

1989

CHAPTER 46

An Act to amend The Mineral Taxation Act, 1983

(Assented to August 25, 1989)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title 1 This Act may be cited as The Mineral Taxation Amendment Act, 1989.

S.S. 1983-84, c.M-17.1 amended

2 The Mineral Taxation Act, 1983 is amended in the manner set forth in this Act.

Section 2 amended3(1) Clause 2(1)(e) is amended by adding "or sale or other disposition" after "on the production".

(2) The following subsection is added after subsection 2(2):

"(3) The use or consumption of a scheduled mineral by a person who is liable to pay the mineral production taxes imposed by this Act on the production or sale or other disposition of that scheduled mineral is deemed to be a sale or other disposition of that scheduled mineral".

Section 4 amended4 Section 4 is amended by adding "or sale or other disposition" after "production".

Section 5 amended5 Section 5 is amended by adding "or sale or other disposition" after "on the production".

Section 6 amended6 Section 6 is amended by adding "or sale or other disposition" after "on the production".

Section 21 amended7 Subsection 21(1) is amended by striking out "in the prescribed form" and substituting "on a form supplied or approved by the department".

Section 25 amended8 Clause 25(1)(a) is amended:

(a) by adding "sold or otherwise disposed of," after "produced,"; and

(b) by adding "sale or other disposition," after "production,".

New section 25.19 The following section is added after section 25:

Reciprocal agreements

"25.1(1) The minister may enter into agreements on behalf of the Government of Saskatchewan with:

(a) the Government of Canada; or

(b) the government of any other province or territory of Canada;

respecting a reciprocal exchange of information relevant to the administration of this Act or similar legislation of a government mentioned in clause

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(a) or (b).

"(2) Notwithstanding subsection 25(2) but subject to subsection (3), where the minister has entered into an agreement pursuant to subsection (1), the minister may:

- (a) authorize the release of any information or the contents of any record or return;
or
 - (b) allow inspection of or access to any information, record or return;
- to any person employed by the government that has entered into the agreement with the minister.

"(3) No release shall be authorized and no inspection or access shall be allowed pursuant to subsection (2) unless the government mentioned in that subsection:

- (a) agrees to communicate or make accessible to the minister on a reciprocal basis the information, records and returns obtained by that government for the purposes of any legislation mentioned in subsection (1); and
- (b) agrees that it will not use any information, records or returns communicated or made accessible by the minister for any purpose other than the administration and enforcement of any legislation mentioned in subsection (1) of that government".

New section 4410 Section 44 is repealed and the following substituted:

Regulations"44 The Lieutenant Governor in Council may make regulations:

- (a) prescribing the form and contents of any return, notice or other document that is required by this Act to be filed or delivered;
- (b) requiring that any return, notice or other document that is required by this Act to be filed or delivered be made on a form supplied or approved by the department".

New Second Schedule

11 The following Schedule is added after the First Schedule:

"SECOND SCHEDULE

Sodium Chloride Production Tax

SHORT TITLE AND INTERPRETATION

Short title of Schedule

"1 This Schedule may be cited as The Sodium Chloride Production Tax Schedule.

Interpretation of Schedule

"2 In this Schedule:

- "mine"(a) 'mine' means any opening in or excavation of the ground in Saskatchewan from which sodium chloride is or is capable of being produced;
- "producer"(b) 'producer' means a person who has the right to produce and sell or otherwise dispose of sodium chloride from a mine, whether that person does so himself or herself or through any other person;

"quarter"(c) 'quarter' means a calendar quarter ending on March 31, June 30, September 30 or December 31 in each year;

"unit"(d) 'unit' means a tonne of 1000 kilograms.

TAX

Application"3 The mineral production taxes imposed by this Act:

(a) apply to all sodium chloride that is:

(i) produced from any lands in Saskatchewan; and

(ii) sold or otherwise disposed of on or after July 1, 1988; and

(b) are to be levied, calculated and paid in the manner and at the times provided in this Schedule and in the regulations.

Calculation"4 The mineral production taxes imposed by this Act on the sale or other disposition of sodium chloride are to be calculated for each quarter with respect to each mine by multiplying the quantity of dry sodium chloride produced from the mine measured in tonnes that is sold or otherwise disposed of in that quarter by the rates of tax prescribed for that quarter.

Determination by minister

"5 The minister may determine any questions that arise from time to time in determining the amount of tax payable, including, without limiting the generality of the foregoing, the power to determine the quantity of dry sodium chloride produced, sold or otherwise disposed of during any period of time.

Time of payment"6 Each producer:

(a) is liable for the mineral production taxes imposed by this Act on the sale or other disposition of sodium chloride produced from the mine with respect to which he or she is a producer; and

(b) shall pay to the minister the taxes mentioned in clause (a) within the period prescribed in the regulations.

