

This Act is current to 6 December 2016.

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

MINERAL TAX ACT

[RSBC 1996] CHAPTER 291

Contents

- 1 Definitions
- 1.1 Application of this Act to placer gold mine operators
- 1.2 Application of this Act to quarry operators
- 2 Imposition of tax
- 2.1 Nisga'a exemption
- 2.11 Treaty first nation exemption
- 2.2 Imposition of tax on placer gold mine operator
- 2.3 Imposition of tax on quarry operator
- 3 Cumulative tax credit account
- 4 1993-94 straddle provision
- 5 Reclamation tax credit
- 6 Net revenue from operation of mine
- 7 Net current proceeds from operation of mine
- 8 Gross revenues from operation of mine
- 9 Cumulative expenditure account
- 10 Exploration account
- 11 Cumulative expenditure account and earned depletion base account in first fiscal year
- 12 Requirement for annual return
- 13 When operator must pay tax
- 13.1 When placer gold mine operator must pay tax
- 13.2 When quarry operator must pay tax
- 14 Operator must pay monthly instalments on account of tax
- 15 Interest on instalment payments

16	Interest on unpaid tax
17	Power to demand information
17.1	Limitation period
18	Penalties
19	Change of address of operator
20	Service of notices
21	Notice of assessment
22	Taxpayer required to maintain records
23–25	Repealed
26	Appeal to minister
27	Appeal to Supreme Court
28	Appeal to Court of Appeal
29	Liability for mineral tax not affected by appeal
30	Information must be kept confidential
31	Tax constitutes a lien in favour of government
32	Notice of tax recovery proceedings
33	Recovery of tax by court action
34	Recovery of tax by filing certificate of nonpayment with court
35	Recovery of tax by attachment of amounts owed to operator
36	Recovery of tax by distress of taxpayer's goods and chattels
37	More than one recovery power may be exercised
38	Enforcement
39	Offences
40	Offence of tax evasion
41	Offence by officers and directors of corporation that commits an offence
42	Limitation of time for commencing prosecution
43	Appointment of commissioner
44	Power to make regulations

Schedule

Definitions

1 (1) In this Act:

"commissioner" means the commissioner of mineral tax appointed under this Act;

"co-operator" means a person who operates a mine in conjunction with another person but does not include a person who, under an arm's length agreement, has a right to receive only royalties paid or payable in cash;

"fiscal year of the mine" means,

(a) in respect of a placer gold mine, the calendar year, and

(b) in respect of any other mine,

(i) the period, not exceeding 12 months, for which the accounts of the mine have been or are ordinarily made up, or

(ii) in the absence of a chosen period, the calendar year;

"fiscal year of the operator" means, in respect of an operator, the period, not exceeding 12 months, for which the accounts of the operator have been or are ordinarily made up but, in the absence of a chosen period, the fiscal year of the operator is the calendar year;

"investment allowance rate" means the arithmetic mean of the bank rates, stated as a percentage, effective on the last Wednesday of each month, as published by the Bank of Canada, for each month of the fiscal year of the mine or the fiscal year of the operator, as the context requires, multiplied by 1.25 and by the number of days in the applicable fiscal year as a proportion of 365 days;

"mine" means a

(a) mineral deposit,

(b) site, or

(c) separate economic unit designated by the commissioner

in British Columbia from which a mineral will be or has been obtained, together with

(d) the works or undertaking, and

(e) the chattels,

whether located inside or outside British Columbia, that are used to obtain, transport and produce mineral product from the mineral deposit, site or designated separate economic unit;

"mine property" means a property from which an operator has a right to win minerals;

"mineral" means a mineral as defined in the Mineral Tenure Act and includes

(a) a placer mineral as defined in that Act, and

(b) coal;

"mineral product" means a product of a mine or a product produced from the product of a mine;

"operation of a mine" means the production of minerals from a mine and includes

(a) all of the discovery, development, mining, milling, smelting, refining, washing, preparation, drying, beneficiation or other processing of those minerals required to obtain a mineral product, and

(b) reclamation of the mine;

"operator" means, for each mine, the person who, either alone or with another person, is or was the owner, lessee, licensee, tenant or other holder of a right to win minerals from the mine but does not include a person who, under an arm's length agreement, has a right to receive only royalties paid or payable in cash;

"person" does not include a partnership;

"placer gold mine" means a mine having the following characteristics:

(a) substantially all of the mineral product produced from the mine is placer minerals;

(b) gold produced from the mine accounts for the majority of the value of the placer minerals produced from the mine;

"placer gold mine operator" means the operator of a placer gold mine;

"placer mineral" has the same meaning as in the Mineral Tenure Act;

"proportionate share" means, in relation to an operator, the share of any mineral product, benefit, cost or tax-related quantity to which the operator is legally entitled from, or for which the operator is obligated as a result of, the operation of a mine, or in the case of a quarry operator, one or more mines;

"quarry" means a mine from which substantially all of the minerals removed are quarry materials;

"quarry material" means a mineral that is

(a) limestone,

(b) dolomite,

(c) marble,

(d) shale,

(e) clay,

(f) volcanic ash,

(g) diatomaceous earth,

(h) sandstone,

(i) quartzite,

(j) dimension stone, or

(k) a prescribed substance;

"quarry operator" means the operator of one or more quarries;

"reclamation" means a program of reclamation approved by the Chief Inspector of Mines under the Mines Act;

"reclamation fund" means a reclamation fund established by regulation under the Mines Act;

"related persons" means

(a) persons who would be related within the meaning of section 251 (2) and (3) of the Income Tax Act (Canada) if that section were read on the assumption that a person who holds or controls, directly or indirectly, 15% or more of the outstanding voting stock or shares of a corporation controls that corporation,

(b) partners of the same partnership and that partnership, or

(c) any 2 persons if one is the employer or an officer or director of the other.

(2) If a person, other than the operator of the mine, has the right to win minerals from the tailings of a mine

(a) that person is deemed to be an operator, and

(b) those mine tailings are deemed to be a mine, for the purposes of this Act.

(3) For the purposes of this Act, related persons are deemed not to deal with each other at arm's length.

(4) Despite the definition of fiscal year, if an operator of a mine has become bankrupt or is discharged from bankruptcy, the following rules apply for the purposes of this Act:

(a) a fiscal year of the mine that would otherwise have ended after the date on which the operator became bankrupt or was discharged is deemed to have ended on the day immediately before the date of that bankruptcy or discharge;

(b) a new fiscal year of the mine is deemed to have begun on the date the operator became bankrupt or was discharged.

(5) Despite the definition of fiscal year, if an interest in a mine is acquired or disposed of, the following rules apply for the purposes of this Act to the operator who acquired or disposed of the interest:

(a) a fiscal year of the mine that would otherwise have ended after the date on which the interest was acquired or disposed of is deemed to have ended on the day immediately before the date of that acquisition or disposition;

(b) a new fiscal year of the mine is deemed to have begun on the date on which the interest was acquired or disposed of.

