

Bill No. 16 of 1945.

A BILL TO AMEND AND CONSOLIDATE THE  
MINERAL TAXATION ACT, BEING CHAPTER  
50 OF THE REVISED STATUTES OF ALBERTA,  
1942.

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NOTE.

This Bill amends and consolidates *The Mineral Taxation Act*, chapter 50, R.S.A., 1942.

Only the substantial changes made by the Bill are referred to in this note.

The definition of minerals in section 2 is changed by including coal and it is now made clear that limestone, marble, etc., are not taxable unless they are being worked commercially. The definition of producing area is extended to include property within a mile of a mine or well which is producing or has produced minerals.

Section 3 imposes upon the registered owner a tax on all minerals in the Province (with the exceptions mentioned in the section) at a rate fixed by the Lieutenant Governor in Council not to exceed five cents per acre. The acreage tax imposed by the Act now in force was limited to non-producing areas and was at a rate not to exceed one-half cent per acre; the minimum tax is fixed by section 4 of the Bill at twenty-five cents instead of one dollar as in the present Act.

Section 8 requires the assessment of minerals in producing areas to be made before June thirtieth; the former requirement was that the assessment should be made as soon as practicable after June thirtieth.

The provisions as to appeal from assessment have been changed; under the Act now in force there was an appeal to the Petroleum and Natural Gas Conservation Board and from that Board to the Alberta Assessment Commission. By section 11 of the Bill the appeal is direct to the Alberta Assessment Commission and may be by any person on the assessment roll or by the Deputy Minister.

By section 14 of the Bill it is provided that the Lieutenant Governor in Council shall fix the tax rate not exceeding ten mills. This is the same provision as in the Act now in force.

Section 18 of the Bill provides that a Registrar of Land Titles shall not accept for registration a transfer, mortgage, lease, or assignment of lease affecting minerals unless all taxes under the Act are paid and a tax receipt or tax certificate to that effect is filed with the Registrar.

There are changes in the penalties for non-payment of taxes imposed by section 21 with respect to the producing areas. A five per cent penalty is added upon the expiration of six months from the mailing of the tax notice and another five per cent penalty at the expiration of a further period of six months. Similar penalties are imposed with respect to the non-producing areas. In the present Act these penalties were added after sixty and one hundred and twenty days respectively. Provision is also made for penalties on arrears now existing under the present Act.

By section 23 of the Bill it is provided that after any taxes are in arrear for twelve months, the Deputy Minister may give a notice warning the owner of the minerals that if the taxes are not paid within a year from the date of the mailing of the notice, his certificate of title will be cancelled and vested in the Crown. Subsection (2) provides the machinery for carrying this into effect and there is no further right of redemption.

Section 24 of the Bill provides for the continued assessment of the minerals until title is vested in the Crown and the owner to retain his title is required to pay within one year from the date of mailing of the notice mentioned in section 23 (1) all taxes and penalties with interest at five per cent from the date of the imposition of the second penalty imposed under section 21.

Authority is given by section 25 of the Bill for the Minister to accept transfer of minerals to the Crown, in which case the owner will be relieved of all outstanding taxes.

W. S. GRAY,  
*Legislative Counsel.*

*(This note does not form any part of the Bill but is offered in explanation of its provisions.)*

# BILL

No. 16 of 1945.

An Act to amend and consolidate The Mineral Taxation Act, being Chapter 50 of the Revised Statutes of Alberta, 1942.

(Assented to \_\_\_\_\_, 1945.)

**HIS MAJESTY**, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

## SHORT TITLE

**1.** This Act may be cited as "*The Mineral Taxation Act, 1945.*"

## INTERPRETATION

**2.** In this Act, unless the context otherwise requires—

- (a) "Assessor" means any person appointed by the Lieutenant Governor in Council to perform the or any of the duties of an assessor prescribed by the Act;
- (b) "Commission" means the Alberta Assessment Commission constituted under the provisions of *The Alberta Municipal Assessment Commission Act*;
- (c) "Department" means the Department of Lands and Mines;
- (d) "Deputy Minister" means the Deputy Minister of Lands and Mines;
- (e) "Minerals" in addition to its ordinary meaning, includes mineral rights and each of the following when mined for commercial purposes; limestone, granite, slate, marble, clay, gypsum or any building stone, volcanic ash, marl, gravel and sand;
- (f) "Minister" means the Minister of Lands and Mines;
- (g) "Non-producing area" means any area not included in a producing area;
- (h) "Owner" means any person who is registered in a Land Titles Office in the Province as the owner of minerals whether or not the title to the minerals is severed in the registry from the title to the surface;
- (i) "Producing area" means—
  - (i) any area in the Province specified by order of the Minister pursuant to the provisions of section 7;
  - (ii) any quarter section of land according to the system of surveys under *The Alberta Surveys Act*, any river lot or any parcel described by

metes and bounds, which or any portion of which, is situate within one mile of any quarry, mine or well from which any minerals are being produced or have at any time been produced;

- (j) "Registrar" means a Registrar of Land Titles within the meaning of *The Land Titles Act*;
- (k) "Tract" means the area described in a certificate of title.

