



Mineral Tax Act

MINERAL TAX COSTS AND
EXPENDITURES REGULATION

B.C. Reg. 405/89

Deposited December 18, 1989 and effective January 1, 1990
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Consolidated Regulations of British Columbia

This is an unofficial consolidation.

B.C. Reg. 405/89 (O.C. 1825/89), deposited December 18, 1989 and effective January 1, 1990, is made under the *Mineral Tax Act*, R.S.B.C. 1996, c. 291, s. 44 (2).

This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at www.bclaws.ca.

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Mineral Tax Act

**MINERAL TAX COSTS AND
EXPENDITURES REGULATION**

B.C. Reg. 405/89

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SCHEDULE

Interpretation

- 1** (1) In this regulation:
 - “**Act**” means the *Mineral Tax Act*;
 - “**affiliated corporations**” means corporations that are associated or deemed to be associated pursuant to section 256 of the *Income Tax Act* (Canada);
 - “**cost**” means any amount paid or payable and includes any amount reasonably accrued with respect to employee remuneration or benefits;
 - “**discovery costs**” means costs incurred, including the cost of capital assets acquired, for the purpose of determining the existence, location, extent or quality of a mineral deposit in the Province;
 - “**exploration costs**” means discovery costs incurred after December 31, 1989 by an operator of a mine in a fiscal year of the mine during which the mine was producing minerals in reasonable commercial quantities;
 - “**hedging transaction**” means a transaction conducted through a recognized commodity exchange, bank or other financial institution, that involves a promise to buy or sell a given quantity of a commodity or currency for later delivery in a fixed delivery period or delivery month at a price that is fixed on the day that the transaction takes place;
 - “**significant shareholder**” means a shareholder who owns 10% or more of any class of shares of a corporation.
- (2) For the purposes of the definition of “significant shareholder”, an individual is deemed to own any shares owned by the individual’s spouse.
[am. B.C. Regs. 353/90, Sch. A, s. 1; 360/94, s. 1.]

Expenditures

- 2** (1) For the purposes of section 9 (1) (b) of the Act, the prescribed costs and expenses, to the extent reasonable, incurred for the purposes of earning gross revenue from the operation of a particular mine are the aggregate of
 - (a) preproduction discovery costs as provided in subsection (3),

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- (b) exploration costs allocated to the particular mine in the manner provided for in section 4,
- (c) the cost of capital assets which, for greater certainty, include amounts paid or payable pursuant to the terms of a lease or rental of capital assets,
 - (i) acquired for the purpose of the production of minerals from a mine or for the distribution of the mineral product from that mine, and
 - (ii) used directly in the administration of that particular mine to the extent they are so used,
- (d) the costs incurred before the mine came into commercial production for the purpose of bringing it into commercial production, including clearing, removing overburden, stripping, sinking a mine shaft and constructing an adit or other underground entry,
- (e) costs for sinking a mine shaft, constructing an adit or other underground entry, removing overburden, stripping, clearing or other similar activities if those costs are incurred
 - (i) after the mine came into commercial production, and
 - (ii) for the purpose of maintaining the mine in commercial production,
- (f) the current costs incurred in the operation of the mine including, for greater certainty, those administrative or corporate costs, including management fees, that are directly related to the operation of a particular mine,
- (g) the current costs incurred for the operation of processing facilities used to process minerals extracted or obtained from the mine,
- (h) the current costs of distribution of the mineral product of the mine including marketing expenses and related sales commissions,
- (i) the transaction value of mineral products consumed or used at the mine,
- (j) any amounts paid as a repayment of any amounts included in section 9 (1) (g) and (h) of the Act in the current or any preceding fiscal year of the mine,
- (k) the cost of surface rights and surface lease costs incurred for the purpose of obtaining access to the mine,
- (l) the fees paid to a bank to provide a security bond acquired to satisfy the security guarantee required under the *Mines Act* for reclamation,
- (l.1) costs of reclamation, including
 - (i) required contributions made during the fiscal year of the mine to the account maintained for the mine in the reclamation fund established under the *Mines Act*, less any amount elected to be added to the reclamation cost account under section 5 of the Mineral Tax Reclamation Regulation, B.C. Reg. 8/98, and
 - (ii) interest earned, during the fiscal year of the mine, in the account maintained for the mine in the reclamation fund, and
- (m) research costs as provided in subsection (9),

