

Gypsum Mining Income Tax Act

CHAPTER 190 OF THE REVISED STATUTES, 1989

as amended by

2001, c. 6, s. 109; 2008, c. 2, ss. 5, 6



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CHAPTER 190 OF THE REVISED STATUTES, 1989
amended 2001, c. 6, s. 109; 2008, c. 2, ss. 5, 6

**An Act Respecting a Tax on Income
Derived from Gypsum Mining Operations**

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(The table of contents is not part of the statute)

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Short title

1 This Act may be cited as the *Gypsum Mining Income Tax Act*. R.S.,
c. 190, s. 1.

Interpretation

2 In this Act,

(a) “gypsum” includes any gypsum-bearing substance removed
from a mine;

(b) “income derived from mining operations” means the net profit
or gain derived or deemed to have been derived from mining operations by a
person engaged therein;

(c) “inspector” means an inspector appointed under this Act;

(d) “mine” includes a quarry or any work or undertaking in which
gypsum is extracted or produced;

(e) “mining operations” means the extraction or production of
gypsum from or in any mine or its transportation to, or any part of the dis-
tance to the point of egress from the mine including any processing thereof

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prior to or in the course of such transportation, but not including any processing thereof after removal from the mine;

(f) “Minister” means the Minister of Natural Resources. R.S., c. 190, s. 2; O.I.C. 1991-971; O.I.C. 2018-188; O.I.C. 2021-210; O.I.C. 2024-425.

Taxation

3 Every person who carries on mining operations shall pay to the Minister a tax on the annual income derived from those operations at the rate, in the manner and at the times fixed by or under this Act. R.S., c. 190, s. 3.

Calculation of income

4 (1) The annual income derived from mining operations shall be ascertained and fixed in the manner set out in this Section.

(2) The gross receipts from the year’s mining operations, or in case the gypsum or any part thereof is not sold, or is treated or processed by or for the operator of the mine upon the premises or elsewhere, then the actual market value of the gypsum at the point of egress from the mine or, if there is no means of ascertaining the market value, or if there is no established market price or value, or if the gypsum is sold to a partner or associate of the operator of the mine or to a parent or subsidiary company of an incorporated operator, the value of the same as appraised by the Minister or such person as he appoints, shall be ascertained, and from the amount so ascertained the following and no other expenses, payments, allowances or deductions shall be deducted and made:

(a) the actual and proper working expenses of the mine, both underground and above ground, including salaries and wages of necessary superintendents, foremen, workmen, firemen, enginemen, labourers and employees of all sorts employed at or about the mine together with the actual and proper salaries and office expenses for necessary office work done at the mine and in immediate connection with the operation thereof;

(b) the cost of supplying power and light and horses or other means of transportation used in the mining operations or in handling the gypsum;

(c) the actual cost price of food and provisions for all employees whose salaries or wages are made less by reason of being furnished therewith;

(d) the actual cost of explosives, fuel and any other supplies necessarily used in the mining operations;

(e) any actual and proper outlay incurred in safeguarding and protecting the mine or gypsum;

(f) the cost of proper insurance upon the output, if paid or borne by the operator, and upon the plant, machinery, equipment and buildings used for or in connection with the mining operations or for storing the gypsum;

(g) an allowance of a sum for annual depreciation by ordinary wear and tear of the said plant, machinery, equipment and buildings, such sum to be based upon the probable annual average cost of repairs and renewals necessary to maintain the same in a condition of

efficiency and in no case to exceed for any year such amount as in the opinion of the Minister is reasonable in accordance with sound operating and accounting practices;

(h) the cost of actual work done in sinking new shafts, making new openings, workings or excavations of any kind, or of stripping, trenching or diamond drilling in or upon the land upon which the mine is situate, or upon any other land belonging to the same operator in the Province, or the cost of any work which, in the opinion of the Minister, has for its object the opening of mines or testing for gypsum, provided, however, that such expenditure is *bona fide*, and actually made or borne by the person or persons liable, or who would, but for this provision, be liable to taxation upon the said mine under this Act, and that separate accounts of such expenditure are kept and an affidavit or affidavits giving reasonable details of the nature, extent and location of such work shall be furnished to the Minister with the annual statement hereinafter provided for;

(i) payments of city, town or municipal taxes upon the mine and on property in immediate connection with it;

(j) donations made in the Province for charitable, educational, religious or public purposes approved by the Minister;

(k) such other allowance as may be approved by the Minister as being in accordance with sound operating and accounting practices.