Taxes not paid until received

"7 No taxes that are payable pursuant to this Schedule are paid until the amount that is required to be paid is received by the minister.

INFORMATION

Notification re contracts

"8(1) Every producer shall inform the minister in writing of the quantity of sodium chloride sold or otherwise disposed of pursuant to, and any other terms of, any contract the producer has entered into for the sale or other disposition of any sodium chloride produced or to be produced from a mine:

- (a) if the contract is entered into prior to the day of assent, within 60 days of the day of assent; or
 - (b) if the contract is entered into on or after the day of assent, within 60 days of entering into the contract.
- "(2) A producer shall, on the demand of the minister, provide a copy of any contract mentioned in subsection (1) that is in writing.
- "(3) A producer shall:
- (a) immediately inform the minister of any change in any of the terms of any contract mentioned in subsection (1); and
 - (b) if the change is in writing, furnish a copy of the change to the minister on the demand of the minister.

GENERAL

Deductions, etc. not permitted

"9 Except as otherwise provided in this Schedule or in the regulations, no allowance, credit or other deduction may be made or taken in calculating or paying any taxes pursuant to this Schedule".

New Third Schedule

12 The following Schedule is added after the Second Schedule:

"THIRD SCHEDULE

Potash Production Tax

SHORT TITLE AND INTERPRETATION

Short title of Schedule

"1 This Schedule may be cited as The Potash Production Tax Schedule.

Interpretation of Schedule

"2 In this Schedule:

- "mine"(a) 'mine' means any opening in or excavation of the ground in Saskatchewan from which potash is or is capable of being produced;
- "month"(b) 'month' means a calendar month;
- "potash"(c) 'potash' means a non-viable substance that:
- (i) is formed by the processes of nature; and
 - (ii) contains the element potassium;
- "producer"(d) 'producer' means a person who has the right to produce and sell or otherwise dispose of potash from a mine, whether that person does so himself or herself or through any other person;
- "quarter"(e) 'quarter' means a calendar quarter ending on March 31, June 30, September 30 or December 31 in each year;
- "tonne"(f) 'tonne' means a metric tonne;
- "year"(g) 'year' means a calendar year.

TAX

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Application"3(1) The mineral production taxes imposed by this Act apply to all potash that:

- (a) subject to subsection 5(13), is produced from any lands in Saskatchewan and;
- (b) is sold or otherwise disposed of on or after January 1, 1990.

"(2) Each producer:

- (a) is liable for the mineral production taxes imposed by this Act on the sale or other disposition of potash produced from the mine with respect to which that person is a producer; and
- (b) subject to this Act and the regulations, shall calculate and pay those taxes in the manner and at the times provided in this Schedule.

Components of tax"4 The mineral production taxes imposed by this Act on the sale or other disposition of potash consist of:

- (a) a base payment calculated in accordance with section 5; and
- (b) a profit tax calculated in accordance with section 6.

Base payment"5(1) In this section:

- (a) 'P' means the amount in dollars equal to the prescribed percentage of the producer's profits for a year;
- (b) 'Q' means the quantity of potash, expressed in tonnes, that is sold or otherwise disposed of by the producer in a year;
- (c) 'R' means the rate of tax mentioned in subclause (2)(a)(i).

"(2) The base payment for a year is the amount equal to the difference between:

- (a) the product of:
 - (i) the rate of tax determined pursuant to subsection (3), (4) or (5); and
 - (ii) the quantity of potash sold or otherwise disposed of in that year, expressed in tonnes; and
- (b) the total of any applicable deductions, allowances and credits that are:
 - (i) prescribed; or
 - (ii) provided for in this Schedule.

"(3) Subject to subsections (4) and (5), for the purposes of calculating the base payment, the rate of tax is the rate, expressed in dollars per tonne of potash sold or otherwise disposed of, calculated in accordance with the following formula:

$$R = \frac{P}{Q} .$$

"(4) Where the rate of tax computed pursuant to subsection (3) is greater than the prescribed maximum rate of tax, the rate of tax to be used to calculate the base payment is the prescribed maximum rate of tax.

"(5) Where the rate of tax computed pursuant to subsection (3) is less than the prescribed minimum rate of tax, the rate of tax to be used to calculate the base payment is the prescribed minimum rate of tax.