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but, for greater certainty, does not include any amount paid, payable or incurred as

- (n) consideration to any person other than the Crown in right of the Province for the right to win minerals from a mine, including the cost of a royalty or similar payment, whether or not dependent on
 - (i) the amount or value of the mineral products produced from the operation of the mine, or
 - (ii) the profits or cash flow derived from the operation of the mine,
 - (o) consideration for services to be rendered or goods to be delivered after the end of the fiscal year of the mine,
 - (p) interest,
 - (q) the costs of or associated with financing, including the costs of arranging financing,
 - (r) dividends,
 - (s) costs of incorporation, organization or reorganization,
 - (t) costs or losses in respect of hedging transactions,
 - (u) taxes payable under the Act, the *Income Tax Act* or the *Income Tax Act* (Canada),
 - (v) salaries, wages, fees or benefits to the extent that
 - (i) they may reasonably be regarded as directly or indirectly related to services provided by an individual who is a significant shareholder of the corporation or an affiliated corporation, and
 - (ii) the amount directly or indirectly attributable, in any fiscal year of the mine, to the services of an individual referred to in subparagraph (i) exceeds the proportion of \$75 000 that the number of days in the fiscal year of the mine bears to 365,
 - (w) Repealed. [B.C. Reg. 7/98, s. 1 (e).]
 - (x) any costs or expenses incurred with respect to the mineral product after the point at which the transaction value is determined, or
 - (y) any amount as a reserve, contingency, allowance or bad debts expense.
- (2) Where a cost or expense in respect of a mine is incurred by a person under an agreement entered into with an operator whereby the sole consideration for incurring the cost or expense is for shares of the capital stock of the operator or an interest in a partnership, or for an interest in or right to the shares or partnership interest, the cost or expense may be claimed as a cost for that mine under section 9 (1) (b) of the Act.
- (3) Preproduction discovery costs of a particular mine means the aggregate of
- (a) all discovery costs with respect to the mine property on which the mine is sited that

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- (i) were incurred by the operator after the coming into force of the Act and before commencement of commercial production of the mine,
 - (ii) have not been included as preproduction discovery costs or exploration costs of another mine, and
 - (iii) were incurred while the operator had a right to win minerals from the particular mine property, and
 - (b) where a mine property, or an interest in it, has been acquired by an operator and the property has not been in commercial production at any time during the current fiscal year of the mine or the 84 months immediately preceding the date of acquisition, the proportion of the preproduction discovery costs of the previous operator that is the proportion of the acquired interest in the mine property, to the extent that those costs were incurred with respect to the particular mine property or were related to the mine for the purposes of section 11 (1) of the Act and were included by the previous operator as capital costs under section 9 (1) (b) of the Act by virtue of the application of section 11 (1) of the Act and have not been used to reduce total revenues of any previous operator for the purposes of determining net revenue under section 6 of the Act and would have been available for deduction by the previous operator.
- (4) For the purposes of subsection (3) (a), discovery costs will be considered to have been incurred with respect to a particular mine property by an operator, at such time as the operator had a right to win minerals from the particular mine property, if
- (a) the results from having incurred the discovery costs provided the operator with a reasonable basis to believe that a producing mine might be established at the particular mine property, and
 - (b) the acquisition of the right to win minerals from the particular mine property was a direct consequence of the results obtained from having incurred the discovery costs.
- (5) For the purposes of subsection (3) (b), the extent to which the preproduction discovery costs would have been available for claim to the previous operator shall be determined on the basis that any reduction of the cumulative expenditure account during any fiscal year of the mine shall be deemed to be firstly a claim of preproduction discovery costs.
- (6) The preproduction discovery costs of a previous operator shall be reduced by the amount that is included in the preproduction discovery costs of the purchasing operator, under subsection (3) (b), on the day that is the day after the sale of the mine, and the reduction shall be deemed to be proceeds on sale of assets, under section 9 (1) (g) (iii) of the Act, of the previous operator for the fiscal year of the mine.
- (7) For the purposes of subsection (3), where 2 or more corporations are amalgamated, the amalgamated corporation shall be deemed to be a different and

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distinct corporation from each of the predecessor corporations and mineral properties of the predecessor corporations shall be deemed to have been acquired by the amalgamated corporation.