(6) Subsection (5) does not apply if the interest that is acquired or disposed of is restricted to a right to a royalty or other similar payment.

Application of this Act to placer gold mine operators

1.1 Sections 2, 3 to 7, 8 (1) to (3), 9, 10, 11, 13, 14 and 15 do not apply in respect of a placer gold mine, or to the placer gold mine operator, for any fiscal year of the mine ending after December 31, 1998.

Application of this Act to quarry operators

1.2 (1) Unless subsections (2) to (4) apply, sections 2, 3 to 11, 12 (3) and (4), 13, 13.1, 14 and 15 do not apply in respect of a quarry, or to a quarry operator, for any calendar year ending after December 31, 2000.

(2) A quarry operator who has filed a return under this Act for any fiscal year of a mine ending before January 1, 2000 may elect to be treated under this Act as an operator who is not a quarry operator.

(3) An election under subsection (2) must

(a) be made in the prescribed form,

(b) contain the prescribed information, and

(c) be delivered to the commissioner, with the return for the fiscal year of the operator ending in 2001, on or before the last day of the sixth month following the end of that fiscal year.

(4) If a quarry operator makes an election in accordance with subsections (2) and (3), that election is irrevocable and this Act applies to the quarry operator as if he or she is an operator who is not a quarry operator.

Imposition of tax

2 (1) A person who is an operator must, for each mine of which that person is an operator, pay a tax in respect of each fiscal year of the mine equal to the aggregate for that mine of the following:

(a) the amount, if any, by which 13% of the net revenue of the operator derived from the operation of the mine exceeds the aggregate of

(i) the balance of the cumulative tax credit account at the end of the immediately preceding fiscal year of the mine,

(ii) the amount of imputed interest determined under section 3 (b) for the current fiscal year of the mine, and

(iii) the amount determined under paragraph (b);

(b) 2% of the net current proceeds of the operator derived from the operation of the mine for the current fiscal year of the mine.

(2) An operator may deduct from the tax otherwise payable under this section an amount equal to the lesser of the following:

(a) the earned depletion base account of the operator for the particular mine at the end of the immediately preceding fiscal year of the mine determined in accordance with section 11 (3);

(b) an amount equal to 25% of the tax otherwise payable before any deduction under subsection (3).

(3) An operator may deduct from the tax otherwise payable under this section royalties assessed and paid under the Mineral Royalties Act in respect of the calendar year 1976, to the extent that they have not been previously deducted under the Mineral Resource Tax Act or this Act.

Nisga'a exemption

2.1 (1) In this section, "Taxation Agreement" has the same meaning as in section 6.1 of the Nisga'a Final Agreement Act.

(2) Despite section 2, a person is not subject to tax under this Act if and to the extent that the Taxation Agreement provides that the person is not subject to tax under this Act.

Treaty first nation exemption

2.11 (1) [Repealed 2011-11-61.]

(2) Despite section 2, a person is not subject to tax under this Act if and to the extent that a tax treatment agreement provides that the person is not subject to tax under this Act.

Imposition of tax on placer gold mine operator

2.2 A person who is a placer gold mine operator must, for each placer gold mine of which that person is an operator, pay in respect of each calendar year a tax equal to 0.5% of the amount that is the operator's proportionate share of the transaction value of the mineral product disposed of in the calendar year.

Imposition of tax on quarry operator

2.3 (1) A quarry operator must pay in respect of each calendar year a tax equal to 15¢ multiplied by the number of tonnes of quarry materials referred to in subsection (2).

(2) The number of tonnes of quarry materials that is to be used in the calculation in subsection (1) is the amount, if any, by which the quarry operator's proportionate share of the quarry materials that were removed from all of the quarries operated by the quarry operator in the calendar year exceeds the number of tonnes of quarry materials deducted under subsection (3).

(3) For the purposes of the calculation set out in subsection (2), a quarry operator may deduct up to 25 000 tonnes of quarry materials subject to the following:

(a) the total number of tonnes of quarry materials that the quarry operator may deduct for a calendar year under this subsection in relation to all of the quarries operated by the quarry operator must not exceed 25 000 tonnes;

(b) the total number of tonnes of quarry materials deducted for a calendar year in relation to any one quarry under this subsection by all quarry operators who operate that quarry must not exceed 25 000 tonnes.

Cumulative tax credit account

3 The balance in the cumulative tax credit account of each operator for each mine at the end of a particular fiscal year of the mine is the amount, if any, by which the aggregate of the following exceeds 13% of the net revenue of the operator for the mine for the fiscal year of the mine:

(a) the balance of the account at the end of the immediately preceding fiscal year of the mine;

(b) imputed interest equal to an amount that is the investment allowance rate multiplied by the amount determined in paragraph (a);

(c) the amount calculated under section 2 (1) (b) for the fiscal year of the mine, provided that the tax payable under section 2 for the mine in respect of that fiscal year of the mine is paid.

1993-94 straddle provision

4 (1) The tax payable for a coal mine in respect of the fiscal year of the mine in which March 23, 1994 falls must be determined in accordance with section 2 (1) and, for that purpose,

(a) the reference in section 2 (1) (a) to 13% must be read as a reference to the percentage obtained by adding

(i) the proportion of 17.5% that the number of days in the fiscal year of the mine to and including March 22, 1994 bears to 365, and

(ii) the proportion of 13% that the number of days in the fiscal year of the mine after March 22, 1994 bears to 365, and

(b) the reference in section 2 (1) (b) to 2% must be read as a reference to the percentage obtained by adding

(i) the proportion of 7.5% that the number of days in the fiscal year of the mine to and including March 22, 1994 bears to 365, and

(ii) the proportion of 2% that the number of days in the fiscal year of the mine after March 22, 1994 bears to 365.

(2) The balance in the cumulative tax credit account of an operator of a mine must be determined in accordance with section 3 and, for that purpose, a reference in section 3 to 13% must be read as a reference to the percentage determined under subsection (1) (a).

Reclamation tax credit

5 (1) The Lieutenant Governor in Council may, by regulation, establish a reclamation cost account and a reclamation tax credit account.

(2) Subject to the establishment of the accounts referred to in subsection (1), if

(a) the operator of a mine is actively engaged in reclamation during the fiscal year of the mine,

(b) [Repealed 1999-38-49.]

the operator may claim a reclamation tax credit equal to the lesser of

(c) the prescribed percentage of the balance in the reclamation cost account at the end of the current fiscal year of the mine, and

(d) the balance in the reclamation tax credit account at the end of the current fiscal year of the mine.

Net revenue from operation of mine

6 Net revenue derived from the operation of a mine is the amount by which the aggregate of the amounts determined under section 9 (1) (f) to (h) exceeds the aggregate of the amounts determined under section 9 (1) (a) to (e).