- "(6) Every producer that is liable to pay taxes pursuant to this Schedule shall pay to the minister an instalment of the base payment with respect to each month:
- (a) not later than the last day of the month next following; and
 - (b) calculated in accordance with subsections (7) and (8).
- "(7) For the purposes of calculating the rate of tax that is applicable to a monthly instalment, the producer shall, in each month, estimate the values of P and Q.
- "(8) The monthly instalment for:
- (a) the first month is one-twelfth of the base payment for the year;
 - (b) the second month is the difference between:
 - (i) two-twelfths of the base payment for the year; and
 - (ii) the amount paid pursuant to clause (a);
 - (c) the third month is the difference between:
 - (i) three-twelfths of the base payment for the year; and
 - (ii) the total of the amounts paid pursuant to clauses (a) and (b);
 - (d) the fourth month is the difference between:
 - (i) four-twelfths of the base payment for the year; and
 - (ii) the total of the amounts paid pursuant to clauses (a) to (c);
 - (e) the fifth month is the difference between:
 - (i) five-twelfths of the base payment for the year; and
 - (ii) the total of the amounts paid pursuant to clauses (a) to (d);
 - (f) the sixth month is the difference between:
 - (i) six-twelfths of the base payment for the year; and
 - (ii) the total of the amounts paid pursuant to clauses (a) to (e);
 - (g) the seventh month is the difference between:
 - (i) seven-twelfths of the base payment for the year; and
 - (ii) the total of the amounts paid pursuant to clauses (a) to (f);
 - (h) the eighth month is the difference between:
 - (i) eight-twelfths of the base payment for the year; and
 - (ii) the total of the amounts paid pursuant to clauses (a) to (g);
 - (i) the ninth month is the difference between:
 - (i) nine-twelfths of the base payment for the year; and
 - (ii) the total of the amounts paid pursuant to clauses (a) to (h);
 - (j) the tenth month is the difference between:
 - (i) ten-twelfths of the base payment for the year; and
 - (ii) the total of the amounts paid pursuant to clauses (a) to (i);
 - (k) the eleventh month is the difference between:
 - (i) eleven-twelfths of the base payment for the year; and
 - (ii) the total of the amounts paid pursuant to clauses (a) to (j); and
 - (l) the twelfth month is the difference between:
 - (i) the base payment for the year; and
 - (ii) the total of the amounts paid pursuant to clauses (a) to (k).
- "(9) Where, for any month, the amount described in

clause (2)(b) exceeds the amount described in clause (2)(a), the amount equal to the difference between those amounts may be applied as a deduction pursuant to clause (2)(b) in the calculation of the instalment payable for the month next following.

"(10) After the last day of each year, every producer shall determine the amount of the base payment for the year using the actual amount of profits and the actual quantity of potash sold or otherwise disposed of during that year.

"(11) Unless the Act or the regulations provide otherwise, where the amount of the base payment determined pursuant to subsection (10) exceeds the total of the instalments paid pursuant to subsection (8), the producer shall pay to the minister the difference between those amounts within 90 days after the last day of the year.

"(12) Where the total of the instalments paid pursuant to subsection (8) exceeds the amount of the base payment determined pursuant to subsection (10), the minister shall refund to the producer the difference between those amounts within 30 days after receipt of the producer's final return for the year.

"(13) The base payment applies only to potash that is produced on or after January 1, 1990.

Profit tax"6(1) The profit tax for a year is the amount equal to the difference between:

(a) the total of the products of:

(i) profits for that year, determined in accordance with the regulations, within each profit bracket that is:

(A) prescribed pursuant to clause 11(c); and

(B) expressed in dollars per tonne of potash sold or otherwise disposed of; and

(ii) the rate of tax that is prescribed for each profit bracket; and

(b) the total of any applicable deductions, allowances and credits that are:

(i) prescribed; or

(ii) provided for in this Schedule.

"(2) Unless the Act or the regulations provide otherwise, on or before the last day of each quarter in any year, every producer shall:

(a) estimate the producer's profits for that year; and

(b) pay to the minister an instalment of the profit tax with respect to that quarter, calculated in accordance with subsection (3).

"(3) The instalment of profit tax payable with respect to:

(a) the first quarter in a year is 25% of the profit tax for the year, calculated on the estimate made in the first quarter of that year's profits;

(b) the second quarter in a year is the difference between:

(i) 50% of the profit tax for the year, calculated on the estimate made in the second quarter of that year's profits; and