- (8) Repealed. [B.C. Reg. 360/94, s. 2 (b).]
- (9) Research costs that are incurred by a person on scientific research and experimental development undertaken during fiscal years of the mine that he is an operator of a mine in commercial production and that are related to the mineral activities of that person may be included provided that the results of the research or development are public property.

[am. B.C. Regs. 353/90, Sch. A, s. 2; 360/94, s. 2; 171/96, s. 1; 7/98, s. 1; 105/2000; 210/2014.]

Costs on account of capital

- 3** For the purposes of section 7 of the Act the following costs and expenditures must be included in costs that are prescribed to be on account of capital and may not be included in the current costs and expenditures:

- (a) exploration costs;
- (b) research costs;
- (c) preproduction discovery costs;
- (d) the costs described in section 2 (1) (d);
- (e) amounts, other than the costs referred to in section 2 (1) (e), paid or payable to acquire capital assets or for the use of or the right to use capital assets;
- (f) the cost of inventories of parts, supplies and products.

[en. B.C. Reg. 353/90, Sch. A, s. 3; am. B.C. Regs. 171/96, s. 2; 7/98, s. 2.]

Allocation of exploration costs

- 4** (1) In this section:
- “**accounting year**”, in relation to an operator of a mine to which exploration costs are allocated, means the latest fiscal year of the operator to end on or before the end of the allocation year of that mine;
- “**allocation year**”, in relation to a mine, means the fiscal year of the mine for which exploration costs are allocated under this section.
- (2) Subject to subsection (3), exploration costs may be allocated to a mine by an operator of the mine for any fiscal year of the mine to the extent that those amounts have not been allocated
- (a) to the mine for a preceding fiscal year of the mine, or
 - (b) to another mine.
- (3) The amount of exploration costs that may be allocated to a mine under subsection (2) shall not exceed the aggregate of
- (a) the amount of the operator’s exploration account under section 10 of the Act at the end of the operator’s accounting year, and

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- (b) the amount by which the exploration costs incurred by the operator in the period beginning after the end of the operator's accounting year and ending on or before the end of the allocation year of the mine exceeds the aggregate of the following amounts:
- (i) grants, subsidies and other forms of assistance that the operator received, became entitled to receive or could reasonably be expected to receive that may reasonably be regarded as being with respect to exploration costs allocated under this subsection or that have been added to the exploration account of the operator under section 10 (1) (b) of the Act;
 - (ii) actual or deemed proceeds on dispositions of assets, the costs of which assets have been allocated under this subsection or added to the exploration account of the operator under section 10 (1) (b) of the Act.
- (4) Where exploration costs are to be allocated to a mine under subsection (2), the operator shall irrevocably elect to make the allocation to a particular mine by completing and delivering to the commissioner, on or before the last day of the 6th month following the end of the allocation year of the mine to which the allocation is made, an election in the form set out in the Schedule.
- (5) Despite subsection (4), on an application by an operator, the commissioner may, whether or not the period within which the operator was entitled to make an election under subsection (4) has expired,
- (a) permit the operator to amend or revoke an election made within that period, or
 - (b) extend the period within which an election under that subsection may be made.

[en. B.C. Reg. 360/94, s. 3; am. B.C. Regs. 171/96, s. 3; 7/98, s. 3.]

New mine allowance

- 5** (1) For the purposes of section 9 (1) (c) of the Act, the allowance for new mines referred to in that section shall be 1/3 of the costs and expenses described in section 2 (1) (c) (i) and (d) that
- (a) were incurred by the operator for the purpose of earning gross revenue from the operation of a mine that meets one of the following criteria:
 - (i) the mine is located on a property from which minerals had not previously been produced in reasonable commercial quantities and began producing minerals in reasonable commercial quantities after December 31, 1994 and before January 1, 2026;
 - (ii) the mine was, before January 1, 1995 a closed or abandoned mine within the meaning of the *Mines Act* and began producing minerals in reasonable commercial quantities after December 31, 1994 and before January 1, 2026;