Net current proceeds from operation of mine

7 (1) Net current proceeds derived from the operation of a mine is the amount by which the amount determined under section 9 (1) (f) exceeds the amount determined under section 9 (1) (b) and (e), excluding any costs included in the determination under section 9 (1) (b) that are on account of capital.

(2) For the purpose of this section, costs that are on account of capital include those costs under section 9 (1) (b) that are prescribed to be on account of capital.

Gross revenues from operation of mine

8 (1) Subject to subsections (2) and (3), the gross revenue derived from the operation of a mine by an operator for each fiscal year of the mine is the aggregate of the following:

(a) the amount that is the operator's proportionate share of the transaction value of the mineral product disposed of in the fiscal year of the mine;

(b) the amount that is the operator's proportionate share of the transaction value of any mineral product consumed or used in the fiscal year of the mine by the operator or any co-operator of the mine;

(c) the operator's proportionate share of any amount receivable in the fiscal year of the mine that is

(i) a grant, subsidy or other form of assistance received from a government, municipality or other public body,

(ii) the proceeds of an insurance policy, or

(iii) any other amount whatever

that may reasonably be regarded as a recovery of costs and expenses included, deemed included or to be included under section 9 (1) (b) in any fiscal year of the mine, except to the extent that the amount is to be or has been included under section 9 (1) (g);

(d) the amount of the operator's prescribed reclamation recovery.

(2) If an operator is an individual who is actively engaged in the operation of the mine, the operator may deduct from the operator's proportionate share of the aggregate under subsection (1) an amount equal to the proportion of \$50 000 that the aggregate of the amounts described in subsection (1) (a) to (c) of the operator for the fiscal year of the mine is of the aggregate of those amounts for the mine for the fiscal year of the mine.

(3) The commissioner may designate that a disposition of mineral product has occurred at a point earlier than its actual disposition and, if the commissioner so designates,

(a) for the purposes of subsection (1) (a), the mineral product is deemed to have been disposed of for an amount equal to the transaction value at the designated point,

(b) for the purposes of section 9 (1) (b), prescribed costs do not include any costs and expenses incurred or related to activities after the point at which the value has been determined, and

(c) when the mineral product so designated is actually disposed of, the amount received on its disposition is deemed to be nil.

(4) The transaction value of a mineral product is the price paid or payable for the mineral product.

(5) Subsection (4) does not apply if

(a) the price paid or payable for the mineral product is subject to some condition or consideration in respect of which a value cannot reasonably be determined,

(b) the purchaser and vendor of the mineral product are related persons at the time of the sale and the price paid or payable is less than the price that would have been paid or payable if the purchaser and vendor had not been related persons,

(c) the commissioner has designated under subsection (3) that the mineral product was disposed of earlier than its actual disposition, or

(d) a transaction value is prescribed for the particular mineral product.

(6) The transaction value of a mineral product to which subsection (4) does not apply because of subsection (5) (a), (b) or (c) is

(a) the amount determined by the operator to be the fair market value at which similar minerals would have sold,

(i) in the case described in subsection (5) (a) or (b), at disposition, or

(ii) in the case described in subsection (5) (c), at the designated point of disposition,

at a sale between a purchaser and vendor dealing at arm's length, or

(b) if the commissioner considers that the amount determined by the operator under paragraph (a) is less than the fair market value of the mineral product at disposition or at the designated disposition point, as the case may be, the amount determined by the commissioner after taking into account any factors the commissioner considers relevant.

(7) For the purposes of subsection (6), "similar minerals" means mineral products that are the same, or substantially the same, in all physical characteristics and quality as the mineral product being valued.

(8) If an operator of a mine sells a mineral product from the mine to a related person operating the same mine to enable the related person to fulfill a pre-existing contract with a third party and the pre-existing contract price is greater than the price paid or payable by the related person, the operator's proportionate share of the transaction value of the mineral product for the purpose of subsection (1)

(a) must be determined in accordance with the following formula:

$$\text{proportionate share} = \frac{\text{transaction value} \times \text{purchased mineral product}}{\text{total mineral product}}$$

where:

transaction

value = the transaction value for the mineral product disposed of by the related person to the third party, calculated under subsections (4) to (7);

purchased

mineral product = the quantity of the mineral product produced from the mine that was purchased by the related person from the operator and was sold by the related person to the third party under the pre-existing contract;

total mineral

product = the total quantity of the mineral product produced from the mine and sold to the third party by the related person under the pre-existing contract.

Cumulative expenditure account

9 (1) The cumulative expenditure account of a person who is an operator for each mine of which the person is an operator, at the end of a fiscal year of the mine, means the amount, if any, by which the aggregate of

(a) the balance of the cumulative expenditure account of the operator for that mine at the end of the immediately preceding fiscal year of the mine,

(b) the operator's proportionate share of any prescribed costs and expenses incurred in the fiscal year of the mine for the purposes of earning gross revenue from the operation of that mine,

(c) the operator's proportionate share of the prescribed allowance for new mines,

(d) the amount, determined under this section, of the investment allowance for the fiscal year of the mine, and

(e) the amount of the prescribed reclamation cost transfer,

exceeds the aggregate of

(f) the operator's proportionate share of the gross revenue from the operation of the particular mine for the fiscal year of the mine,

(g) the aggregate of amounts receivable in the fiscal year of the mine that are

(i) grants, subsidies or other forms of assistance received from a government, municipality or other public body,

(ii) proceeds of insurance policies, or

(iii) actual or deemed proceeds on disposition, as the case may be, of assets,

and that may reasonably be regarded as being in respect of capital assets the cost of which is to be or has been included under paragraph (b) for any fiscal year of the mine, and

(h) any amount receivable in the fiscal year of the mine from the sale, lease or licensing of rights for use of technology, to the extent of the amount of any expenditures related to development of that technology that has been included as a cost under paragraph (b).

(2) Subject to subsections (3), (4), (5) and (6), the investment allowance for a fiscal year of the mine is the investment allowance rate for that fiscal year multiplied by the average of

(a) the balance in the cumulative expenditure account of the operator for that mine at the end of the immediately preceding fiscal year of the mine, and

(b) the amount, if any, by which the aggregate of the amounts determined under subsection (1) (a),

(b), (c) and (e) exceeds the aggregate of the amounts determined under subsection (1) (f) to (h).

(3) If an operator acquires an interest in a mine, the investment allowance for the fiscal year of the mine that is deemed by section 1 (5) to begin on the date of acquisition is the investment allowance rate for that fiscal year multiplied by the average of

(a) the aggregate of

(i) the balance in the cumulative expenditure account of the operator for that mine at the end of the immediately preceding fiscal year of the mine, and

(ii) the amount included in prescribed costs and expenses under subsection (1) (b) in respect of that acquisition, and

(b) the amount, if any, by which the aggregate of amounts determined under subsection (1) (a), (b), (c) and (e) exceeds the aggregate of amounts determined under subsection (1) (f) to (h).