(3) No allowance or deduction shall in any case be made for the cost of plant, machinery, equipment or buildings, nor for capital invested, nor for interest or dividend upon capital or stock or investment. R.S., c. 190, s. 4.

Annual statement and books of account

5 (1) On or before the first of March in each year every person who carried on mining operations shall, without notice or demand to that effect, in addition to any other statements which may be required, deliver to the Minister a detailed statement, in which shall be set forth

(a) the name and description of the mine;

(b) the name and address of the person or persons owning or operating the mine as lessee, agent, occupant or otherwise;

(c) the quantity of gypsum mined at the mining premises during the year ending on the thirty-first of December last preceding;

(d) the value of the gypsum mined;

(e) a complete copy of the balance sheet and profit and loss statement in the form prescribed by the Minister.

(2) Such statement and information shall be made and furnished by the operator of the mine, and shall also show in other columns the various expenses, payments, allowances and deductions that may properly be made under Section 4, and such statement shall also show by way of summary the total receipts or market value at the mine of the year's output, and the total amount of the

expenses, payments, allowances, and deductions to be deducted therefrom and the balance of income for the year as is provided in Section 4.

(3) In addition to the statement mentioned in subsections (1) and (2) the Minister may, at any time of the year, require from any person connected with the operations or management of a mine, a statement under affidavit containing such information or particulars as the Minister may think proper to require.

(4) Every person who carries on mining operations shall keep proper books of account of the gypsum taken from the mine, showing the quantity, weight, and other particulars of the same, and the value thereof, and showing the amount derived from the sale of the gypsum, and he shall also keep proper books showing each of the several expenses, payments, allowances, or deductions mentioned in Section 4, and showing any other facts and circumstances necessary or proper for ascertaining the amount of the tax payable under this Act.

(5) If any doubt arises as to where such book or books shall be kept, or as to how many or what books shall be kept, the Minister shall determine the number and character of the books to be kept and the place or places at which they shall be kept. R.S., c. 190, s. 5.

Default or incorrect statement

6 If default is made in filing any statement required by Section 5, or if the Minister is of opinion that any return made or statement filed is incomplete or not correct, he may investigate the matter or appoint some person to make any investigation he deems proper and report to him, and the Minister may fix and determine the quantity of gypsum mined in any mining operations and his determination shall be final. R.S., c. 190, s. 6.

Alternative statement

7 (1) A person who carries on mining operations may, in any year in lieu of submitting the detailed statement required by Section 5, submit to the Minister a statement showing merely the total quantity of gypsum mined by him in the preceding year and the aggregate amount of his income derived from the mining operations calculated at the rate of fifty-two cents per ton of the gypsum so mined.

(2) The Minister may accept a statement submitted under subsection (1) in lieu of or in substitution for a statement and return in the form required by Section 5.

(3) When a statement is submitted under this Section, the income derived from mining operations of the person submitting the statement shall, for the purposes of this Act, be the income shown on that statement. R.S., c. 190, s. 7; 2008, c. 2, s. 5.

Rate of tax

8 The tax payable by any person under this Act is at the rate of thirty-three and one-third per cent upon his income derived from mining operations. R.S., c. 190, s. 8; 2008, c. 2, s. 6.

Quarterly tax payment and return

9 (1) The tax imposed and provided by this Act becomes due and is payable to the Minister on or before the twentieth day in each of the months of January, April, July and October in respect of income earned on gypsum recovered during the quarter immediately preceding the first day in each of the months of January, April, July and October.

(2) The tax remitted pursuant to subsection (1) shall be accompanied by a sworn return stating the amount of gypsum recovered during each of the months of the quarter immediately preceding the first day of January, April, July and October and the total amount of tax payable on the income derived therefrom. R.S., c. 190, s. 9.