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- (iii) the mine had ceased operations and had laid off substantially all of its operating work force before January 1, 1995 and began producing minerals in reasonable commercial quantities after December 31, 1994 and before January 1, 2026;
 - (iv) the mine was expanded after December 31, 1994 and before January 1, 2026 to the extent that the greatest designed capacity, measured in tonnes of input of ore, of the mill that processed the ore from the mine was not less than 25% greater in the fiscal year of the mine immediately following the expansion than it was in the fiscal year of the mine immediately preceding the expansion,
- (b) were incurred by the operator
- (i) after December 31, 1994,
 - (ii) before the mine began producing minerals in reasonable commercial quantities or before the completion of the expansion of the mine referred to in paragraph (a) (iv), as the case may be, and
 - (iii) in the case of a mine that was the subject of an expansion described in paragraph (a) (iv), in the course of and principally for the purposes of the expansion,
- (c) in the case of a mine that had ceased operations as described in paragraph (a) (iii), were not incurred to acquire assets that were previously used in the operation of the mine or to compensate a previous operator for development expenditures, and
- (d) in the case of costs and expenses described in section 2 (1) (c) (i), were incurred by the operator to acquire assets other than assets that, before being acquired by the operator, were used for any purpose whatsoever by a person with whom the operator was not dealing at arm's length.

[en. B.C. Reg. 360/94, s. 3; am. B.C. Regs. 7/98, s. 4; 177/98; 30/2007; 85/2015; 101/2019; 89/2020.]

MINERAL TAX COSTS AND EXPENDITURES REGULATION
Schedule

SCHEDULE

[en. B.C. Reg. 187/2015, App. 1.]



Mailing Address:
PO Box 9328 Stn Prov Govt
Victoria BC V8W 9N3
gov.bc.ca/miningtaxes

**ELECTION TO ALLOCATE
EXPLORATION EXPENSES**

under the *Mineral Tax Act*

SCHEDULE

GENERAL INQUIRIES

Telephone: 250 952-0192
Toll-free: 1 800 667-1182
Email: MOG.Mineral.Tax@gov.bc.ca

INSTRUCTIONS

- For help in completing this form, please see our website at gov.bc.ca/miningtaxes

Freedom of Information and Protection of Privacy Act (FOIPPA)
The personal information on this form is collected for the purpose of administering the *Mineral Tax Act* under the authority of section 26(a) of the FOIPPA. Questions about the collection or use of this information can be directed to the Manager, Natural Resource Revenue Operations, PO Box 9328 Stn Prov Govt, Victoria BC V8W 9N3 (telephone: Victoria at 250 952-0192 or toll-free at 1 800 667-1182).
Email: MOG.Mineral.Tax@gov.bc.ca

ACCOUNT WHERE ALLOCATIONS ARE COMING FROM		
FULL NAME OF OPERATOR (for individuals include first name, middle initial and last name)	EXPLORATION ACCOUNT NUMBER	FISCAL YEAR END OF OPERATOR YYYY / MM / DD
	MTE –	

ACCOUNT WHERE ALLOCATIONS ARE GOING TO		
MINE NAME	MINERAL TAX ACCOUNT NUMBER	FISCAL YEAR END OF MINE YYYY / MM / DD
	MTR –	

CALCULATION OF AMOUNT AVAILABLE FOR ALLOCATION	
1 ENDING BALANCE OF THE OPERATOR'S EXPLORATION ACCOUNT RETURN FOR THE ACCOUNTING YEAR	\$
2 ADD: Exploration expenditures incurred during the allocation year of the mine and after the operator's accounting year	
3 SUBTOTAL (sum of Line 1 and Line 2)	
4 DEDUCT: Amount of above subtotal allocated to other mines	
5 TOTAL EXPLORATION EXPENDITURES AVAILABLE FOR ALLOCATION TO THE MINE	\$

ELECTION STATEMENT

The operator hereby elects under section 4 of the Costs and Expenditures Regulation to the *Mineral Tax Act* to allocate \$ _____ of exploration expenditures to the mine.

SIGNATURE	TITLE	DATE SIGNED YYYY / MM / DD
X		