**3.—**(1) Every owner of minerals other than minerals the mining and working of which is prohibited by the provisions of *The Urban Mining Operations Act*, chapter 274 of the Revised Statutes of Alberta, 1942, and other than minerals in on or under any land forming part of the right-of-way of any railway, shall be liable for and shall on or before the thirty-first day of December in each year, pay to the Minister a tax at such rate per acre not exceeding five cents per acre as may from time to time be determined by the Lieutenant Governor in Council.

(2) Where the name of more than one owner appears upon a certificate of title and the interest of the respective owners is not defined in the certificate, then all such owners shall be regarded as one owner for the purpose of taxation.

(3) This section shall not apply to limestone, granite, slate, marble, clay, gypsum or any building stone, volcanic ash, marl, gravel and sand.

**4.** If the tax payable by any owner under the provisions of section 3 is less than twenty-five cents, the amount payable shall be twenty-five cents.

**5.** Where more than one certificate of title exists for defined or undefined interests in the same minerals, then each owner whose name appears upon a certificate of title shall be liable to a tax at the rate per acre provided for pursuant to the provisions of section 3 in proportion to the interest defined, and the amount of tax for any undefined interest shall be computed in accordance with a signed statement of the owner of such interest.

**6.** Each owner of minerals within a producing area in the Province shall be liable to assessment and taxation and the tax shall be in addition to and not in substitution for the tax imposed by section 3.

**7.** The Minister shall as soon as practicable after the coming into force of this Act, by order published in *The Alberta Gazette*, designate the producing area or areas of the Province other than those set out in clause (ii) of paragraph (i) of section 2, and shall in the order specify the boundaries of each of such producing areas, and may from time to time by any subsequent order published in *The Alberta Gazette*, change the boundaries of any producing area and designate any additional producing area or areas.

**8.—(1)** The Lieutenant Governor in Council may from time to time appoint an assessor for the purpose of this Act and prescribe his remuneration.

(2) In every year, before the thirtieth day of June, the assessor shall assess at the fair actual value all minerals in each producing area in the Province and shall have prepared an assessment roll setting out thereon the minerals assessed with a brief description of the land containing minerals, the names and addresses of the owners thereof and the assessed values thereof.

(3) In making such assessments, the assessor may take any steps which he in his discretion considers necessary for the purpose of ascertaining the fair actual value of the assessed minerals, and for that purpose may resort to all sources of available information and may fix such amount as appears to him to be just and equitable.

(4) The assessor or any person duly appointed by him may for any purposes relating to an assessment, enter upon and inspect any land or property.

**9.** Upon the completion of the assessment roll, the assessor shall indorse thereon or attach thereto a certificate setting out the date upon which the roll was so completed, and sign and deliver the same to the Deputy Minister.

**10.** The Deputy Minister shall on receipt of the assessment roll cause a copy of the assessment roll and of the certificate indorsed thereon to be posted up in a conspicuous place to which the public have access in the Department at Edmonton and in the Provincial Land Agency at Calgary, and shall keep it so posted up for twenty days, and shall within ten days after the posting up of the assessment roll in the Department at Edmonton, cause to be sent by mail to each owner whose name appears on the assessment roll, an assessment notice containing the particulars appearing in the assessment roll with respect to the minerals assessed, together with a copy of the next ensuing section.

**11.—(1)** Any owner whose name appears upon the assessment roll may appeal to the Commission, and on such appeal may apply to vary the assessment roll and to alter any assessment shown thereon which the owner alleges to be wrongfully made or improperly assessed or to be too high or too low, or to assess any minerals which he alleges are liable to be and have not been assessed, and to include the same in the assessment roll upon giving the Commission notice in writing within twenty days after the date upon which the assessment notice was mailed pursuant to section 10 or within twenty days after the first day of July, whichever date is later.

