

INFORMATION BULLETIN

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REVISION OF THE MINING TAX REGIME

This information bulletin provides a detailed description of the amendments that will be made to the *Mining Tax Act* as part of the revision of the mining tax regime.

Accordingly, a new method of calculating mining duties will be introduced whereby each operator must calculate a minimum mining tax. Changes will also be made to the calculation of the mining tax on annual profit. Essentially, these changes replace the single tax rate with progressive tax rates and, as a measure fostering processing in Québec, improve the processing allowance. Furthermore, this information bulletin stipulates the addition of integrity rules.

It also describes the details of the new non-refundable credit on account of the minimum mining tax and the calculation details of the adjusted annual loss used in the calculation of the credit on duties refundable for losses to reflect the changes to the processing allowance.

For information regarding the matters dealt with in this information bulletin, contact the secteur du droit fiscal et des politiques locales et autochtones at 418 691-2236.

The French and English versions of this bulletin are available on the ministère des Finances et de l'Économie website at : www.finances.gouv.gc.ca

REVISION OF THE MINING TAX REGIME

1.	INTRODUCTION OF A NEW METHOD OF CALCULATING MINING DUTIES	8
	1.1 Calculation details of the minimum mining tax	8
	1.2 Changes to the mining tax on annual profit	16
	1.3 Integrity rules	21
2.	CALCULATION OF THE NON-REFUNDABLE CREDIT ON ACCOUNT OF THE MINIMUM MINING TAX	24
3.	ADJUSTMENTS TO THE CALCULATION OF THE ADJUSTED ANNUAL LOSS TO REFLECT THE IMPROVEMENT TO THE PROCESSING ALLOWANCE	25

Existing rules and objective of the mining duties regime

The primary objective of the mining duties regime is to enable the government to obtain fair compensation for the use of a non-renewable resource that belongs to the public domain.

The tax base of Québec's existing mining duties regime is based on the notion of mining profit. An operator must pay, for a fiscal year, mining duties corresponding to the amount obtained by multiplying its annual profit for the fiscal year by a 16% tax rate.

Briefly, an operator's annual profit, for a fiscal year, is obtained by subtracting from all of the annual earnings in respect of each mine it operates in that fiscal year, certain expenses and allowances relating to its mining operation for such fiscal year, in particular those attributable to exploration activities and pre-production development work carried out by the operator.

Since the reform of the mining duties regime announced in the 2010-2011 Budget Speech,¹ annual earnings must be determined using a "mine-by-mine" approach. In addition, the annual earnings of an operator, other than an eligible operator,² in respect of a mine may not be negative. Accordingly, the loss suffered in respect of one mine may not reduce the earnings from another mine.

An operator's annual earnings in respect of a mine it operates, for a fiscal year, briefly correspond to the total of the operator's gross value of annual output for the fiscal year attributable to the operation of such mine and the recapture of depreciation for the fiscal year resulting from the alienation of depreciable property used in the operation of the mine, from which a set of expenses and allowances stipulated by the mining duties regime is subtracted. These expenses and allowances include the expenses incurred by the operator in the fiscal year to achieve the gross value of annual output attributable to the operation of the mine, the depreciation allowance, the processing allowance, the terminal loss where the operator, at the end of the fiscal year, no longer owns the property of a particular class used in the operation of the mine and the additional allowance for a mine situated in Northern Québec.

An operator's gross value of annual output from a mine, for a fiscal year, is the value of the mineral substances and the processing products from the operator's mining operation.

The amount that an operator may deduct in calculating the annual earnings from a mine it operates, for a fiscal year, on account of depreciation allowance is calculated on the basis either of the capital cost or the undepreciated capital cost at such time of a property of the operator used in the mining operation that is a road, a building or equipment or, if acquired after May 12, 1994, service property. The rate of this depreciation allowance may be 15%, 30% or 100% depending on when the property was acquired. In general, for property acquired after March 30, 2010 an operator may deduct an amount on account of depreciation allowance that must not exceed 30% of the undepreciated capital cost of such property.

¹ MINISTÈRE DES FINANCES DU QUÉBEC, Budget 2010-2011 – Additional Information on the Budgetary Measures, March 30, 2010, p. A.29-A.52.

An eligible operator, for a fiscal year, is an operator that, at the end of a fiscal year, develops no mineral substance in reasonable commercial quantities and that, during the fiscal year, is not associated with an entity that develops a mineral substance in reasonable commercial quantities during the fiscal year. An eligible operator's annual earnings are not determined using the "mine-by-mine" approach. Determination of an eligible operator's annual earnings may lead to a positive or a negative amount.

Since the mining operation includes all of the work relating to the various phases of mineral development, including the processing, transportation, handling, storage and marketing of a mineral substance until its alienation or its use by the operator and the processing of mine tailings, an operator's gross value of annual output from a mine includes value-added beyond the mine shaft head. This value-added stems, in particular, from mineral substance processing activities. For this reason, an operator that carries out mineral substance processing³ activities may receive a processing allowance that is reflected in the acknowledgement, in a way, of a perpetual financial return to the investor in respect of the cost of properties located in Québec used to process the mineral substance from the mine.

