

1972 Bill 124

---

---

First Session, 17th Legislature, 21 Elizabeth II

---

---

THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 124**

**The Mineral Taxation Amendment Act, 1972**

---

---

THE MINISTER OF MINES AND MINERALS

---

---

First Reading .....

Second Reading .....

Third Reading .....

# BILL 124

1972

## THE MINERAL TAXATION AMENDMENT ACT, 1972

(Assented to \_\_\_\_\_, 1972)

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

1. *The Mineral Taxation Act, 1972 is hereby amended*
2. *Section 1 is amended*
  - (a) *by striking out clauses (a) and (b) and by substituting therefor the following clauses:*
    - (a) "Appeal Board" means the Mineral Assessment Appeal Board appointed pursuant to this Act;
    - (b) "assessor" means
      - (i) with reference to rights to petroleum, the assessor or an assistant assessor appointed under *The Oil and Gas Conservation Act*, and
      - (ii) in all other cases, the chief assessor or an assessor appointed under this Act;
  - (b) *by adding after clause (c) the following clauses:*
    - (c1) "chief assessor" means
      - (i) with reference to rights to petroleum, the assessor appointed under *The Oil and Gas Conservation Act*, and
      - (ii) in all other cases, the chief assessor appointed under this Act;
    - (c2) "Conservation Board" means the Energy Resources Conservation Board under *The Energy Resources Conservation Act*;
  - (c) *as to clause (k), subclause (ii) by striking out the words "of the holder" and by substituting therefor the word "granted", and . . . .*
  - (d) *by adding after clause (k) the following clause:*
    - (k1) "right to petroleum" or "petroleum right" means
      - (i) an estate in fee simple in petroleum,

## Explanatory Notes

**1.** This Bill will amend chapter 67 of the Statutes of Alberta, 1972.

**2.** Definitions. Section 1, clauses (a), (b) and (k) presently read:

1. In this Act,

- (a) "assessor" means an assessor appointed pursuant to this Act and includes the chief assessor;
- (b) "Board" means the Mineral Assessment Appeal Board appointed pursuant to this Act;
- (k) "right to a mineral" or "mineral right" means
  - (i) an estate in fee simple in a mineral, or
  - (ii) the interest of the holder under a Crown agreement;

- (ii) the interest in petroleum granted under a Crown agreement;

3. *Section 2 is struck out.*

4. *Section 5 is amended*

- (a) *as to subsection (1), clause (b),*
  - (i) *by striking out the words “assessed mineral rights” in subclause (i) and by substituting the word “assessment”,*
  - (ii) *by adding at the end of subclause (ii) the word “and” and by striking out subclause (iii), and*
  - (iii) *by striking out all the words following subclause (iv),*
- and*
- (b) *as to subsection (5) by striking out the words “appointed under this Act”.*

5. *Section 6 is amended by renumbering the section as subsection (1) and by adding thereto the following subsection:*

(2) Subsection (1) applies only where the Crown is not a party to, nor affected by, the agreement, order or other document setting out the arrangement.

6. *Section 7 is amended*

- (a) *by renumbering the section as subsection (1) and by adding after the words “assessment roll” the words “relating to mineral rights other than petroleum rights”, and*
- (b) *by adding after the renumbered subsection (1) the following subsection:*

(2) Upon the completion of the assessment roll relating to petroleum rights, the chief assessor shall endorse thereon or attach thereto a certificate setting out the date upon which the roll was so completed, and shall sign the roll and deliver it to the chairman of the Conservation Board.

7. *The following section is added after section 8:*

**8.1** The chairman of the Conservation Board on receipt of the assessment roll shall

- (a) deliver a copy of the assessment roll and of the certificate endorsed thereon to the Deputy Minister, who shall cause it to be placed in the Department

**3.** This section will not be necessary. Section 2 reads:

2. Every person within 30 days after becoming an owner under a certificate of title shall deliver to the Deputy Minister a written statement in which he shall set out

- (a) the legal description of the land in respect of which he has become the owner of a mineral right,
- (b) the kind or kinds of mineral or minerals,
- (c) the nature and extent of his right to the mineral or minerals, and
- (d) the mineral or minerals, if any, that are being produced or have to his knowledge been produced at any time within the tract.