(4) If an operator disposes of an interest in a mine, the investment allowance for the fiscal year of the mine that is deemed by section 1 (5) to begin on the date of disposition is the investment allowance rate for that fiscal year multiplied by the average of

(a) the amount, if any, by which the balance in the cumulative expenditure account of the operator for that mine at the end of the immediately preceding fiscal year of the mine exceeds the amount included in net revenue under subsection (1) (g) (iii) in respect of the disposition, and

(b) the amount, if any, by which the aggregate of amounts determined under subsection (1) (a), (b), (c) and (e) exceeds the aggregate of amounts determined under subsection (1) (f) to (h).

(5) An amount must not be included in the calculation of the cumulative expenditure account of an operator under subsection (1) (d) with respect to a particular mine unless

(a) the mine was in commercial production during the fiscal year of the mine, or

(b) development of the mine with a view to commercial production commenced before the start of the fiscal year of the mine and proceeded throughout the fiscal year of the mine without undue delay.

(6) Despite subsection (5), an amount must not be included in the calculation of the cumulative expenditure account of an operator under subsection (1) (d) for a mine that previously was in commercial production and has ceased commercial production for a continuous period of not less than 12 months ending in the fiscal year of the mine.

(7) For the purposes of subsection (1) (g) (iii), if an operator has included under subsection (1) (b) the cost of a capital asset in the cumulative expenditure account and

(a) the operator has ceased to use the asset in the operation of the mine and has commenced to use it for some other purpose or in the operation of another mine,

(b) the operator has reduced the proportion of use of the asset in the operation of the mine, or

(c) the commissioner has, under section 8 (3), designated, in the fiscal year of the mine, a disposition of mineral product at a point before the use of the particular asset to earn income from the mine,

the operator is deemed to have disposed of

(d) the asset, or

(e) if paragraph (b) applies, a portion of the asset equal to the proportion in the reduction of use,

for an amount receivable equal to the fair market value of the asset or portion of it, as the case may be.

Exploration account

10 (1) The exploration account of an operator at the end of a fiscal year of the operator means the amount, if any, by which the aggregate of

(a) the amount of the exploration account of the operator at the end of the immediately preceding fiscal year of the operator,

(b) the amount of exploration costs as defined by regulation incurred by the operator in the fiscal year of the operator, and

(c) the amount of exploration investment allowance for the fiscal year of the operator determined under subsection (2)

exceeds the aggregate of

(d) grants, subsidies and other forms of assistance that may reasonably be regarded as being with respect to exploration costs as that term is defined in the regulations and that, in that fiscal year of the operator,

(i) the operator received,

(ii) the operator became entitled to receive, or

(iii) the operator expected or ought to have expected would be received after that fiscal year,

(e) actual or deemed proceeds of dispositions of assets in that fiscal year of the operator, the costs of which assets have been included in the exploration account in any fiscal year of the operator, and

(f) amounts allocated by the operator to a mine in that fiscal year of the operator in the amount and manner prescribed.

(2) The exploration investment allowance is the investment allowance rate for the fiscal year of the operator multiplied by the average of

(a) the amount of the exploration account of the operator at the end of the immediately preceding fiscal year of the operator, and

(b) the amount, if any, by which the aggregate of the amounts determined under subsection (1) (a) and

(b) exceeds the aggregate of amounts determined under subsection (1) (d) to (f).

Cumulative expenditure account and earned depletion base account in first fiscal year

11 (1) An operator of a mine may, for the first fiscal year of the mine to which this Act applies, include in the cumulative expenditure account for the mine under section 9 (1) (a)

(a) any of the following account balances that relate to or are, by regulation, deemed to relate to that mine and that would have remained available for deduction under the provisions of the Mineral Resource Tax Act or the Mining Tax Act, as the case may be, at the end of the immediately preceding fiscal year of the mine:

(i) undepreciated capital cost;

(ii) cumulative Canadian exploration expenses;

(iii) cumulative Canadian development expenses;

(iv) $\frac{4}{3}$ of the cumulative eligible capital;

(v) unclaimed scientific research and experimental development;

(vi) inventories of mineral products, parts and supplies,

(b) the net book value, on January 1, 1990, of the works, undertakings and chattels of the operator that are located outside British Columbia on that date to the extent that those works, undertakings and chattels

(i) are used to obtain, transport or produce mineral product from the particular mine within British Columbia,

(ii) relate to activities earlier than the actual or deemed point of disposition of the mineral product, as the case may be, and

(iii) are not included under paragraph (a), and

(c) inventories of mineral products, parts and supplies, valued at the lower of cost or net realizable value on January 1, 1990, that are located outside British Columbia on that date to the extent

(i) that the mineral products are products of a mine located within British Columbia or that the parts and supplies relate to activities earlier than the actual or deemed point of disposition of mineral products from a mine within British Columbia, and

(ii) that those inventories are not included under paragraph (a).

(2) All of the expenses originally included in the accounts referred to in subsection (1), and the costs of any assets that were originally included in those balances and that relate to the operation of the mine on January 1, 1990, are deemed to have been included as capital costs under section 9 (1) (b) for all purposes of this Act.

(3) The earned depletion base account of an operator of a mine at the end of any fiscal year of the mine is the amount, if any, by which 13% of the aggregate of

(a) $\frac{1}{3}$ of the prescribed expenditures eligible for earned depletion incurred up to June 30, 1988 for the purposes of the Mineral Resource Tax Act, and

(b) $\frac{1}{6}$ of the prescribed expenditures eligible for earned depletion incurred between July 1, 1988 and December 31, 1989 for the purposes of the Mineral Resource Tax Act

exceeds 13% of any portion of those expenditures that were claimed under the Mineral Resource Tax Act during any fiscal year of the mine, less any amounts claimed under section 2 (2) for the current fiscal year of the mine or any preceding fiscal year of the mine.

Requirement for annual return

12 (1) Each operator of a mine, other than a placer gold mine operator or a quarry operator, must, on or before the last day of the sixth month following the end of the fiscal year of the mine, deliver to the commissioner for that fiscal year of the mine, a return for the mine in the prescribed form and containing the prescribed information.

(1.1) Each placer gold mine operator must, on or before March 31 of each year, deliver to the commissioner a return for the mine for the previous calendar year in the prescribed form and containing the prescribed information.

(1.2) Each quarry operator must, on or before March 31 of each year, deliver to the commissioner a return for the quarry for the previous calendar year in the prescribed form and containing the prescribed information.

(2) Despite subsection (1), unless the commissioner issues a demand for the return, an operator of a particular mine, other than a placer gold mine operator or a quarry operator, is not required to deliver a return if

(a) the aggregate of the amounts determined under section 9 (1) (b) and (e) for all operators of the mine is less than \$50 000 for the fiscal year of the mine and the operator who would, but for this section, be required to deliver the return in respect of the mine is an individual, or

(b) the particular mine was not in commercial operation and

(i) the operator was not engaged in any reclamation activities with respect to the mine at any time during the fiscal year of the mine, and

(ii) all of the mineral product derived from the mine and all of the assets used in the operation of the mine have been sold or otherwise disposed of.