The processing allowance, for a fiscal year, is determined on the basis of rates of return calculated on the capital cost, for the operator, of each property that is a processing asset⁴ used in processing ore from the mine, during the fiscal year, and that it possesses at the end of such fiscal year. Briefly, this applicable rate is 7% for processing assets where the operator only carries out concentration (including smelting or refining of ore from a gold or silver mine) and 13% for processing assets where the operator carries out smelting or refining of ore, other than ore from a gold or silver mine. However, in respect of assets used for the concentration of ore, the 13% rate is reduced by six percentage points in the proportion where such assets are used for the concentration of ore that is neither smelted nor refined by the operator. The processing allowance may not exceed, for a fiscal year, 55% of the operator's annual earnings from the mine, for such fiscal year, determined before deducting certain allowances.⁵

Where an operator suffers an annual loss rather than earning an annual profit for a fiscal year, it may obtain, for such fiscal year, a credit on duties refundable for losses. This credit is calculated at a rate of 16%. In the case of an operator other than an eligible operator, it is calculated on the lesser of its adjusted annual loss, for the fiscal year, and the pre-production development expenses incurred, for the fiscal year, without exceeding the amount it deducts, for the fiscal year, on account of the pre-production development allowance. In the case of an eligible operator, it is calculated on the lesser of its adjusted annual loss, for the fiscal year, and the total of the pre-production development expenses incurred for the fiscal year, without exceeding the amount it deducts, for such fiscal year, on account of the pre-production development allowance, and half of the amount of exploration expenses incurred for the fiscal year, without exceeding the amount it deducts, for such fiscal year, on account of the exploration allowance.

An operator's adjusted annual loss, for a fiscal year, corresponds to its annual loss, for the fiscal year, reduced by the lesser of the processing allowance it could claim, for such fiscal year, if such allowance was calculated solely on the basis of the limit based on its capital cost of each property that is a processing asset, and 55% of its annual loss for the fiscal year.

The term "processing" is defined in section 1 of the *Mining Tax Act* (CQLR, chapter I-0.4). It means "any activity involving the concentration, smelting or refining of a mineral substance and includes any activity involving pelletization, the production of powder or the production of steel billets, or any other activity prescribed by regulation".

The expression "processing asset" is defined in section 1 of the *Mining Tax Act* (CQLR, chapter I-0.4). Among the conditions a property must satisfy to be considered a processing asset, it must be situated in Québec.

These are the processing allowance, the additional depreciation allowance, the additional allowance for a northern mine and the additional allowance for a mine situated in Northern Québec.

Moreover, where an operator ceases its mining operation activities or ceases to use properties in its mining operation, the *Mining Tax Act* does not stipulate a rule for the deemed alienation of depreciable properties. In the absence of such rule, recapture of the excess deduction portion of the depreciation allowance or the realization of a terminal loss where the depreciation allowance was not sufficient could, in some circumstances, prove problematic. Similarly, the *Mining Tax Act* does not stipulate a provision to limit arrangements that an operator and an entity with which it is associated may carry out to reduce mining duties that would be payable otherwise in respect of a mining operation.

Amendments to the Mining Tax Act

Despite the changes to the mining duties regime brought about by the 2010 reform, certain operators continue to pay no royalties to the government for the mineral substance they withdraw from Québec soil.

To better achieve the primary objective of the mining duties regime and improve its yield, a new method of calculating mining duties will be introduced. Accordingly, an operator will be required to pay, for a fiscal year starting after December 31, 2013, mining duties corresponding to the greater of its minimum mining tax or its mining tax on its annual profit for the fiscal year.

An operator's minimum mining tax, for a fiscal year starting after December 31, 2013, will be calculated by applying a 1% tax rate to the first \$80 million of the operator's output value at the mine shaft head, for the fiscal year, in respect of all the mines it operates, and a tax rate of 4% to the amount corresponding to the excess of the operator's output value at the mine shaft head, for the fiscal year, in respect of all the mines it operates, over an amount of \$80 million. Where the operator is associated with one or more other operators, in a fiscal year, this amount of \$80 million must be shared among such operators.

An operator's output value at the mine shaft head in respect of a mine it operates will be calculated on the basis of the operator's gross value of annual output from the mine. The aim of this calculation, by means of inclusions and deductions, will be to determine the value of the mineral substance from such mine once extracted from Québec soil but before it is processed by the operator.

Briefly, to determine the output value at the mine shaft head in respect of a mine it operates, for a fiscal year, an operator may deduct the gross value of annual output attributable to the operation of the mine, for the fiscal year, the expenses it incurs for the fiscal year in respect of the mine and that are reasonably attributable to activities of crushing, grinding, sieving, processing, handling, transportation or storage of the mineral substance from the mine from its first accumulation site after it is removed from the mine and, if applicable, the processing products obtained, and to the marketing activities of the mineral substance and, if applicable, the processing products obtained, including the general administrative expenses relating to such activities.

A depreciation allowance will be granted to the operator in calculating its output value at the mine shaft head, for a fiscal year, in respect of a mine it operates, like the one granted for the calculation of its annual earnings from the mine, for the fiscal year. However, such depreciation allowance will only be granted in respect of the operator's property that is property used in mining operation activities from the first accumulation site of the mineral substance after it is removed from the mine. In order to distinguish the depreciation allowance calculated on such property used in mining operation activities from the first accumulation site of the mineral substance after it is removed from the mine from the depreciation allowance calculated on the operator's other property, new classes of depreciable property will be created and will correspond solely to such property used in mining operation activities from the first accumulation site of the mineral substance after it is removed from the mine.