**4.** Section 5(1)(b) and (5) presently read:

5. (1) In each year before the first day of March

- (b) the chief assessor shall cause to be prepared an assessment roll setting out with respect to each tract
  - (i) a brief description of the mineral or minerals to which the assessed mineral right relates,
  - (ii) the name and address of the owner of the mineral right,
  - (iii) the nature of the owner's mineral right, and
  - (iv) the assessed values of the mineral rights assessed, except that the chief assessor may omit from the assessment roll the assessment with respect to any owner where the assessed value of the mineral right is less than \$100.

(5) The chief assessor or any other assessor appointed under this Act may for a purpose relating to an assessment enter upon and inspect any land or property.

**5.** The section will be made applicable only where the Crown is not a party to the unit agreement. Section 6 presently reads:

6. If an arrangement is made whereby a mineral within an area comprising more than one tract is to be developed by unit operation of the area, or if such an arrangement is amended or terminated, then a copy of the agreement, order or other document setting out the arrangement under which the unit operation is to be conducted, or the amendment or termination thereof, shall be filed with the chief assessor.

**6.** The assessment roll relating to the assessment of petroleum rights will be delivered to the Energy Resources Conservation Board. Section 7 presently reads:

7. Upon the completion of the assessment roll, the chief assessor shall endorse thereon or attach thereto a certificate setting out the date upon which the roll was so completed, and shall sign the roll and deliver it to the Deputy Minister.

**7.** The posting of the assessment roll and the mailing of the assessment notices in relation to the assessment of petroleum rights will be carried out by the Energy Resources Conservation Board.

at Edmonton so that the public has ready access to it for a period of at least 20 days,

- (b) cause a copy of the assessment roll and of the certificate endorsed thereon to be placed
  - (i) in the Land Titles Office at Calgary, and
  - (ii) in the office of the Conservation Board at Calgary,so that the public has ready access to it for a period of at least 20 days, and
- (c) within 10 days after the placing of the copy of the assessment roll and the certificate in the office of the Conservation Board at Calgary cause to be sent by mail to each owner whose name appears on the assessment roll
  - (i) an assessment notice containing the particulars appearing in the assessment roll with respect to the petroleum rights assessed, and
  - (ii) a copy of section 15.1, subsection (1).

*8. The words "the Board" are struck out wherever they appear in section 9, subsections (3) and (4) and sections 10 to 16 and the words "the Appeal Board" are substituted therefor.....*

*9. Section 14, subsection (1) is amended by adding after the words "whose name appears upon the assessment roll" the words "relating to rights to minerals other than petroleum".*

*10. The following sections are added after section 15:*

**15.1** (1) An owner whose name appears upon the assessment roll relating to petroleum rights may, upon giving the Conservation Board notice in writing after the date upon which the assessment notice is mailed and on or before the next following April 30th, appeal to the Conservation Board and may on the appeal apply

- (a) to have the assessment roll varied and to have altered an assessment shown thereon that the owner alleges to have been wrongfully made or improperly assessed, or to be too high or too low, or
- (b) to have any right to petroleum assessed that the owner alleges is liable to be and has not been assessed, and to have such petroleum right included in the assessment roll.

(2) The chief assessor may, upon giving the Conservation Board notice in writing within 30 days after the date of placing the copy of the assessment roll and the certificate in the Department at Edmonton, the Land Titles

**8.** This amendment will make clear which Board is being referred to in the sections dealing with appeals.

**9.** Appeal provisions contained in section 14 will not be applicable to appeals relating to the assessment of petroleum rights.