(2.1) Despite subsection (1.1), unless the commissioner issues a demand for the return, a placer gold mine operator is not required to deliver a return if

(a) the fair market value of the placer minerals produced from the mine in the calendar year for which the return would otherwise be required is less than \$50 000,

(b) the transaction value of the placer minerals disposed of from the mine in the calendar year for which the return would otherwise be required is less than \$50 000, and

(c) the placer gold mine operator is an individual.

(2.2) Despite subsection (1.2), unless the commissioner issues a demand for a return for a calendar year, a quarry operator is not required to deliver a return if the total number of tonnes of quarry materials removed from all of the quarries operated by the quarry operator in the calendar year is less than 25 000 tonnes.

(3) Despite any other provision of this Act, if all members of a partnership that operates a mine jointly elect in the prescribed form,

(a) the partnership may file a single return in the prescribed form on behalf of all the partners in respect of each mine operated by the partnership, and

(b) the operators who constitute the partnership are not required to file a return with respect to that particular mine.

(4) For the purposes of subsection (3), if a partnership includes limited partners, the election may be made by the partners who are not limited partners.

(5) A trustee in bankruptcy, assignee, liquidator, receiver, administrator, trustee or committee and an agent or other person administering, managing, winding up, controlling or otherwise dealing with the property, business or income of an operator must,

(a) if the operator, other than a quarry operator, has not filed a return for a taxation year as required by this section, file a return in the prescribed form with the commissioner as required by subsection (1) or (1.1), or

(b) if the operator is a quarry operator who has not filed a return for a calendar year as required by this section, file a return in the prescribed form with the commissioner as required by subsection (1.2).

(6) An operator, other than a quarry operator, may amend a return filed under this section by delivering an amended return to the commissioner not more than 5 years after the end of the fiscal year of the mine in respect of which the amendment is sought.

(6.1) A quarry operator may amend a return filed under this section by delivering an amended return to the commissioner not more than 5 years after the end of the calendar year for which the return was required.

(7) Each operator, other than a placer gold mine operator or a quarry operator, must, on or before the last day of the sixth month following the end of each fiscal year of the operator, deliver to the commissioner for that fiscal year of the operator, a return for the operator's exploration account in the prescribed form and containing the prescribed information.

When operator must pay tax

13 The operator of a mine must, on or before the last day of the sixth month following the end of the fiscal year of the mine, pay to the commissioner the aggregate amount of tax and interest payable by the operator for the mine for that fiscal year of the mine, less the amount of any instalments paid by the operator under section 14 for the mine for that fiscal year of the mine.

When placer gold mine operator must pay tax

13.1 Each placer gold mine operator must, on or before March 31 of each year, pay to the commissioner the amount of tax payable by the operator for the mine for the previous calendar year.

When quarry operator must pay tax

13.2 Each quarry operator must, on or before March 31 of each year, pay to the commissioner the amount of tax payable by the quarry operator for the previous calendar year.

Operator must pay monthly instalments on account of tax

14 (1) Each operator must, for each mine of which that person is an operator, pay an instalment, on account of tax payable under this Act, for each month or part month of the current fiscal year of the mine, equal to the annual tax payable by the operator for the current fiscal year of the mine multiplied

by the number of days in the particular month or part month and divided by the number of days in that fiscal year of the mine.

(2) Each operator must pay the amount required under subsection (1) to the commissioner not more than 90 days after the end of each month of the fiscal year of the mine for which an amount is payable.

Interest on instalment payments

15 (1) If the instalment paid by an operator in respect of a particular mine in accordance with section 14 (1) is less than the actual instalment required for that month, the operator must pay interest at a prescribed rate on the amount of the deficiency calculated from the time the instalment was due until the earlier of

(a) the time that the tax payable in respect of the month is paid, and

(b) the time that the return is to be delivered to the commissioner in accordance with section 12.

(2) If the instalment paid by an operator in respect of a particular mine in accordance with section 14 (1) is more than the actual instalment required for the month, the operator must be credited with interest at a prescribed rate on the amount of the overpayment calculated from the time that the instalment was made until the earlier of

(a) the time that the overpayment in respect of the month is refunded or applied to another liability under this Act, and

(b) the time that the return is to be delivered to the commissioner in accordance with section 12.

Interest on unpaid tax

16 (1) If a person is required to pay an amount on the date the return is required to be delivered to the commissioner under section 12 (1), (1.1) or (1.2), including any deficient payment of instalments plus instalment interest, the person must pay interest on the aggregate amount owing at a prescribed rate calculated from the date the return was required to be delivered to the commissioner until payment is made.

(2) If a person is entitled to a refund on the date the return is required to be delivered to the commissioner under section 12 (1), (1.1) or (1.2), including any excess payment of instalments plus instalment interest, the person must be credited with interest on the aggregate amount refundable at a prescribed rate calculated from the date the return was required to be delivered to the commissioner to the time the overpayment is refunded or applied to another liability under this Act.

Power to demand information

17 The commissioner may, for any purpose related to the administration or enforcement of this Act, by notice served personally or by registered or certified mail, require an operator or a person referred to in section 12 (5) to provide, within 30 days or another reasonable time stipulated in the notice,

(a) any information or additional information including a return under this Act or a supplemental return, or

(b) any document.

Limitation period

17.1 (1) In this section, "proceeding" means

(a) an action for the recovery of taxes,

(b) the filing of a certificate,

(c) the making of a demand, and

(d) the registration or enforcement of a lien

under this Act.

(2) A proceeding may be commenced at any time within 7 years after the date of an assessment or re-assessment of the amount claimed in the proceeding.

(3) Despite subsection (2), a proceeding that relates to a contravention of this Act or the regulations and that involves wilful default or fraud may be commenced at any time.

Penalties

18 A person who fails to deliver a return under section 12 (1), (1.1) or (1.2) or information or a document required under section 17 within the required time is liable for a penalty equal to the aggregate of

(a) \$25 a day for each day of default, but not exceeding \$2 500 for each failure, and

(b) 5% of the unpaid tax.

Change of address of operator

19 An operator must notify the commissioner of a change in the operator's permanent address.

Service of notices

20 (1) If service of a request, notice, demand for information or other document is made under this Act, it may be served

(a) in person, or

(b) by mailing it by registered mail to the last known address of the person.

(2) If service is by registered mail, the request, notice, demand for information or other document is deemed to be served on the eighth day after mailing.

(3) This section does not apply if a court orders another mode of service.

Notice of assessment

21 (1) The commissioner must, with all due dispatch, examine each return filed by an operator of a mine or by any other person who is obliged under section 12 to file the return.