A processing allowance will also be granted to the operator, in calculating its output value at the mine shaft head, for a fiscal year, in respect of a mine it operates. This allowance will be equal to the processing allowance the operator may deduct in calculating its annual earnings from the mine, for the fiscal year.

To better recognize the increase in value brought to the mineral substance by processing activities and to encourage such processing activities in Québec, the processing allowance that an operator may deduct in calculating its annual earnings from a mine will be increased for a fiscal year starting after December 31, 2013.

Accordingly, three rates will be used for the calculation of the processing allowance an operator may deduct, for a fiscal year starting after December 31, 2013, in calculating its annual earnings from the mine and in calculating its output value at the mine shaft head in respect of the mine. A 10% rate will apply in respect of processing assets used in processing ore from the mine where the operator only carries out concentration (including smelting or refining of ore from a gold or silver mine). A 13% rate will apply in respect of processing assets used in processing ore from the mine where the operator carries out smelting or refining of ore, other than ore from a gold or silver mine, exclusively outside Québec. However, this 13% rate will be reduced by three percentage points in respect of assets used for the concentration of ore in the proportion where such assets are used for the concentration of ore that is neither smelted nor refined by the operator. A 20% rate will apply in respect of processing assets used in processing ore from the mine where the operator carries out smelting or refining of ore, other than ore from a gold or silver mine, in Québec. However, this 20% rate will be reduced by seven percentage points in respect of a processing asset used in the processing of ore in the proportion where such asset is used for the processing of ore that is neither smelted nor refined in Québec. This 20% rate will be reduced by 10 percentage points in respect of processing assets used for the concentration of ore in the proportion where such assets are used for the concentration of ore that is neither smelted nor refined by the operator.

The processing allowance that an operator may deduct, for a fiscal year starting after December 31, 2013, in calculating its annual earnings from the mine and in calculating the output value at the mine shaft head in respect of the mine, may not exceed the greater of 75% of its annual earnings from the mine, for the fiscal year, before deducting certain allowances, or 30% of its output value at the mine shaft head in respect of the mine, for the fiscal year, before deducting the processing allowance.

An operator's output value at the mine shaft head, for a fiscal year, in respect of a mine it operates may in no case be less than 10% of the operator's gross value of annual output from the mine, for such fiscal year.

Changes will also be made to the rules concerning the calculation of the mining tax on annual profit. The improvement to the processing allowance mentioned above will apply to an operator for the calculation of its annual earnings for a fiscal year starting after December 31, 2013. Accordingly, for the calculation of the processing allowance that an operator may deduct in calculating its annual earnings from a mine, for a fiscal year starting after December 31, 2013, the 7% and 13% rates will be replaced by rates of 10%, 13% and 20%. In addition, the ceiling on the processing allowance calculated by applying a 55% rate to the annual earnings from the mine for the fiscal year, before deducting certain allowances, will be replaced, for a fiscal year starting after December 31, 2013, with a ceiling corresponding to the greater of 75% of the operator's annual earnings from the mine, for the fiscal year, before deducting certain allowances, or 30% of the operator's output value at the mine shaft head in respect of the mine, for the fiscal year, before deducting the processing allowance.

The 16% tax rate applicable for the determination of the mining tax on annual profit will be replaced, for a fiscal year starting after December 31, 2013, with progressive tax rates ranging from 16% to 28%. The tax rates applicable to an operator on its annual profit, for such a fiscal year, will be determined on the basis of its profit margin for the fiscal year.

Integrity rules will also be added to the *Mining Tax Act*. First of all, an operator will be deemed to have alienated the depreciable property that it uses in the mining operation if it ceases, at a particular time as of the day of publication of this information bulletin, to be an operator for the purposes of the *Mining Tax Act*. Accordingly, an operator that ceases to use depreciable property in the mining operation, at a particular time as of the day of publication of this information bulletin, will be deemed to have alienated such property. In addition, an operator and an entity with which it is associated, in a fiscal year starting at a particular time as of the day of publication of this information bulletin, and to which it alienates mineral substances or processing products during such fiscal year, may, if certain conditions are met, be considered as one and the same person carrying out mining operation work for the purposes of the *Mining Tax Act*, for such fiscal year.

Where an operator is required to pay, for a fiscal year, mining duties corresponding to its minimum mining tax for such fiscal year, the excess of its minimum mining tax for the fiscal year over its mining tax on its annual profit for the fiscal year will be included in a cumulative minimum mining tax account. This cumulative minimum mining tax account will enable the operator to reduce the amount of its mining duties payable, for a subsequent fiscal year, where its mining duties payable, for such fiscal year, correspond to its mining tax on its annual profit for the fiscal year.

Lastly, while the rate applicable for the calculation of the credit on duties refundable for losses remains unchanged, changes will be made to the calculation of an operator's adjusted annual loss, for a fiscal year, to reflect the changes made to the processing allowance.

9 Ibid.

⁸ Ibid.

1. INTRODUCTION OF A NEW METHOD OF CALCULATING MINING DUTIES

The *Mining Tax Act* will be amended such that the mining duties an operator is required to pay, for a fiscal year starting after December 31, 2013, correspond to the greater of the following amounts:

- its minimum mining tax for the fiscal year;
- its mining tax on its annual profit for the fiscal year.

An operator that is required to pay, for a fiscal year, mining duties corresponding to its mining tax on its annual profit for the fiscal year may deduct from its mining duties payable, for such fiscal year, an amount corresponding to its non-refundable credit on account of the minimum mining tax¹⁰ for such fiscal year.

