CHAPTER 82

An Act to amend
The Mining Tax Act, 1972

Assented to December 15th, 1978

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

1. Section 1 of The Mining Tax Act, 1972, being chapter 140, as amended by the Statutes of Ontario, 1974, chapter 132, section 1, is further amended by adding thereto the following clause:

(1b) "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.

2.—(1) Subsection 3 of section 3 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 132, section 2, is further amended by adding thereto the following clause:

(ea) 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.

(2) Clause h of subsection 3 of the said section 3 is repealed and the following substituted therefor:

(h) subject to subsections 3a, 3b and 3c,
(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.

(3) Clause l of subsection 3 of the said section 3, as re-enacted by the Statutes of Ontario, 1974, chapter 132, section 2, is repealed.

(4) Clause n of subsection 3 of the said section 3, as re-enacted by the Statutes of Ontario, 1974, chapter 132, section 2, is amended by striking out "at least 15 per cent and" in the first and second lines.

(5) The said section 3 is amended by adding thereto the following subsection:
(3a) Notwithstanding clause $k$ of subsection 3, no allowance for depreciation on any asset that is a social asset shall be deducted under subsection 3.

(6) The said section 3 is further amended by adding thereto the following subsections:

(3b) No allowance for depreciation shall be made under subclause iii of clause $k$ of subsection 3 unless,

(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 iii of clause $k$ of subsection 3.

(3c) An election under clause $b$ of subsection 3b shall be made in the return delivered under section 6 in which the first claim for depreciation is made for the new mine or the major expansion of an existing mine under subclause iii of clause $k$ of subsection 3 and shall be binding upon the person by whom it is made and shall not subsequently be altered or revoked.

(7) Clause $a$ of subsection 4 of the said section 3 is repealed and the following substituted therefor:

(a) the cost of mining plant, machinery, equipment and buildings except as provided in subsection 3 and in section 3a.

(8) The said section 3 is further amended by adding thereto the following subsections:

(6) 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 7 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.

(7) Where, at the end of a taxation year, the aggregate of all amounts determined under clauses c and d of subsection 6 exceeds the aggregate of all amounts determined under clauses a and b of subsection 6, the excess shall be included in computing the profits for the taxation year.

(8) 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.

(9) 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.

3. The said Act is amended by adding thereto the following section:

3a.—(1) In this section,

(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.

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

(3) Notwithstanding subclause i of clause k of subsection 3 of section 3, 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.

(4) Notwithstanding subclause iii of clause k of subsection 3 of section 3, 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.

(5) Notwithstanding clause n of subsection 3 of section 3, 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.

4. Section 7 of the said Act is amended by adding thereto the following subsections:

(1a) Where an operator fails to make a return under section 6 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.

(1b) Where the mine assessor has made an assessment under subsection 1a, 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 1a 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.

(4) 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.

5. The said Act is further amended by adding thereto the following section:

7a. 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,

(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 6, 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 sub-clause iv of clause a, in any other case,
reassess or make additional assessments or assess a tax, interest or penalties, as the circumstances require.

6. The said Act is further amended by adding thereto the following section:

11a.—(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.

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

(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.

7. Section 15 of the said Act is amended by adding thereto the following subsection:

(4a) Every person who wilfully fails to comply with this Act at the time or times provided,

(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 6,

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 7 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.

8.—(1) Clause c of subsection 1 of section 23 of the said Act is repealed and the following substituted therefor:
(c) determining the amounts to be included or allowed as deductions by the mine assessor in appraising the value of mineral substances at the pits mouth for the purposes of clause c of subsection 3 of section 3.

(2) Clauses ca and cb of subsection 1 of the said section 23, as enacted by the Statutes of Ontario, 1974, chapter 132, section 3, are repealed and the following substituted therefor:

(ca) 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 2a of section 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 iii of clause k of subsection 3 of section 3;

(cb) prescribing or determining anything that, by this Act, is required or permitted to be prescribed or determined by the regulations;

(cc) providing for the manner of determining the time at which a mine project is complete or a mine is brought into active operation;

(cd) authorizing and providing for the recapture of depreciation where such recapture is not otherwise authorized and provided for in this Act;

(ce) providing for the manner of determining the capital cost and proceeds of disposition for the purposes of subsection 8 of section 3 and the regulations;

(cf) prescribing the methods to be used in calculating the proportion of allowances and deductions available or attributable to a specified uranium undertaking;

(cg) prescribing an undertaking as a specified uranium undertaking.

9.—(1) This Act, except section 1 and subsections 1 and 5 of section 2, shall be deemed to have come into force on the 8th day of March, 1978.
(2) Section 1 and subsections 1 and 5 of section 2 shall be deemed to have come into force on the 10th day of April, 1974.