(2) The Deputy Minister may appeal to the Commission, and on such appeal may apply to vary the assessment roll and to alter any assessment shown thereon which he alleges to be wrongfully made or improperly assessed or to be too

high or too low, or to assess any minerals which he alleges are liable to be and have not been assessed, and to include the same in the assessment roll upon giving the Commission notice in writing within thirty days from the date of posting the assessment roll in the Department at Edmonton.

**12.**—(1) Prior to the first day of October, the Commission shall hear all appeals duly filed by owners of minerals and by the Deputy Minister, and make such dispositions of all appeals as the Commission may deem fit and proper.

(2) The provisions of sections 19 and 27 to 33, both inclusive, and sections 36 to 38, both inclusive, of *The Alberta Municipal Assessment Commission Act*, shall *mutatis mutandis* and except as varied by this Act, apply to any such appeal.

**13.**—(1) As soon as the Commission shall have disposed of all appeals as aforesaid, it shall proceed to revise the assessment roll in accordance with the disposition made by the Commission of the appeals, and thereupon shall cause to be attached to the assessment roll so revised a certificate which may be in the following form:

“This is to certify that the assessment roll hereto annexed is the assessment roll for the year 19..... as revised by the Alberta Assessment Commission.

“Dated at the City of Edmonton this.....day of ..... 19.....

.....  
*Chairman of the Alberta  
Assessment Commission.”*

(2) The assessment roll so revised and every assessment, matter or thing set out therein and the certificate attached thereto, shall be conclusive and binding upon all owners mentioned therein or affected thereby, and shall not be questioned in any proceedings in any court as to any statement, matter or thing contained therein whatsoever.

**14.** In each year upon delivery of the assessment roll, after appeal and revision, if any, the Deputy Minister shall proceed to levy a tax at such rate on the dollar not exceeding ten mills, as the Lieutenant Governor in Council may from time to time direct upon the assessed value of all minerals in each producing area on the assessment roll as certified by the assessor or by the Commission, as the case may be.

**15.** If the tax payable by an owner under section 14 with respect to any assessment is less than one dollar, the amount payable shall be one dollar.

**16.** As soon as may be after the Lieutenant Governor in Council has fixed the rate, the Deputy Minister shall cause to be sent by mail to each person whose name appears on the assessment roll as the owner of any assessable minerals, a notice designating the minerals assessed, a brief description of the lands containing the minerals, the amount of tax

payable to the Minister in respect thereof, a demand for the payment of the tax by a specified date, and a statement of the penalties outlined in subsection (1) of section 21.

**17.** Each owner of minerals shall without any notice or demand to that effect on or before the thirty-first day of December in each year, deliver to the Deputy Minister a written statement in which shall be set forth the legal description of the tract in respect of which he is the owner of minerals, and the kind or kinds of minerals; and the statement shall also set forth what minerals, if any, are being produced or have to his knowledge been produced at any time within the said tract.

**18.** The Registrar shall not accept any transfer (other than under the provisions of section 25), mortgage, lease or assignment of lease to be registered against the title for minerals unless a tax receipt from the Department or a tax certificate has been obtained from the Deputy Minister and filed with the Registrar showing in either case that there are no taxes owing under this Act with respect to the minerals.

**19.** The Deputy Minister shall if requested make a search in the assessable or tax roll in respect of any assessable or taxable minerals and shall if required, upon receipt of a fee of fifty cents, give a certificate under his hand showing whether or not all taxes in respect of the minerals described in a certificate of title have been paid, and if not, the amount of current taxes and arrears payable with respect to the minerals.

**20.** The Registrar shall at the end of each month furnish the Deputy Minister with a statement showing all changes of ownership of minerals which have occurred during the preceding month, showing the name of the registered owner, the minerals transferred, a brief description of the land containing the minerals, and the area according to the certificate of title, and the date thereof.

**21.—(1)** In the event of the tax imposed under section 14 or any part thereof remaining unpaid after the expiration of six months from the date of mailing of the notice referred to in section 16, there shall be added thereto by way of penalty a sum equal to five per cent of the unpaid taxes or any part thereof, and in the event of the taxes and penalties or any part thereof still remaining unpaid after the expiration of a further period of six months, there shall be added thereto an additional five per cent of the unpaid taxes and penalties and the amount or amounts so added shall form part of the tax or taxes due.

(2) In the event of the tax imposed under section 3 or any part thereof remaining unpaid after the thirty-first day of December in any year, there shall be added thereto after the expiration of six months a sum equal to five per cent of the

unpaid taxes, and in the event of the taxes and penalties or any part thereof still remaining unpaid after the expiration of a further period of six months, there shall be added thereto an additional five per cent of the unpaid taxes and penalties, and the amount or amounts so added shall form part of the tax or taxes due.