An operator that is required to pay, for a fiscal year, mining duties corresponding to its minimum mining tax for the fiscal year may deduct from its mining duties payable, for such fiscal year, an amount corresponding to its credit on duties refundable for losses for such fiscal year. An operator whose credit on duties refundable for losses exceeds its mining duties payable for a fiscal year may claim a refund of an amount corresponding to such excess amount.

1.1 Calculation details of the minimum mining tax

The minimum mining tax of an operator, for a fiscal year starting after December 31, 2013, corresponds to the total of the following amounts:

- the amount obtained by multiplying, by a rate of 1%, the lesser of all the amounts each of which is the operator's output value at the mine shaft head, for the fiscal year, in respect of each mine it operates during such fiscal year, and its reduced-rate taxable amount, for the fiscal year;
- the amount obtained by multiplying, by a rate of 4%, the amount, if any, by which all the amounts each of which is the operator's output value at the mine shaft head, for the fiscal year, in respect of each mine it operates during such fiscal year, exceed its reduced-rate taxable amount, for the fiscal year.

For the calculation of the minimum mining tax, an operator's output value at the mine shaft head, for a fiscal year, in respect of a mine it operates, may in no case be less than 10% of the operator's gross value of annual output from such mine, as such expression is defined in the *Mining Tax Act*,¹¹ for such fiscal year. Accordingly, if the result of the calculation of the output value at the mine shaft head in respect of a mine of the operator, for a fiscal year, is less than 10% of the operator's gross value of annual output from the mine for the fiscal year, the operator's output value at the mine shaft head in respect of the mine, for the fiscal year, will be deemed equal to an amount corresponding to 10% of the operator's gross value of annual output from the mine for the fiscal year.

The rules applicable to the non-refundable credit on account of the minimum mining tax are set out in section 2 on page 24 of this information bulletin.

¹¹ In this regard, see sections 6 to 7 of the *Mining Tax Act*.

Reduced-rate taxable amount of an operator

The reduced-rate taxable amount of an operator, for the calculation of its minimum mining tax for a fiscal year, corresponds to \$80 million, unless the operator is associated with one or more other operators, in the fiscal year, or its fiscal year has fewer than twelve months.

Where the operator is associated with one or more other operators, in a fiscal year, such amount of \$80 million must be covered by a sharing agreement among the associated operators. The reduced-rate taxable amount of an operator, for a fiscal year in which it is associated with other operators, corresponds to the amount indicated as such in the sharing agreement. In order to benefit from the 1% rate on all or part of its output value at the mine shaft head for all the mines it operates, an operator must enclose with its mining tax return, for such fiscal year, the agreement allowing it to use all or part of the amount of \$80 million, for such fiscal year.

Where an operator's fiscal year has fewer than twelve months, the operator's reduced-rate taxable amount, for the fiscal year, is equal to its reduced-rate taxable amount otherwise calculated multiplied by fraction obtained by dividing the number of days in such fiscal year by 365.

Output value at the mine shaft head

An operator's output value at the mine shaft head, for a fiscal year, in respect of a mine it operates, corresponds to the amount determined by the following formula:

A - B

In this formula, the letter A represents the total of the following amounts:

- the portion of the operator's gross value of annual output for the fiscal year that is reasonably attributable to the operation of the mine;¹²
- where, for the purposes of determining the operator's gross value of annual output for the fiscal year, the Minister authorizes use of a method for the fiscal year different from the method the operator used for the preceding fiscal year, and such preceding fiscal year started after December 31, 2013, the excess, if any, of the amount that would represent the portion of the gross value of annual output for the preceding fiscal year that is reasonably attributable to the operation of the mine if such value had been established according to the method used by the operator for the determination of the gross value of annual output for the fiscal year, over the amount that represents the portion of the gross value of annual output for the preceding fiscal year that is reasonably attributable to the operation of the mine;¹³

¹² See the preceding note.

Where an amount must be included on such account in the calculation of the operator's output value at the mine shaft head, for the fiscal year, in respect of a mine it operates, such amount will correspond to the amount determined under subparagraph *b* of subparagraph 1 of the fourth paragraph of section 8 of the *Mining Tax Act* in respect of the mine, for the fiscal year.

- if particular gemstones from the mine have not been mixed with other gemstones, if the operator alienates such particular gemstones in a fiscal year in favour of a person to whom the operator is not related, if the value of such particular gemstones was included in the determination of the operator's gross value of annual output for a prior fiscal year, and if such prior fiscal year started after December 31, 2013, the excess, if any, of the amount received or receivable in consideration for such alienation over the value that was included;¹⁴
- an amount, other than an amount of government assistance, received or receivable by the operator during the fiscal year, from a person or partnership, because of an expense incurred by the operator for a particular fiscal year that started after December 31, 2013 in respect of the mine and that is an expense deducted in calculating the operator's output value at the mine shaft head in respect of the mine for the particular year;
- the portion of the recapture of depreciation for property of class 1A, class 2A, class 3A and class 4A that is reasonably attributable to the operation of the mine, for the fiscal year, calculated taking the clarifications made below into account.