**10.** Provision is made for appeals relating to petroleum rights to go to the Energy Resources Conservation Board rather than to the Mineral Assessment Appeal Board with a further right of appeal to a Cabinet Committee.

Office in Calgary and the office of the Conservation Board in Calgary, appeal to the Conservation Board, and on the appeal may apply

- (a) to have the assessment roll varied and to have altered any assessment shown thereon that the chief assessor alleges to have been wrongfully made or improperly assessed, or to be too high or too low, or
- (b) to have any right to petroleum assessed that the chief assessor alleges is liable to be and has not been assessed, and to have such petroleum right included in the assessment roll.

(3) If, at any time before April 30th, it appears from an appeal or otherwise that any right to petroleum was assessed in the name of the wrong person as owner and that the name of another person should be placed on the assessment roll as owner, the chief assessor

- (a) shall appeal to the Conservation Board to vary the assessment roll accordingly, and
- (b) shall cause to be sent by mail to the other person whose name should be placed upon the assessment roll a copy of the notice of appeal, an assessment notice containing the particulars appearing in the assessment roll with respect to the petroleum right assessed and a copy of this section.

(4) Where proceedings are taken under subsection (3) to include upon the assessment roll the name of a person, that person may appeal to the Conservation Board in the same manner and upon the same grounds as if his name had appeared upon the assessment roll when endorsed by the chief assessor.

(5) A person entitled to appeal under subsection (4) may give his notice in writing to the Conservation Board and the chief assessor

- (a) on or before the next following April 30th, if the notice prescribed by subsection (3) is sent from the office of the chief assessor on or before April 15th, or
- (b) within 15 days from the date on which the notice prescribed by subsection (3) is sent from the office of the chief assessor, if such notice is sent after April 15th.

**15.2** As soon as practicable after April 30th in each year, the Conservation Board

- (a) shall hear all appeals duly filed by owners and by the chief assessor, and
- (b) shall make such disposition of the appeals as the Conservation Board considers just.

**15.3** (1) An owner within 30 days of being informed of the disposition made by the Conservation Board under



section 15.2 may further appeal from the decision to a committee of members of the Executive Council designated by the Lieutenant Governor in Council.

(2) The committee shall hear the appeal as soon as practicable, and whether or not a tax notice has been mailed under section 19, and may

- (a) confirm the assessment, or
- (b) vary the assessment and direct the Conservation Board to revise the assessment roll accordingly, or
- (c) instruct the Conservation Board to reassess the petroleum right in accordance with the committee's directions,

and the decision of the committee thereon is final.

(3) Where the committee varies the assessment the Superintendent shall accordingly adjust the tax payable with respect to the tract and refund any overpayment that may have been made.

*11. Section 16 is amended*

(a) *by adding after subsection (1) the following subsection:*

(1.1) When the Conservation Board has disposed of the appeals mentioned in section 15.2 have been disposed of, the Conservation Board

- (a) shall revise the assessment roll in accordance with the disposition made of the appeals, and
- (b) shall cause to be attached to the assessment roll so revised a certificate which may be in Form A in the Schedule with all necessary modifications.

(b) *as to subsection (2) by adding after the words "subsection (1)" the words "or (1.1)".*

*12. Section 17, subsection (1) is amended by striking out the words "the Board" and by substituting therefor the words "the Appeal Board or the Conservation Board, as the case may be,".*

*13. Section 18 is struck out and the following section is substituted therefor:*

**18.** Notwithstanding any other provision of this Act

- (a) no assessment notice need be sent to, and
- (b) no tax shall be levied on,

any owner where the aggregate assessed value of his rights to a mineral is less than an amount prescribed by the regulations.

**11.** This amendment will make provisions for the Conservation Board amending the assessment roll following the disposition of the appeals.

**12.** Section 17(1) presently reads:

17. (1) Each year upon delivery of the assessment roll and after appeal and revision, if any, the Deputy Minister shall proceed to levy a tax upon the assessed value of each owner's right to a mineral as shown on the assessment roll as certified by the chief assessor or by the Board and at such rate or rates on the dollar as the Lieutenant Governor in Council may from time to time direct.