(3) To any arrears of taxes and penalties owing under *The Mineral Taxation Act*, being chapter 50 of the Revised Statutes of Alberta, 1942, remaining unpaid at the time of the coming into force of this Act, there shall be added after the expiration of six months a sum equal to five per cent of the unpaid taxes including penalties, and in the event of the taxes and penalties or any part thereof still remaining unpaid after the expiration of a further period of six months, there shall be added thereto an additional five per cent of the unpaid taxes and penalties, and the amount or amounts so added shall form part of the tax or taxes due.

(4) Nothing in this section contained shall be construed to extend the time for payment of the taxes nor in any way to impair any remedy provided by this Act for the collection of taxes.

**22.** The taxes and penalties payable by any person pursuant to this Act shall be deemed to be a debt due His Majesty and shall be recoverable as such in the Supreme Court of Alberta or in any other court of competent jurisdiction in the name of His Majesty represented by the Minister, and the said taxes shall constitute a charge upon the minerals in respect of which the same are payable, which charge shall have priority over all other mortgages, charges, liens or encumbrances whatsoever excepting a lien for wages filed under the provisions of *The Mechanics' Lien Act*.

**23.**—(1) Where the taxes with respect to minerals in a producing area or in a non-producing area are one full year in arrears whether under the provisions of *The Mineral Taxation Act*, being chapter 50 of the Revised Statutes of Alberta, 1942, or under this Act, the Deputy Minister may send by registered mail a notice to the owner at the address set out in the certificate of title advising him that unless all taxes and penalties due and owing at the time of payment with respect to the minerals are paid within one year from the date of the mailing of the notice, his certificate of title will be cancelled and title vested in His Majesty.

(2) If at the expiration of the period of one year last mentioned, all taxes and penalties due and owing with respect to the minerals have not been paid, the Deputy Minister may deliver or mail to the Registrar a notice in Form A in the Schedule, and upon receipt of any such notice, the Registrar shall cancel the certificate of title of the owner and shall issue a new certificate of title to the minerals free and clear of all encumbrances in the name of His Majesty in the right of the Province as represented by the Minister.

**24.** Until title has been issued in the name of His Majesty pursuant to the provisions of section 23, the minerals shall continue to be assessed and taxed, or taxed, as the case may be, and there shall be added thereto at the time of the payment of the taxes, interest at the rate of five per cent per annum on all unpaid taxes from the date when the second penalty thereon became due under the provisions of section 21 until payment.

**25.** Any owner whose title to minerals is free and clear of encumbrances may, with the consent of the Minister first had and obtained, transfer to His Majesty the minerals, and upon the issue by the Registrar of a certificate of title in the name of His Majesty, the taxes and penalties outstanding against the minerals under the provisions of this Act and of *The Mineral Taxation Act*, being chapter 50 of the Revised Statutes of Alberta, 1942, shall be cancelled and the former owner shall be relieved from the payment thereof.

**26.—**(1) If anything to be done within a number of days or at a time fixed by or under this Act cannot be or is not so done, the Minister may by order from time to time appoint a further or other time for doing it, whether the time at or within which the same ought to have been done has or has not arrived or expired, as the case may be.

(2) Anything done at or within the time specified in such order shall be as valid as if it had been done at or within the time fixed by or under the Act.

**27.** The Lieutenant Governor in Council shall have power to make all such rules and regulations as may be necessary or convenient for the purpose of carrying out the provisions of this Act.

**28.** *The Mineral Taxation Act*, being chapter 50 of the Revised Statutes of Alberta, 1942, is hereby repealed.

**29.** This Act shall come into force on the day upon which it is assented to.

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SCHEDULE

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FORM A

(Section 23)

To the Registrar of the.....  
Alberta Land Registration District.

I, .....  
Deputy Minister of Lands and Mines, pursuant to the powers vested in me by *The Mineral Taxation Act, 1945*, hereby

authorize you to issue certificate or certificates of title to the minerals enumerated in the Schedule within, upon or under the lands described in the Schedule hereto attached in the name of His Majesty the King in the right of the Province of Alberta as represented by the Minister of Lands and Mines, free and clear of all encumbrances.

.....  
*Deputy Minister.*

No. 16

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FIRST SESSION  
TENTH LEGISLATURE

9 GEORGE VI

1945

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**BILL**

An Act to amend and consolidate The  
Mineral Taxation Act, being Chapter  
50 of the Revised Statutes of Alberta,  
1942.

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. TANNER.

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EDMONTON:  
A. Shnitka, King's Printer  
1945