



MINISTRY OF EMPLOYMENT AND INVESTMENT

INFORMATION LETTER

MTA4

RESOURCE REVENUE BRANCH
MINERAL TAXATION SECTION

**SUBJECT: MINERAL TAX RECLAMATION REGULATION
ELECTION TO TRANSFER RECLAMATION COSTS**

INTRODUCTION

This information letter provides guidelines regarding the filing of late, amended or revoked elections to transfer reclamation costs to Net Current Proceeds or to the Cumulative Expenditure Account.

In order to transfer reclamation costs, an operator must elect in prescribed form within six months after the fiscal year-end of the mine.

In certain circumstances, at the discretion of the Commissioner of Mineral Tax, a late, amended or revoked election to transfer reclamation costs may be accepted upon application by an operator.

THE LAW

Section 4(2) of the *Mineral Tax Reclamation Regulation* states that, in order to transfer reclamation costs from the Reclamation Cost Account to either Net Current Proceeds or to the Cumulative Expenditure Account, an operator must elect to make the transfer by completing the prescribed election form and delivering it to the Commissioner of Mineral Tax on or before the last day of the 6th month following the end of the applicable fiscal year of the mine with the Mineral Tax return for that year.

Section 4(3) of the 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 reclamation costs would have been transferred, or no amount would have been transferred, 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, or serious illness or accident.
- 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

10/25/95 (revised 11/07/97)

Preceded by: MTA3