**13.** Section 18 presently reads:

18. If the tax that an owner would have to pay under section 17 with respect to a tract is less than \$1, the amount payable is \$1.

14. Section 19 is amended by adding after the word "rate" the words "or rates".

15. Section 20 is struck out and the following section is substituted therefor:

**20.** (1) Where a person is the registered owner under *The Land Titles Act* of a specified undivided interest of less than the whole in a mineral right, any assessment, taxation or proceedings authorized with respect to a mineral right by this Act may be made, levied or taken with respect to his interest in the mineral right in the same manner as if he owned the mineral right in the whole of the tract and without regard to any other owner of an interest in the mineral right in the same tract.

(2) Where more than one person is registered under *The Land Titles Act* as the owner jointly or in common

(a) of a mineral right, or

(b) of a specified undivided interest of less than the whole in a mineral right,

all such persons shall be regarded as one owner for the purposes of this Act.

(3) Where more than one person is the owner of a right to a mineral under a Crown agreement

(a) jointly, or

(b) in common, or

(c) in specified undivided interests,

all such persons shall be regarded as one owner for the purposes of this Act.

16. Section 21, clause (b), subclause (i) is amended by adding after the words "right to a mineral" the words "in a tract".

17. Section 24 is struck out and the following section is substituted therefor:

**24.** The taxes and penalties payable pursuant to this Act constitute a charge upon the mineral right in respect of which they are payable and the charge so constituted has priority over other charges, mortgages, liens or encumbrances except a lien for wages filed under *The Builders' Lien Act*.

18. The following section is added after section 24:

**24.1** In the case of a Crown agreement, where the taxes are 30 days in arrears, the owner of the mineral right is in default with respect to the Crown agreement.

**14.** Section 19 reads:

19. When the Lieutenant Governor in Council has fixed the rate, the Deputy Minister shall forthwith cause to be sent by mail to each person whose name appears on the assessment roll as the owner of any assessable right to a mineral a notice

- (a) describing the mineral right assessed,
- (b) stating the amount of tax payable to the Minister in respect of the mineral right,
- (c) containing a demand for the payment of the tax by a specified date, and
- (d) containing a statement of the penalties outlined in section 23, subsection (1).

**15.** This amendment will result in one assessment and taxation. At present owners of specified undivided interests are treated differently under freehold titles than under Crown agreements.

**16.** This amendment clarifies the search certificate required to be given by the Deputy Minister.

**17.** This amendment will result in the Crown not being able to recover the amount of taxes unpaid by court action with the only recourse being to take title to the mineral right or cancel the Crown agreement, as the case may be.

Section 24 presently reads:

24. (1) The taxes and penalties payable by a person pursuant to this Act

- (a) are a debt due to the Crown, and
- (b) are recoverable as such in the Supreme Court of Alberta or in any other court of competent jurisdiction in the name of the Crown represented by the Minister.

(2) The taxes and penalties constitute a charge upon the mineral right in respect of which they are payable.

(3) The charge under subsection (2) has priority over other charges, mortgages, liens or encumbrances except a lien for wages filed under the provisions of The Builders' Lien Act.

**18.** This amendment will result in normal cancellation proceedings being taken under the Crown agreement when default is made in the covenant to pay taxes.

19. Section 25 is amended

- (a) *by striking out all the words preceding clause (a) and by substituting therefor the following:*

**25.** (1) Where the taxes with respect to a mineral right consisting of an estate in fee simple in a mineral are 30 days in arrears, the Deputy Minister or Superintendent may send a notice by registered mail to the owner, at the address set out in the certificate of title relating to the mineral right, advising him that unless all taxes and penalties due and owing at the time of payment with respect to the mineral right are paid within 90 days from the date of the mailing of the notice, his certificate of title may be cancelled with respect to such mineral right and title vested in the Crown

*and*

- (b) *as to subsection (2) by striking out all the words following the words "to each person" and by substituting therefor the following:*

- (a) shown by memorandum on the certificate of title as having an interest in the mineral right and at his address indicated in the document referred to in the memorandum, or
- (b) who, to his knowledge, may have an interest in the mineral right in respect of which the tax is in arrears.