(2) If a return is not filed for a fiscal year of a mine as required by section 12, the commissioner may estimate the amount of tax payable by an operator for that year in respect of the mine.

(2.1) If a return is not filed by a quarry operator for a calendar year as required by section 12, the commissioner may estimate the amount of tax payable by that operator for that calendar year.

(3) If it appears from an examination of a return under subsection (1) or, if a return is not filed as required under section 12, from an estimate made under subsection (2) or (2.1) of this section, that an amount of tax should have been paid by an operator, the commissioner may assess the operator for the amount of that tax and any related interest or penalties.

(4) Liability for tax under this Act is not affected by an incorrect or incomplete assessment or by the fact that an assessment has not been made.

(5) Without limiting subsection (3), the commissioner may assess or reassess tax, interest and penalties under this Act, or notify in writing an operator or other person by whom a return has been or ought to have been filed that the commissioner requires further information, as follows:

(a) at any time, if

(i) a return under section 12 for a fiscal year of the mine or calendar year, as applicable, has not been delivered as required by that section,

(ii) the operator, or other person by whom a return has been or ought to have been filed, has filed a waiver under subsection (5.1) for the fiscal year of the mine or calendar year, as applicable, or

(iii) any person has made any misrepresentation or committed any fraud in making a return or in supplying information under this Act;

(b) in any other case, within 6 years after the end of the fiscal year of the mine or calendar year, as applicable, for which the return was required, whether or not any tax was payable under this Act.

(5.1) An operator or other person by whom a return has been or ought to have been filed may file with the commissioner a waiver for a fiscal year of the mine or calendar year, as applicable, in the form and containing the information required by the commissioner, within 6 years after the end of the fiscal year of the mine or calendar year, as applicable, for which the return was required.

(5.2) A waiver under subsection (5.1) continues in effect until 6 months after the operator or other person by whom a return has been or ought to have been filed files with the commissioner a notice revoking the waiver, in the form and containing the information required by the commissioner.

(6) The commissioner must, after making an assessment or reassessment of an operator under this section, prepare and mail to the operator, at the last known address for that operator, a notice of assessment that contains the following information as applicable:

(a) the name and address of the operator to whom the notice is directed;

(b) information sufficient to enable the mine to which the notice relates to be identified;

(c) the fiscal year of the mine to which the notice applies or, in the case of a quarry operator, the calendar year to which the notice applies;

(d) the date of issue of the notice;

(e) the total amount of the taxes payable by the operator for the mine in respect of the fiscal year of the mine to which the notice applies or, in the case of a quarry operator, the total amount of the taxes payable by the quarry operator in respect of the calendar year to which the notice applies;

(f) the amount of interest and penalties payable by the operator in respect of the fiscal year of the mine to which the notice applies or, in the case of a quarry operator, the amount of interest and penalties payable by the quarry operator in respect of the calendar year to which the notice applies;

(g) the total amount of instalments and taxes paid in respect of the fiscal year of the mine to which the notice applies, including any interest and penalties paid or, in the case of a quarry operator, the total amount of taxes paid in respect of the calendar year to which the notice applies, including any interest and penalties paid;

(h) the total amount of the reclamation tax credit for the fiscal year of the mine;

(i) the total outstanding balance to be paid by the operator or refunded to the operator in respect of the fiscal year of the mine to which the notice applies or, in the case of a quarry operator, the total outstanding balance to be paid by the quarry operator or refunded to the quarry operator in respect of the calendar year to which the notice applies.

(7) After the commissioner mails a notice of assessment under subsection (6),

(a) if the notice of assessment reflects an outstanding balance to be paid by an operator, the part of the amount assessed that remains unpaid is payable immediately, or

(b) if the notice of assessment reflects an outstanding balance to be refunded to an operator, the minister, on the certificate of the commissioner as to the facts, must, subject to subsection (8), requisition a refund of the amount overpaid from the consolidated revenue fund.

(8) Instead of making a refund or repayment that might otherwise be made under subsection (7), the commissioner may, if the taxpayer is liable or about to become liable to make any payment under this Act, apply the amount of the refund or repayment to that other liability and notify the taxpayer of that action.

Taxpayer required to maintain records

22 (1) Every operator and every other person required by this Act to pay taxes must keep records at that person's place of business in British Columbia, or at another place approved by the commissioner, in the form and containing the information necessary to enable the taxes payable under this Act to be determined.

(2) Every operator required by this section to keep records must retain the records, for a particular year, for the greater of the following in respect of a particular year:

(a) 7 years after the end of a fiscal year of the mine or the fiscal year of the operator for which a return has been filed or, in the case of a quarry operator, 7 years after the end of the calendar year for which a return has been filed;

(b) 2 years after the date of the person's receipt of a notice of assessment under this Act;

(c) one year after the date of notification of a decision by the minister under section 26;

(d) one year after the date of a decision of a court if an appeal was commenced under section 27;

(e) one year after the date of a decision of the Court of Appeal if leave is granted under section 28.

(3) The commissioner may make his or her own valuation and assessment of tax payable by an operator, if

(a) the records kept by the operator are, in the opinion of the commissioner, inadequate for the purpose of this Act,

(b) the operator, on the request of the commissioner, fails or refuses to produce the operator's records for examination by the commissioner, or

(c) the operator alleges that the records kept by the operator have been destroyed.

Repealed

23–25 [Repealed 2003-23-63.]

Appeal to minister

26 (1) If an operator objects to an assessment made under this Act, the operator or the operator's agent may appeal to the minister in accordance with this section.

(2) An appeal under this section must be made by serving a notice of appeal on the minister within 90 days after the date of the notice of the assessment.

(3) The notice of appeal must

(a) be in writing,

(b) be addressed to the minister at Victoria, and

(c) set out clearly the reasons for the appeal and all facts relative to it.

(4) On receiving the notice of appeal, the minister must

(a) consider the matter,

(b) affirm, amend or change the assessment, estimate, interest charge, penalty or the nature of the assessment, and

(c) promptly notify the appellant in writing of the result of the appeal.

Appeal to Supreme Court

27 (1) A decision of the minister under section 26 (4) may be appealed to the Supreme Court by way of a petition proceeding.

(2) The Supreme Court Civil Rules relating to petition proceedings apply to appeals under this section, but Rule 18-3 of those rules does not apply.

(3) A petition commencing an appeal under this section must be filed in the court registry within 90 days after the date on the minister's notification of decision.

(4) Within 14 days after the filing of the petition under subsection (3), the petition must be served on the government in accordance with the Crown Proceeding Act.

(5) In the petition, the government must be designated "Her Majesty the Queen in right of the Province of British Columbia".

(6) An appeal under this section is a new hearing that is not limited to the evidence and issues that were before the minister.

(7) The court may

(a) dismiss the appeal,

(b) allow the appeal,

(c) vary the decision from which the appeal is made, or

(d) refer the decision back to the commissioner for reconsideration.