Interest

10 All taxes bear interest from the date on which they become due at the rate of six per cent per year. R.S., c. 190, s. 10.

Recovery of tax

11 Any tax and interest thereon payable under this Act or the regulations may be recovered by the Minister in any court of competent jurisdiction as a debt due His Majesty in right of the Province in an action which shall be tried without a jury and which shall be brought and prosecuted by the Minister in and by his name of office and may be continued by his successor as if no change had occurred. R.S., c. 190, s. 11.

Priority of claim

12 The claim of the Minister for tax and interest thereon has priority over every other charge or claim against the mine where the mining operations in respect of which the tax is payable were carried on, and against all fixtures, machinery, goods and chattels used in operating the mine, except a claim duly registered under the *Mechanics' Lien Act*. R.S., c. 190, s. 12.

Land Registration Act

12A The claim referred to in Section 12 is not a charge against a parcel registered pursuant to the *Land Registration Act* until a certificate evidencing the claim has been recorded in the register of the parcel. 2001, c. 6, s. 109.

Regulations

13 The Governor in Council may make regulations

- (a) prescribing the duties and functions of inspectors appointed under this Act;
- (b) prescribing forms of statements and returns and of other documents and records to be made, used or kept under this Act;
- (c) respecting any other matter or thing that the Governor in Council deems expedient for the carrying out of this Act. R.S., c. 190, s. 13.

Inspectors

14 The Minister may appoint such person or persons in the public service as he deems necessary to be inspectors under this Act and may assign to them

such duties as he considers expedient in connection with the administration of this Act and the regulations. R.S., c. 190, s. 14.

Right of entry and inspection

15 The Minister or an inspector or any person designated by the Minister may at all times enter upon mining property for the purpose of making an inspection and obtaining information as to the amount and value of the output of the mine, and, for this purpose, he or they may descend all pits and shafts and use all such tackle, machinery, and appliances belonging to the mine as he or they may deem necessary or expedient, and shall have free ingress and egress, to, from and over all buildings, erections, and vessels used in connection with the mine, and may take from the mining property such samples or specimens as he or they desire, for the purpose of determining the value of the gypsum being taken therefrom, or any product thereof, and he or they shall have full and complete access to all books of account, correspondence and documents maintained or used for or in connection with the actual operations and business of the mine, and may examine the same and take copies thereof or extracts therefrom, but any information of a private or confidential nature acquired shall not be disclosed to anyone, except so far as may be necessary for the purpose of this Act. R.S., c. 190, s. 15.

Penalty for failure to file statement

16 Every person who fails to file or submit a statement required by this Act is liable on summary conviction to a penalty of not more than twenty-five dollars for each day of default and in default of payment to imprisonment for one day for each five dollars of the penalty imposed. R.S., c. 190, s. 16.

Penalty for various matters

17 Every person who

(a) makes, or participates in the making of a false statement in any statement filed or made under this Act;

(b) to evade payment of a tax imposed under this Act, destroys, alters, mutilates, secretes or otherwise disposes of any record required to be kept by this Act or the regulations;

(c) makes or participates in the making of false or deceptive entries or omits or participates in the omission of matters required to be recorded in any record required to be kept under this Act or the regulations;

(d) fails to keep any records or accounts required to be kept under this Act or the regulations,

is liable on summary conviction to a penalty of not more than one thousand dollars and in default of payment to imprisonment for not more than six months. R.S., c. 190, s. 17.

Penalty for obstruction

18 Every person who hinders or obstructs the Minister or a person designated by the Minister or an inspector engaged under this Act in making an examination or inspection of premises or records or fails to give to them or any of them information or assistance required to be given under this Act is liable on summary conviction to a penalty of not more than five hundred dollars and in default of payment to imprisonment for not more than three months. R.S., c. 190, s. 18.

Liability of officer or agent

19 Where a corporation violates any provision of this Act or the regulations, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the violation is liable on summary conviction to the penalty provided for the violation whether or not the corporation has been prosecuted or convicted. R.S., c. 190, s. 19.

Act does not apply

20 This Act does not apply to a person whose annual income derived from mining operations does not exceed five thousand dollars. R.S., c. 190, s. 20.