The letter B represents the total of the following amounts reasonably attributable to the operation of the mine:

- all of the expenses incurred by the operator during the fiscal year that are otherwise deductible in calculating the operator's annual earnings from the mine, for the fiscal year and that are reasonably attributable to activities of crushing, grinding, sieving, processing, 15 handling, transportation or storage of the mineral substance from its first accumulation site after it is removed from the mine and, if applicable, the processing products obtained, and to the marketing activities of the mineral substance and, if applicable, the processing products obtained, including the general administrative expenses the operator incurs during the fiscal year and that relate to such crushing, grinding, sieving, processing, handling, transportation, storage and marketing activities;
- the amount deducted by the operator for the fiscal year on account of depreciation allowance for property of class 1A, class 2A, class 3A and class 4A that is reasonably attributable to the operation of the mine, for the fiscal year, calculated taking the clarifications made below into account;
- the amount deducted by the operator for the fiscal year in respect of the mine on account of processing allowance, calculated taking the clarifications made below into account;
- the portion of the terminal loss, for the fiscal year, for property of class 1A, class 2A, class 3A and class 4A that is reasonably attributable to the operation of the mine, calculated taking the clarifications made below into account;

Where an amount must be included on such account in the calculation of the operator's output value at the mine shaft head, for the fiscal year, in respect of a mine it operates, such amount will correspond to the amount determined under subparagraph *c* of subparagraph 1 of the fourth paragraph of section 8 of the *Mining Tax Act* in respect of the mine, for the fiscal year.

¹⁵ See note 3.

- where, for the purposes of determining an operator's gross value of annual output for a fiscal year, the Minister authorizes use of a method for the fiscal year different from the method the operator used for the preceding fiscal year, and such preceding fiscal year began after December 31, 2013, the excess, if any, of the amount that represents the portion of the operator's gross value of annual output for the preceding fiscal year that is reasonably attributable to the operation of the mine, over the amount that would represent the portion of the operator's gross value of annual output for the preceding fiscal year that is reasonably attributable to the operation of the mine if such value had been established according to the method used by the operator for the determination of the gross value of annual output for the fiscal year;¹⁶
- if particular gemstones from the mine have not been mixed with other gemstones, if the operator alienates the particular gemstones in a fiscal year in favour of a person to whom the operator is not related, if the value of such particular gemstones was included in the determination of the operator's gross value of annual output for a prior fiscal year, and if such prior fiscal year started after December 31, 2013, the excess, if any, of the value thus included over the amount received or receivable in consideration for such alienation.¹⁷

Depreciation rules

To determine an operator's output value at the mine shaft head in respect of a mine it operates, for a fiscal year, only the portion of the depreciation allowance that is attributable to property used in mining operation activities from the first accumulation site of the mineral substance after it is removed from the mine may be deducted. Accordingly, property used in mining operation activities from the first accumulation site of the mineral substance after it is removed from the mine that belongs to the operator at the beginning of its first fiscal year starting after December 31, 2013 and that is included in the existing classes of depreciable property will be transferred, at that time ("time of transfer") to new classes of depreciable property.

For the purposes of the depreciation rules, the expression "property used in mining operation activities from the first accumulation site of the mineral substance after it is removed from the mine" means a processing asset, as such expression is defined in the *Mining Tax Act*, ¹⁹ as well as property, other than a processing asset, used entirely or almost entirely for crushing, grinding, sieving, handling, transportation or storage of the mineral substance from its first accumulation site after it is removed from the mine and, if applicable, the processing products obtained.²⁰

Where an amount must be included on such account in the calculation of the operator's output value at the mine shaft head, for the fiscal year, in respect of a mine it operates, such amount will correspond to the amount determined under subparagraph *j* of subparagraph 2 of the fourth paragraph of section 8 of the *Mining Tax Act* in respect of the mine, for the fiscal year.

Where an amount must be included on such account in the calculation of the operator's output value at the mine shaft head, for the fiscal year, in respect of a mine it operates, such amount will correspond to the amount determined under subparagraph *k* of subparagraph 2 of the fourth paragraph of section 8 of the *Mining Tax Act* in respect of the mine, for the fiscal year.

¹⁸ The existing classes of depreciable property are class 1, class 2, class 3 and class 4.

¹⁹ This expression is defined in section 1 of the *Mining Tax Act*.

For greater clarity, property used in the course of marketing activities, as well as property used in the course of the operator's administrative activities, will not be property used in mining operation activities from the first accumulation site of the mineral substance after it is removed from the mine.

New classes of depreciable property

Four new classes of depreciable property, class 1A, class 2A, class 3A and class 4A, will be added to the existing classes of depreciable property.

Class 1A will consist of property used in mining operation activities from the first accumulation site of the mineral substance after it is removed from the mine included in class 1 property and that belongs to the operator at the time of transfer.

Class 2A will consist of property used in mining operation activities from the first accumulation site of the mineral substance after it is removed from the mine included in class 2 property and that belongs to the operator at the time of transfer.

Class 3A will consist of property used in mining operation activities from the first accumulation site of the mineral substance after it is removed from the mine included in class 3 property and that belongs to the operator at the time of transfer.

Lastly, class 4A will consist of property used in mining operation activities from the first accumulation site of the mineral substance after it is removed from the mine included in class 4 property and that belongs to the operator at the time of transfer. In addition, class 4A property will include property used in mining operation activities from the first accumulation site of the mineral substance after it is removed from the mine, acquired by the operator after the time of transfer, that is a road, a building, equipment or service property and is regularly used in the mining operation.

For greater clarity, property acquired by the operator after the time of transfer will be included in class 4 property if it is a road, a building, equipment or service property and is regularly used in the mining operation and is not property of class 4A.