Appeal to Court of Appeal

28 An appeal lies from a decision of the Supreme Court to the Court of Appeal with leave of a justice of the Court of Appeal.

Liability for mineral tax not affected by appeal

29 (1) If an appeal is made under section 26 or 27, neither the giving of a notice of appeal nor any delay in the hearing of the appeal in any way affects the due date, interest or any liability for payment

in respect of any mineral tax that is the subject matter of the appeal, or in any way delays the collection of the mineral tax.

(2) If the mineral tax is set aside or reduced on appeal, the commissioner must refund

(a) the amount of the excess mineral tax paid, and

(b) any additional interest or penalties imposed and paid on any mineral tax excess.

Information must be kept confidential

30 (1) A person must not disclose information obtained under this Act except as follows:

(a) for the purposes of administering or enforcing this or another taxation Act;

(b) in court proceedings relating to this or another taxation Act;

(c) as instructed by the minister under subsection (2);

(d) as provided in subsection (4).

(2) The minister may permit information or a copy of a record submitted by, or obtained from, a person under this Act to be given or shown to a person employed by the government of a country, province or state if

(a) records obtained by or submitted to the government of that country, province or state for the purposes of a law that imposes a royalty or tax are given or shown to persons employed by the government on a reciprocal basis, and

(b) the minister is satisfied that the information or records given to or made accessible to the government of that other country, province or state will not be used by it for a purpose other than the administration and enforcement of a law that provides for the imposition of a royalty or tax.

(3) If the minister makes an agreement or arrangement respecting the reciprocal exchange of information under subsection (2), the minister must publish in the Gazette a notice setting out the terms of the agreement or arrangement.

(4) A person may disclose the aggregate amount of any mineral tax, interest, penalties or refunds paid or payable under this Act by or to an operator for a fiscal year, if the disclosure is for the purposes of administering or implementing a resource revenue-sharing agreement between the government and a first nation.

Tax constitutes a lien in favour of government

31 A tax imposed or assessed under this Act

(a) forms a lien and charge in favour of the government on the entire assets of the operator of a mine or of the operator's estate, effective on,

(i) in the case of a quarry operator, the last day of the calendar year in relation to which the tax is imposed, or

(ii) in the case of any other operator, the last day of the fiscal year of the mine for which the tax is imposed, and

(b) has priority over all other claims of every person, except claims secured by liens, charges or encumbrances registered in accordance with the relevant enactment before that date.

Notice of tax recovery proceedings

32 (1) Before commencing a proceeding for the recovery of tax under this Act, the commissioner must give notice to the operator of the intention to enforce payment.

(2) Failure to give the notice under subsection (1) does not affect the validity of a proceeding commenced for the recovery of tax under this Act.

Recovery of tax by court action

33 (1) The amount of tax, together with any penalties and interest, that is due and payable may be recovered by action in a court as for a debt due to the government.

(2) For the purposes of subsection (1), the court may make an order as to the costs of the action in favour of or against the government.

Recovery of tax by filing certificate of nonpayment with court

34 (1) If default is made in the payment of a tax, penalty or interest that is due and payable under this Act, or any part of any of them, the commissioner may issue a certificate stating that the tax, penalty or interest was assessed, the amount of it remaining unpaid and the name of the person by whom it is payable.

(2) The commissioner may file a certificate under this section with a district registrar of the Supreme Court and, when filed, the certificate has the same effect and all proceedings may be taken on it as if it were a judgment of the Supreme Court for the recovery of a debt of the amount stated in the certificate against the person named in it.

Recovery of tax by attachment of amounts owed to operator

35 (1) If the commissioner has knowledge or suspects that a person is or is about to become indebted or liable to make a payment to an operator, the commissioner may demand that the person pay the money otherwise payable to the operator in whole or in part to the commissioner on account of the operator's liability under this Act.

(2) Without limiting subsection (1), if the commissioner has knowledge or suspects that a person is about to advance money to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by an operator, the commissioner may demand that the person pay to the commissioner on account of the operator's liability under this Act the money that would otherwise be so advanced or paid.

(3) If under this section the commissioner demands that a person pay to the commissioner, on account of the liability under this Act of an operator, money otherwise payable by the person to the operator as interest, rent, remuneration, a dividend, an annuity or other periodic payment, the demand

(a) applies to all of those payments to be made by that person to the operator until the liability under this Act is satisfied, and

(b) operates to require payments to the commissioner out of each payment of the amount stipulated by the commissioner in the demand.

(4) Money or a beneficial interest in money in a savings institution

(a) on deposit to the credit of an operator, or held in trust by a depositor for an operator, at the time a demand is served, or

(b) deposited to the credit of an operator after a demand is served

is money for which the savings institution is indebted to an operator within the meaning of this section.

(5) A demand under this section continues in effect until the demand is satisfied or until the demand is cancelled by the commissioner.

(6) A person who fails to comply with a demand under subsection (1) or (3) is liable to pay to the government an amount equal to the amount that the person was required under subsection (1) or (3), as the case may be, to pay to the commissioner.

(7) A person who fails to comply with a demand under subsection (2) is liable to pay to the government an amount equal to the lesser of

(a) the aggregate of the money advanced or paid, and

(b) the amount that the person was required under subsection (2) to pay to the commissioner.

(8) The receipt of the commissioner for money paid under this section is a good and sufficient discharge of the original liability to the extent of the payment.

(9) If a person carries on business under a name or style other than the person's own name, the demand under subsection (1), (2) or (3) may be addressed to the name or style under which the person carries on business and, in the case of personal service, is deemed to be validly served if it is left with an adult person employed at the place of business of the addressee.

(10) If persons carry on business in partnership, the demand under subsection (1), (2) or (3) may be addressed to the partnership in its name and, in the case of personal service, is deemed to have been validly served if served on one of the partners or left with an adult person employed at the place of business of the partnership.

Recovery of tax by distress of taxpayer's goods and chattels

36 (1) The commissioner or the commissioner's agent may levy the amount of tax that is due and payable, with costs, by distress of goods and chattels

(a) of the person liable to pay the tax, or in the person's possession, wherever they may be found in British Columbia, or

(b) found on premises of the person liable to pay the tax that are the property of or in the possession of any other occupant of the premises and that would be subject to distress for arrears of rent due to a landlord under the Commercial Tenancy Act.

(2) The costs chargeable under this section are those payable as between landlord and tenant.

(3) If distress is made for the recovery of tax, the commissioner or the commissioner's agent must, by advertisement posted up in at least 3 conspicuous public places in the locality where the sale of the property distrained is to be made, give at least 10 days' public notice of the time and place of the sale and of the name of the operator whose property is to be sold.

(4) At the time named in the notice under subsection (3), the commissioner or the agent must sell at public auction the property distrained or as much of it as may be necessary.

