend the Mining Tax Act

Assented to June 21st, 1990

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of the Mining Tax Act, being chapter 269 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 2, is repealed and the following substituted therefor:

2.—(1) The tax payable under this Act by an operator for a taxation year shall be deemed to accrue proportionately during the taxation year.

(2) Every operator liable to pay tax under this Act for a taxation year shall pay the tax by monthly instalments during the taxation year with the balance of the tax, if any, payable not later than two months after the end of the taxation year.

(3) The amount of each monthly instalment payable under this section for the taxation year is the lesser of,

(a) the amount of tax payable by the operator for the taxation year divided by the number of months commencing in the taxation year; or

(b) the amount of tax payable by the operator for the taxation year ending immediately before the taxation year for which the instalment is being calculated, divided by the number of months commencing in that immediately preceding taxation year.

(4) If the taxation year of an operator is the first taxation year after an amalgamation within the meaning of section 87 of the Income Tax Act (Canada), the amount of each monthly instalment payable under this section for the taxation year is the lesser of,

(a) the amount determined under clause (3) (a); or

When taxes accrue
Payment of taxes
Amount of instalments
Instalments after amalgamation
R.S.C. 1952, c. 148
(b) the aggregate of all amounts each of which is the amount of tax payable by a predecessor corporation of the operator, within the meaning of section 87 of the Income Tax Act (Canada), for its last taxation year divided by the number of months commencing in the year.

(5) Instalment payments under this section shall be paid to the Treasurer on or before the 25th day of each month commencing in the year.

2.—(1) Subsection 8 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 8, is repealed and the following substituted therefor:

(2) An operator is liable to pay interest at the prescribed rate on the amount, if any, by which the amount of tax payable by the operator for a taxation year exceeds the amount paid on account of the tax payable, from the day that is two months after the end of the taxation year until the day the tax payable is fully paid.

(2a) If an operator fails to pay a monthly instalment as required under section 2, interest at the prescribed rate is payable by the operator, in addition to any interest payable under subsection (2), on the difference between the amount of the monthly instalment required to be paid under section 2 and the amount, if any, of the monthly instalment paid by the operator, from the day the monthly instalment was required to be paid to the earlier of the day the instalment is fully paid or the day which is two months after the end of the taxation year.

(2b) A payment made on account of tax payable under this Act shall be deemed to have been made on the day the payment is received by the Minister.

(2) Section 8 of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 8, is amended by adding thereto the following subsections:

(6a) If the Minister is satisfied, after receiving written application from an operator for a refund under this subsection and before assessing tax payable by the operator for a taxation year, that the total amount of monthly instalments paid by the operator in respect of the taxation year exceeds the amount of tax that is or will be payable by the operator for the taxation year, the Minister may refund the excess amount to the operator before the end of the taxation year.
(6b) Interest at the prescribed rate is payable to the operator on the amount, if any, by which the total of the monthly instalments paid for a taxation year exceeds the total amount of monthly instalments required by section 2 to have been paid on or before that time by the operator in respect of the taxation year, from the day on which the excess payment arose until the earlier of,

(a) the day the excess is refunded, or applied under this section on other liability; or

(b) the day that is two months after the end of the taxation year.

(6c) For the purposes of determining the amount of interest payable by or to an operator under subsection (2a) or (6b) with respect to the amount of a monthly instalment required to be paid by the operator for a taxation year, the amount of the monthly instalment required under section 2 shall be deemed to be the amount that would be determined under section 2 if the amounts of tax payable by the operator for the taxation year and for the immediately preceding taxation year were the amounts of tax for those taxation years as originally assessed by the Minister and for which notices of assessment were issued by the Minister, despite any subsequent assessment.

(6d) Subsection (6c) does not apply in determining the amount of interest payable by an operator under subsection (2a) with respect to the amount of a monthly instalment required under section 2 if,

(a) the operator has failed to deliver the return required under subsection 7 (1) for the taxation year for which the instalment was payable; and

(b) the amount of tax payable for the taxation year as originally assessed by the Minister is less than the amount of tax subsequently assessed for the taxation year.

3. Subsections 14 (1) and (2) of the said Act are repealed and the following substituted therefor:

(1) Every person employed directly or indirectly in the administration or enforcement of this Act or in the development and evaluation of tax policy for the Government of Ontario shall preserve secrecy with respect to all matters related to this Act that come to his or her knowledge in the
course of such employment and shall not communicate any information or material related to any such matter to any other person not legally entitled thereto except,

(a) as may be required in connection with the administration or enforcement of this Act or any other Act administered by the Minister or the regulations under any of them;

(b) as may be required in connection with the development and evaluation of tax policy by the Government of Ontario or the Government of Canada;

(c) to counsel for the person required by this section to preserve secrecy; or

(d) with the consent of the person to whom the information or material relates.

(2) Every person who contravenes this section is guilty of an offence and on conviction is liable to a fine of not more than $2,000.

4. Subsection 18 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1987, chapter 11, section 15, is repealed and the following substituted therefor:

(2) Every operator who fails to deliver a return as and when required by section 7 shall pay, when assessed therefor, a penalty equal to the greater of,

(a) $50 for each day during which the operator fails to deliver the return; or

(b) an amount equal to the lesser of $1,000 or 10 per cent of the tax that was unpaid when the return was required to be delivered.

5. The following provisions apply in respect of taxation years commencing after the 17th day of May, 1989:

1. Section 2 of the said Act, as re-enacted by section 1.

2. Subsection 8 (2) of the said Act, as re-enacted by subsection 2 (1).

3. Subsections 8 (2a) and (2b) of the said Act, as enacted by subsection 2 (1).
4. Subsections 8 (6a), (6b), (6c) and (6d) of the said Act, as enacted by subsection 2 (2).

6.—(1) This Act, except sections 1 and 2, comes into force on the day it receives Royal Assent.

(2) Sections 1 and 2 shall be deemed to have come into force on the 18th day of May, 1989.

7. The short title of this Act is the Mining Tax Amendment Act, 1990.