Undepreciated capital cost

The undepreciated capital cost of the operator's class 1A property, immediately after the time of transfer, corresponds to an amount equal to the proportion of the undepreciated capital cost of the operator's class 1 property, determined at the time of transfer, that is represented by the total of the capital cost of each property transferred to class 1A over the total capital cost of each class 1 property of the operator at the time of the transfer.

The undepreciated capital cost of the operator's class 1 property, immediately after the time of transfer, corresponds to the amount by which the undepreciated capital cost of the operator's class 1 property at the time of transfer exceeds the undepreciated capital cost of the operator's class 1A property immediately after the time of transfer.

The rules stated above for calculating the undepreciated capital cost of class 1A property and the undepreciated capital cost of class 1 property will apply, with the necessary adaptations, for the determination of the undepreciated capital cost of the operator's class 2A property, class 3A property and class 4A property immediately after the time of transfer, and for the determination of the undepreciated capital cost of the operator's class 2 property, class 3 property and class 4 property immediately after the time of the transfer.

Moreover, an amount of government assistance that an operator receives or is entitled to receive after alienation of property of a new class,²¹ during a fiscal year starting after December 31, 2013, in respect of the property or for the acquisition of the property that it alienated, and that would have reduced the capital cost of the property had such amount been received prior to its alienation, will reduce the undepreciated capital cost of the property of the class to which such property belonged at the time of its alienation.²²

Similarly, an amount of government assistance that an operator repays pursuant to a legal obligation, during a fiscal year starting after December 31, 2013, in respect of property that it alienated, and that would have been included in the calculation of the capital cost of the property had such amount been repaid prior to its alienation, will increase the undepreciated capital cost of the property of the new class to which such property belonged at the time of its alienation.²³

Capital cost of property and depreciation allowance granted before the time of transfer

Property transferred from an existing class to a new class will be deemed, immediately after the time of transfer, to be property of the new class and no longer property of the existing class. Accordingly, the capital cost of each property transferred will be deemed, immediately after the time of transfer, to be the capital cost of such property for the new class to which it belongs following the transfer and to cease being part of the capital cost of the property of the existing class to which it belonged before the transfer.

The amount corresponding to the excess of the total of the capital cost of each property transferred from an existing class to a new class over the undepreciated capital cost of property of the new class immediately after the time of transfer will be deemed to be an amount of depreciation allowance granted to the operator in respect of the property of the new class and to cease being an amount of depreciation allowance granted to the operator in respect of property of the existing class.

Depreciation allowance

The depreciation allowance relating to property of class 1A, class 2A and class 3A that an operator may claim in calculating the output value at the mine shaft head in respect of a mine it operates, for a fiscal year, will correspond to the portion that is reasonably attributable to the operation of the mine of the lesser of the following amounts:²⁴

- the amount obtained by applying the stipulated percentage to the capital cost of property of such class, for such fiscal year;
- the undepreciated capital cost of property of such class at the end of the fiscal year.

²¹ Namely class 1A, class 2A, class 3A and class 4A.

This rule is similar to the one stipulated in subparagraph e of subparagraph 2 of the definition of the expression "undepreciated capital cost" of section 9 of the *Mining Tax Act*.

This rule is similar to the one stipulated in subparagraph *d* of subparagraph 1 of the definition of the expression "undepreciated capital cost" of section 9 of the *Mining Tax Act*.

Where the operator no longer owns property of a class at the end of a fiscal year, the amount it may deduct on account of depreciation allowance in respect of the property of such category, for such fiscal year, will be equal to zero.

The stipulated percentage for determining the depreciation allowance relating to property of a given class that an operator may claim will be as follows:

- 15% for class 1A property;
- 30% for class 2A property;
- 100% for class 3A property.

The depreciation allowance relating to class 4A property that an operator may claim in calculating the output value at the mine shaft head in respect of a mine it operates, for a fiscal year, will correspond to the portion that is reasonably attributable to the operation of the mine of an amount obtained by multiplying the undepreciated capital cost of the property of such class at the end of such fiscal year by 30%.²⁵

An operator may not deduct an amount on account of depreciation allowance relating to class 4A property in calculating the output value at the mine shaft head in respect of a mine it operates, for a fiscal year, if the undepreciated capital cost of its class 1A property, its class 2A property and its class 3A property, at the end of such fiscal year, reduced by the amount it deducts in respect of such property, for such fiscal year, is greater than zero.

In addition, an operator must deduct in calculating the annual earnings from a mine it operates, on account of depreciation allowance relating to the property of a new class, for a fiscal year, an amount equal to the amount it deducted in calculating the output value at the mine shaft head in respect of such mine, on account of depreciation allowance relating to the property of such class, for such fiscal year.

Recapture of depreciation

An operator must include in the calculation of the output value at the mine shaft head in respect of a mine it operates, for a fiscal year, an amount on account of the portion of recapture of depreciation relating to class 1A property, class 2A property, class 3A property and class 4A property that is reasonably attributable to the operation of the mine, for such fiscal year.

The rules stipulated in the *Mining Tax Act*²⁶ for the calculation of the portion of the recapture of depreciation that an operator must include in calculating the annual earnings from a mine it operates, for a fiscal year, will apply, with the necessary adaptations, for the calculation of the portion of the recapture of depreciation that an operator must thus include in calculating the output value at the mine shaft head in respect of a mine it operates, for a fiscal year.²⁷

²⁵ See the preceding note.

