



MINISTRY OF EMPLOYMENT AND INVESTMENT

INFORMATION LETTER

MTA2

RESOURCE REVENUE BRANCH
MINERAL TAXATION SECTION

**SUBJECT: MINERAL TAX COSTS AND EXPENDITURES REGULATION
ELECTION TO ALLOCATE EXPLORATION COSTS**

INTRODUCTION

This information letter provides guidelines regarding the filing of late, amended or revoked elections to allocate exploration expenses to particular mines.

The 1994/95 British Columbia budget introduced changes to the *Mineral Tax Act* that allow mine operators to accumulate exploration expenditures in an exploration account until such time as they wish to allocate them to a particular mine. These changes were contained in Bill 16, which became effective as of March 23, 1994.

In order to allocate exploration expenditures from its exploration account, an operator must elect in the form set out in the schedule to the Mineral Tax Costs and Expenditures Regulation within 6 months after the fiscal year-end of the mine to which the expenditures are to be allocated.

The attached schedule was passed by Order of the Lieutenant Governor in Council on September 11, 1997. The schedule was amended to clarify that recoveries of exploration costs must be deducted under section 4(3) of the Mineral Tax Costs and Expenditures Regulation in calculating exploration costs available to be allocated to a mine. Recoveries of exploration costs include grants, subsidies and other forms of assistance and proceeds on disposition of assets related to the exploration costs. The attached schedule will be accepted for elections in respect of exploration costs incurred after March 22, 1994.

In certain circumstances, at the discretion of the Commissioner of Mineral Tax, a late, amended or revoked election to allocate exploration expenses may be accepted.

THE LAW

Section 4(4) of the Mineral Tax Costs and Expenditures Regulation states that, in order to allocate exploration expenditures to a mine, an operator must irrevocably elect to make the allocation by completing and delivering an election in the form set out in the schedule to the Commissioner of Mineral Tax, on or before the last day of the 6th month following the end of the fiscal year of the mine to which the exploration costs are allocated.

Section 4(5) of the *Mineral Tax Costs and Expenditures Regulation* provides that the Commissioner may, on application by the operator, permit an election to be amended or revoked, or extend the period within which an election may be made.

REQUESTS FOR LATE, AMENDED OR REVOKED ELECTIONS

Each request will be considered on its own particular merits. A request may be granted in the following situations:

- a) There have been tax consequences not intended by the operator, and there is evidence that the operator took reasonable steps to comply with the law. This could include, for example, the situation where a Mineral Tax return is reassessed by the Commissioner resulting in tax payable differing from what the operator had expected, and it is reasonable to conclude that a different amount of exploration expense would have been allocated to the particular mine, or no amount would have been allocated, had the operator known the results of the reassessment at the time.
- b) The request arises for circumstances that are clearly beyond the operator's control. Such extraordinary circumstances could include natural or man-made disasters such as flood or fire, civil disturbances or disruptions in services such as postal strike, serious illness or accident, or serious emotional or mental distress.
- c) It is evident that the operator acted on incorrect information given by the Ministry.
- d) The subsequent accounting of the transaction by all parties is as if the election had been made, or had been made in a particular manner.
- e) It can be demonstrated that the operator was not aware of the election provision, took a reasonable amount of care to comply with the law, and undertook remedial action as quickly as possible.

A request may not be granted in the following instances:

- a) It is reasonable to conclude that the operator made the request for retroactive tax planning purposes. This could include taking advantage of changes to the law enacted after the due date of the election.
- b) Adequate records do not exist to verify whether or not the request can be accepted.
- c) It is reasonable to conclude that the operator had to make the request due to negligence or carelessness in complying with the law.

APPLICATION PROCEDURES

Operators should make their requests in writing, to:

Commissioner, Mineral Tax Act
Ministry of Employment and Investment
P.O. Box 9328 Stn. Prov. Gov't
Victoria, BC V8W 9N3

To support a request, operators should include a full explanation of why the election is late, or why the original election is being amended or revoked.

For changes to the mailing list or additional copies, please contact:

Cindy Head
Resource Revenue Branch, Revenue and Management Services
Ministry of Employment and Investment
PO Box 9328 Stn Prov Gov't, Victoria, B.C. V8W 9N3

Telephone: (250)952-0192 or 1-800-667-1182 FAX: (250)952-0191
or visit our website at www.ei.gov.bc.ca

Joan Hesketh
Assistant Deputy Minister
Revenue and Management Services

11/10/94 (revised 11/07/97)

Preceded by: MTA1

Attachment