(5) If the property distrained is sold for more than the amount of the tax and costs and no claim to the surplus is made by any other person on the ground that the property sold belonged to that person or that the person was entitled by lien or other right to the surplus, the surplus must be paid to the person in whose possession the property was when the distress was made and that person's receipt must be taken for it.

(6) If a claim is made by the person for whose taxes the property was distrained and the claim is admitted, the surplus must be paid to the claimant and the claimant's receipt must be taken for it.

(7) If the claim is contested, the surplus must be retained by the commissioner until the respective rights of the parties have been determined by action at law or otherwise.

More than one recovery power may be exercised

37 (1) The powers conferred by this Act for the recovery of taxes by action in court, by filing a certificate, by distress and by a demand under section 35 may be exercised separately, concurrently or cumulatively.

(2) The liability of a person for the payment of tax under this Act is not affected in any way by the fact that a fine or penalty has been imposed on or paid by the person for a contravention of this Act.

Enforcement

38 (1) A person authorized by the minister for any purpose related to the administration or enforcement of this Act may, by registered letter or by a demand served personally, require from another person any information or additional information, or the production of any records, within a

reasonable time the person stipulates, if it is reasonable to make the demand in order to determine liability or possible liability to pay the tax under this Act.

(2) If it is shown to the satisfaction of a justice on information in writing sworn by a person authorized under subsection (1) that

(a) there are reasonable grounds to believe that records relating to the determination of the amount of tax payable under this Act are kept at a place identified in the sworn information, or

(b) any other thing that affects the amount of tax payable under this Act is kept or used or to be found at such a place,

and that

(c) a demand under subsection (1) has not been complied with or has not been fully complied with or is, if made, likely to be refused, or likely to defeat the object of the demand, or

(d) the records contain or the thing will provide or constitute evidence of an offence under this Act,

the justice may sign a warrant in the form in the Schedule authorizing the person to enter the place and search for and seize the records, or inspect, examine, measure and evaluate the thing, as the case may be.

(3) A warrant issued under this section continues in force until the purpose for which the entry is required has been satisfied.

(4) The person authorized by the warrant may take with him or her on or into the place to be searched such other persons and equipment as may be necessary.

Offences

39 (1) Section 5 of the Offence Act does not apply to this Act or the regulations.

(2) A person who fails to file a return as and when required under this Act commits an offence.

(3) A person who commits an offence under subsection (2) is liable to a fine of not less than \$25 for each day of default but not more in the aggregate than \$5 000.

(4) A person who contravenes section 12 (1), (1.1), (1.2) or (5), 13 or 30 (1) commits an offence.

(5) In addition to any penalty otherwise provided, a person who commits an offence under subsection (4) is liable to a fine of not less than \$200 and not more than \$10 000 or to imprisonment for a term of not longer than 6 months, or to both.

(6) A person who fails or refuses to provide information as required by a notice under section 17 commits an offence.

(7) In addition to any penalty otherwise provided, a person who commits an offence under subsection (6) is liable to a fine of not less than \$200 and not more than \$10 000 or to imprisonment for a term of not longer than 6 months, or to both.

Offence of tax evasion

40 (1) A person who does any of the following commits an offence:

(a) makes or participates in, assents to or acquiesces in the making of false or deceptive statements in a return, certificate, statement or answer filed or made as required under this Act;

(b) for the purpose of evading payment of a tax imposed by this Act, destroys, alters, mutilates, secrets or otherwise disposes of the records of an operator;

(c) makes or assents to or acquiesces in the making of false or deceptive entries or omits or assents to or acquiesces in the omission to enter a material particular in records of an operator;

(d) wilfully evades or attempts to evade compliance with this Act or payment of taxes imposed by this Act;

(e) conspires with any person to commit an offence described in paragraphs (a) to (d).

(2) In addition to any penalty otherwise provided, a person who commits an offence under subsection (1) is liable to a fine of not less than 25% and not more than double the amount of the tax that was sought to be evaded or to imprisonment for a term of not longer than 2 years, or to both.

Offence by officers and directors of corporation that commits an offence

41 If a corporation commits an offence under this Act, an officer, director or agent of the corporation who directs, authorizes, assents to, acquiesces in or participates in the commission of the offence commits an offence and is liable to the penalty provided for the offence.

Limitation of time for commencing prosecution

42 (1) An information for an offence against this Act must be laid not more than

(a) 6 years after the offence occurred, or

(b) if the offence is one referred to in section 40, 6 years after the offence occurred or one year after the date on which evidence, sufficient in the opinion of the commissioner to justify a prosecution for the offence, came to the commissioner's knowledge

whichever is later.

(2) The commissioner's certificate as to the date on which sufficient evidence came to the commissioner's knowledge is conclusive proof for the purposes of subsection (1) (b).

Appointment of commissioner

43 (1) The minister may appoint a person as commissioner of mineral tax to exercise the powers and carry out the duties of the commissioner under this Act.

(2) The commissioner may delegate, in writing, to any person or persons, either generally or conditionally, any or all of the powers, functions and duties conferred on the commissioner by this Act.

Power to make regulations

44 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) prescribing and classifying costs and expenses that are eligible for inclusion in or are to be excluded from the cumulative expenditure account for purposes of this Act;

(b) establishing transitional rules necessitated

(i) by the repeal of the Mineral Resource Tax Act and of provisions of the Coal Act and the substitution of this Act, or

(ii) by the amendment made by this Act to the Mining Tax Act;

(c) establishing interest rates and methods of calculating interest;

(d) prescribing forms, other than those referred to in section 45;

(e) prescribing the transaction value of particular mineral products;

(f) establishing a reclamation cost account and a reclamation tax credit account and providing for the treatment of reclamation costs and recoveries;

(g) prescribing deemed proceeds and allocation of various account balances in the event of disposition of a mine;

(h) [Repealed 2003-23-66.]

(i) prescribing substances as quarry materials;

(j) conferring on the commissioner the power to determine the moisture content of quarry material and, for quarry material having a moisture content greater than 15%, prescribing the means by which the amount of that quarry material, in relation to which amount a proportionate share is to be determined for the purposes of section 2.3 (2), is to be calculated to account for that moisture content.

(3) A regulation made under this section may be made retroactive to January 1, 1990 and if made retroactive is deemed to have come into force at that time.

Power to prescribe returns

45 The minister may prescribe the forms and information required for the purposes of section 12 (1), (1.1), (1.2), (5) and (7).

Schedule

Warrant to Enter and Search

British Columbia

County of

To [name of police constable] and other persons being police constables under the Police Act: as it appears on the oath of [name] that there are reasonable grounds to believe that [describe records and any other things to be searched for and place to be entered and searched].

This authorizes you [here state any limit on hours of search] to enter and search the premises to seize the records and to inspect, examine, measure and evaluate other things found on the premises as may relate to taxation under the Mineral Tax Act.

Dated this [day, month, year], at

.....

A Justice of the Peace in and for

.....

Copyright (c) Queen's Printer, Victoria, British Columbia, Canada