These rules are stipulated in sections 10.2 and 10.3 of the *Mining Tax Act.*

The rules applicable for the calculation of the amount an operator must include in calculating the annual earnings from a mine it operates, for a fiscal year, on account of recapture of depreciation relating to property of class 1 or class 2 will apply, with the necessary adaptations, for the calculation of such amount that it must include on account of recapture of depreciation relating to property of class 1A or class 2A. Similarly, the rules applicable for the calculation of the amount an operator must include in calculating the annual earnings from a mine it operates, for a fiscal year, on account of recapture of depreciation relating to property of class 3 or class 4 will apply, with the necessary adaptations, for the calculation of such amount that it must include on account of recapture of depreciation relating to property of class 3A or class 4A.

However, the amount an operator is deemed to have claimed as depreciation allowance, following the transfer of processing properties from existing classes²⁸ to new classes²⁹ will not entail recapture of depreciation in the calculation of the operator's output value at the mine shaft head, for a fiscal year, since such amount has not reduced the output value at the mine shaft head in respect of a mine of such operator for a preceding fiscal year.³⁰

Accordingly, the amount of recapture of depreciation that an operator must include in calculating the output value at the mine shaft head in respect of a mine it operates, for a fiscal year, may not be greater than the excess of the total of the amounts actually³¹ deducted on account of depreciation allowance for the properties of the particular class in the calculation of the output value at the mine shaft head in respect of the mine, for the preceding fiscal years, over the total of the amounts included on account of recapture of depreciation relating to properties of the particular class in the calculation of the output value at the mine shaft head in respect of the mine, for the preceding fiscal years, as the case may be.

Terminal loss

An operator must deduct in the calculation of the output value at the mine shaft head in respect of a mine it operates, for a fiscal year, an amount on account of the portion of the terminal loss relating to class 1A property, class 2A property, class 3A property and class 4A property that is reasonably attributable to the operation of the mine, for such fiscal year.

The rules stipulated in the *Mining Tax Act*³² for the calculation of the portion of the terminal loss that an operator must deduct in calculating the annual earnings from a mine it operates, for a fiscal year, where it is no longer, at the end of the fiscal year, the owner of property of a particular class, will apply, with the necessary adaptations, for the calculation of the portion of the terminal loss that an operator must thus deduct in calculating the output value at the mine shaft head in respect of a mine it operates, for a fiscal year.³³

²⁸ See note 18.

²⁹ See note 21.

This amount corresponds to the excess of the total of the capital cost of each property transferred from an existing class to a new class over the undepreciated capital cost of property of the new class immediately after the time of transfer.

³¹ For greater clarity, this amount does not include the amount of the depreciation allowance deemed to have been granted to the operator following the transfer of the operator's property from an existing class to a new class

These rules are stipulated in sections 10.4 and 10.5 of the *Mining Tax Act.*

The rules applicable for the calculation of the amount an operator must deduct in calculating the annual earnings from a mine it operates, for a fiscal year, on account of terminal loss relating to property of class 1 or class 2 will apply, with the necessary adaptations, for the calculation of such amount that it must deduct on account of terminal loss relating to property of class 1A or class 2A. Similarly, the rules applicable for the calculation of the amount an operator must deduct in calculating the annual earnings from a mine it operates, for a fiscal year, on account of terminal loss relating to property of class 3 or class 4 will apply, with the necessary adaptations, for the calculation of such amount that it must deduct on account of terminal loss relating to property of class 3A or class 4A.

Other depreciation rules

The other rules stipulated in the *Mining Tax Act* relating to depreciation will apply, with the necessary adaptations, to class 1A property, class 2A property, class 3A property and class 4A property.

Rules for calculating the processing allowance

The amount of the processing allowance that an operator may deduct in calculating the output value at the mine shaft head, for the fiscal year, in respect of a mine it operates corresponds to its processing allowance, for the fiscal year, calculated according to the rules stipulated in the *Mining Tax Act*,³⁴ taking into account the changes made to them by this information bulletin.³⁵

1.2 Changes to the mining tax on annual profit

To determine an operator's amount of mining tax on annual profit, for a fiscal year starting after December 31, 2013, the rules stipulated in the *Mining Tax Act* will apply, subject to the changes made by this information bulletin to the calculation of an operator's annual earnings from a mine and to the tax rates applicable for the calculation of its mining tax on its annual profit for the fiscal year, as well as the addition of integrity rules.³⁶

The 16% tax rate applicable for the calculation of the mining tax on an operator's annual profit, for a fiscal year, will be replaced by progressive tax rates that each apply to a portion of the operator's annual profit, for the fiscal year, based on its profit margin for the fiscal year.

The mining tax on an operator's annual profit, for a fiscal year, will correspond to the total of the amounts obtained by multiplying each portion of the operator's annual profit, for the fiscal year, by the tax rate applicable to such portion of its annual profit.

□ Changes to the calculation of an operator's annual earnings from a mine

The calculation of an operator's annual earnings from a mine will be changed, for a fiscal year starting after December 31, 2013, to enhance the processing allowance an operator may deduct and to reflect the implementation of the four new classes³⁷ of depreciable property.

³⁴ These rules are stipulated in sections 21 to 25 of the *Mining Tax Act*.

These changes are set out in the subsection "Measure fostering processing in Québec" on page 17 of this information bulletin.

These integrity rules are set out in section 1.3 on page 21 of this information bulletin.