- (ii) the amount paid pursuant to clause (a);
- (c) the third quarter in a year is the difference between:
 - (i) 75% of the profit tax for the year, calculated on the estimate made in the third quarter of that year's profits; and
 - (ii) the total of the amounts paid pursuant to clauses (a) and (b); and
- (d) the fourth quarter in a year is the difference between:
 - (i) the profit tax for the year, calculated on the estimate made in the fourth quarter of that year's profits; and
 - (ii) the total of the amounts paid pursuant to clauses (a) to (c).
- "(4) If the amount of an instalment calculated pursuant to clause (3)(b), (c) or (d) is a negative amount, the instalment payable for that quarter is zero.
- "(5) After the last day of each year, every producer shall determine the amount of the profit tax payable for that year, based on the actual amount of profits for that year.
- "(6) Unless the Act or the regulations provide otherwise, where the amount of the profit tax determined pursuant to subsection (5) exceeds the total of the instalments paid pursuant to subsection (3), the producer shall pay to the minister the difference between those amounts within 90 days after the last day of the year.
- "(7) Where the total of the instalments paid pursuant to subsection (3) exceeds the amount of the profit tax determined pursuant to subsection (5), the minister shall refund to the producer the difference between those amounts within 30 days after receipt of the producer's final return for the year.
- "(8) In addition to any other amount that is payable pursuant to this section, every producer shall pay to the minister, within 90 days after the last day of the year, the sum of the following amounts:
 - (a) interest at the prescribed rate calculated in the prescribed manner for the prescribed period on the amount, if any, by which a prescribed percentage of the profit tax for the year exceeds the instalment paid pursuant to clause (3)(a);
 - (b) interest at the prescribed rate calculated in the prescribed manner for the prescribed period on the amount, if any, by which a prescribed percentage of the profit tax for the year exceeds the instalment paid pursuant to clause (3)(b);
 - (c) interest at the prescribed rate calculated in the prescribed manner for the prescribed period on the amount, if any, by which a prescribed percentage of the profit tax for the year exceeds the instalment paid pursuant to clause (3)(c); and
 - (d) interest at the prescribed rate calculated in the prescribed manner for the prescribed period on the amount, if any, by which a prescribed percentage of the profit tax for the year exceeds the instalment paid pursuant to clause (3)(d).

Return"7 Each producer who is liable to pay taxes pursuant to this Schedule shall, when paying those taxes, submit a return that:

- (a) is in a form established by or acceptable to the minister; and
- (b) contains the prescribed information.

Taxes not paid until received

"8 No taxes that are payable pursuant to this Schedule are paid until the amount that is required to be paid is received by the minister.

Interest on overpayments

"9(1) No interest is payable by the minister with respect to an overpayment of taxes by a producer unless the regulations require interest to be paid.

"(2) If the regulations require interest to be paid with respect to an overpayment of taxes, interest at the prescribed rate is to be calculated in the prescribed manner and paid at the prescribed time.

GENERAL

Minister to determine questions

"10 The minister may determine any questions that arise from time to time with respect to the amount of taxes payable by a producer, including, without limiting the generality of the foregoing, questions respecting:

- (a) the quantity of potash produced, sold or otherwise disposed of during any period of time;
- (b) the amount of any deduction, allowance or credit that may apply;
- (c) the value of potash sold or otherwise disposed of and any other element or factor in the determination of the amount of profits pursuant to the regulations.

Regulations"11 For the purpose of carrying out this Schedule according to its intent, the Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word used in this Schedule but not defined in this Schedule;
- (b) for the purposes of calculating the base payment pursuant to section 5, prescribing and governing:
 - (i) a percentage of producers' profits to be used in determining the value of P as defined in clause 5(1)(a);
 - (ii) maximum and minimum rates of tax;
 - (iii) deductions, allowances or credits;
 - (iv) the manner of determining the quantity of potash sold or otherwise disposed of;
- (c) for the purposes of calculating the profit tax pursuant to section 6, prescribing and governing:
 - (i) rates of tax;
 - (ii) profit brackets;

- (iii) deductions, allowances or credits;
- (iv) the manner in which profits are to be determined;
- (v) the manner of determining the quantity and value of potash sold or otherwise disposed of;
- (d) for the purposes of clauses 6(8)(a) to (d), prescribing and governing:
 - (i) rates of interest;
 - (ii) the manner of calculating interest;
 - (iii) the periods during which interest accrues;
 - (iv) percentages of profit tax;
 - (e) respecting the calculation of taxes;
 - (f) prescribing and governing the time and manner of payment of taxes;
 - (g) prescribing the information to be included in a return pursuant to section 7;
 - (h) requiring interest to be paid with respect to an overpayment of taxes, and prescribing and governing:
 - (i) the rate;
 - (ii) the manner of calculation; and
 - (iii) the time for payment;
- of that interest;
- (i) prescribing any matter or thing required or authorized by this Schedule to be prescribed in the regulations;
- (j) respecting any other matter that the Lieutenant Governor considers necessary to carry out the intent of this Schedule".

- Coming into force13(1) Subject to subsections (2) and (3), this Act comes into force on the day of assent.
- (2) Section 11 of this Act comes into force on the day of assent but is retroactive and is deemed to have been in force on and from July 1, 1988.
 - (3) Section 12 of this Act comes into force on January 1, 1990.