20. Section 26 is amended

- (a) *as to subsection (5) by striking out the figure "29" and by substituting therefor the figure "28",*
- (b) *as to subsection (6) by striking out the words "six months" and by substituting therefor the words "60 days",*
- (c) *as to subsection (8) by striking out the words "one year" and by substituting therefor the words "90 days", and by adding before the words "subsection (1)" the words "section 25,", and*
- (d) *as to subsection (10) by striking out the words "one year" and by substituting therefor the words "90 days".*

21. Section 27, subsection (1) is amended

- (a) *by striking out the words "under section 48, subsection (2) of The Mines and Minerals Act," and*
- (b) *as to subsection (2) by striking out the figure "5" and by substituting therefor the figure "8".*

**19.** This amendment will shorten the period of time within which the tax must be paid if cancellation is to be avoided and also provides for giving notice of possible forfeiture to any person who has registered an interest in the mineral right in the land titles office or who to the knowledge of the Superintendent may have an interest which could be affected by such forfeiture.

**20.** These amendments tie into the amendments contained in the preceding section shortening the period of time for payment of taxes.

**21.** Interest rate increased. Section 27(1) and (2) presently read:

27. (1) Until the certificate of title with respect to the mineral right has been cancelled and title has vested in the Crown under section 26, or the Crown agreement has been cancelled under section 48, subsection (2) of The Mines and Minerals Act, the mineral right shall continue to be assessed and taxed.

(2) Where taxes or any part thereof are in arrears interest shall be charged thereon at the time any payment is made, at the rate of 5 per cent per annum calculated quarterly.

*22. Section 30 is amended by adding after clause (d) the following clauses:.....*

- (e) prescribing the circumstances under which any specified class of mineral right is exempt from assessment and from the payment of tax under this Act, either with respect to the whole of the mineral right or with respect to any particular mineral or minerals;*
- (f) fixing the maximum assessed value of rights to a mineral of an owner which exempt such rights from the levy of tax hereunder;*
- (g) designating the members of the Executive Council who shall form the committee for considering appeals under section 15.3 and prescribing the procedure with respect to such appeals.*

*23. The Mines and Minerals Act is amended*

- (a) as to section 42, subsection (1) by striking out the words "but is not subject to the provisions of any statute relating to the recovery of taxes", and*
- (b) as to section 48 by striking out subsection (2).*

*24. This Act comes into force on a day to be fixed by Proclamation.*

**22. Section 30 presently reads:**

30. The Lieutenant Governor in Council may make such regulations as are necessary or convenient for the purpose of carrying out the provisions of this Act and in particular

- (a) governing assessment procedures and principles;
- (b) exempting any class of mineral right, any right to a particular mineral, or any right to a mineral in any area of land from all or any of the provisions of this Act;
- (c) fixing the length of an exemption under clause (b);
- (d) authorizing the Minister, upon such information as he may require and upon such conditions as he may prescribe, to exempt from the payment of tax under this Act any specified right to a mineral in a tract.

**23. This amendment will resolve an apparent conflict with section 42(1) of The Mines and Minerals Act which reads as follows:**

42. (1) The interest of any person other than the Crown in any mineral that is the property of the Crown is liable to assessment and taxation but it is not subject to the provisions of any statute relating to the recovery of taxes.

Section 48(2) will no longer be required because of section 18 of the Bill.

(2) Where a lessee or the holder of a certificate of record fails to pay any tax levied against his right to a mineral under The Mineral Taxation Act, 1972 the Minister may cancel the agreement or certificate of record.