³⁷ See note 21.

Measure fostering processing in Québec

To foster processing in Québec, the processing allowance is improved.

Accordingly, the amount of the processing allowance that an operator may deduct in calculating its annual earnings from a mine it operates, for a fiscal year starting after December 31, 2013, may not exceed the lesser of the following amounts:

all of the amounts determined according to the following formula in respect of each property
of the operator (hereafter called "particular property") that is an asset used in processing³⁸
ore from the mine during the fiscal year and that is in its possession at the end of the fiscal
year:

 $A \times B$;

- an amount corresponding to the greater of the following amounts:
 - 75% of the operator's annual earnings from the mine, for such fiscal year, determined without taking into account the processing allowance, the additional depreciation allowance,³⁹ the additional allowance for a northern mine⁴⁰ and the additional allowance for a mine situated in Northern Québec.⁴¹
 - 30% of the operator's output value at the mine shaft head in respect of the mine, for the fiscal year, determined without taking the processing allowance into account.

In the above formula:

- the letter A represents the ratio of the use of the particular property in processing ore from such mine and the total use of the particular property during the fiscal year;
- the letter B represents an amount equal to:
 - where the operator does not carry out smelting or refining, 10% of its capital cost of the particular property;
 - where the operator carries out smelting or refining exclusively outside Québec, one of the following amounts:
 - 10% of the capital cost of the particular property, where such property is used solely in processing ore from a gold or silver mine,

³⁸ See note 4.

³⁹ This allowance is defined in sections 26.0.1 to 26.0.3 of the Mining Tax Act.

This allowance is defined in sections 26.1 to 26.3 of the *Mining Tax Act.*

This allowance is defined in sections 26.4 and 26.5 of the *Mining Tax Act*.

- the excess of 13% of the capital cost of the particular property, where such property is used for processing ore other than ore from a gold or silver mine, over 3% of the proportion of the capital cost of the particular property, where it is used for purposes of concentration, represented by the quantity of ore concentrated by the operator that it does not smelt or refine and whose processing required the use of the particular property, compared with the total quantity of ore whose processing required the use of the particular property;
- where the operator carries out smelting or refining in Québec, one of the following amounts:
 - 10% of the capital cost of the particular property, where such property is used solely in processing ore from a gold or silver mine,
 - the excess of 20% of the capital cost of the particular property, where such property is used in processing ore other than ore from a gold or silver mine, over the following amounts:
 - 7% of the proportion of the capital cost of the particular property, where it is used for purposes of processing ore by the operator, represented by the quantity of ore that is smelted or refined by the operator but that is not smelted or refined by the operator in Québec and whose processing required the use of the particular property, compared to the total quantity of ore whose processing required the use of the particular property,
 - 10% of the proportion of the capital cost of the particular property, where it is used for purposes of concentration, represented by the quantity of concentrated ore that is neither smelted nor refined by the operator and whose processing required the use of the particular property, compared to the total quantity of ore whose processing required the use of the particular property.

The other rules for calculating the processing allowance remain unchanged.

■ Impact of the addition of new classes of depreciable property

An operator must, for the calculation of the annual earnings from a mine it operates, for a fiscal year starting after December 31, 2013, subtract an amount on account of depreciation allowance for property of class 1A, class 2A, class 3A and class 4A that is attributable to the operation of the mine, equal to the amount deducted on that account, for the fiscal year, in the calculation of the output value at the mine shaft head in respect of the mine, as the case may be. If it does not deduct an amount on that account in the calculation of the output value at the mine shaft head in respect of the mine, for a fiscal year, it may not deduct an amount on that account in the calculation of the annual earnings from such mine, for such fiscal year.

Moreover, an operator must add in the calculation of the annual earnings from a mine it operates, for a fiscal year, the portion of the recapture of depreciation for property of class 1A, class 2A, class 3A and class 4A that is reasonably attributable to the operation of the mine, for the fiscal year. Such amount may be greater than the amount added on that account in the calculation of the output value at the mine shaft head in respect of the mine, for such fiscal year, taking into account the possible recapture of the depreciation allowance taken for a fiscal year that started no later than December 31, 2013.⁴²

The rules stipulated in the *Mining Tax Act*⁴³ for the calculation of the portion of the recapture of depreciation attributable to property of class 1, class 2, class 3 and class 4 that an operator must include in calculating the annual earnings from a mine it operates, for a fiscal year, will apply, with the necessary adaptations, for the calculation of the portion of the recapture of depreciation attributable to property of class 1A, class 2A, class 3A and class 4A that an operator must thus include in calculating the annual earnings from a mine it operates, for a fiscal year.⁴⁴

Lastly, an operator must subtract in the calculation of the annual earnings from a mine it operates, for a fiscal year, the portion of the terminal loss for property of class 1A, class 2A, class 3A and class 4A that is reasonably attributable to the operation of the mine, for the fiscal year, corresponding to the amount deducted on that account in the calculation of the output value at the mine shaft head in respect of the mine for such fiscal year.

Other rules maintained

The other rules applicable to the calculation of an operator's annual earnings from a mine it operates, for a fiscal year, stipulated in the *Mining Tax Act*, will remain unchanged.

□ Rules applicable to the calculation of an operator's annual profit maintained

The rules applicable for the calculation of an operator's annual profit for a fiscal year will remain unchanged.

□ Calculation of an operator's profit margin for a fiscal year

An operator's profit margin, for a fiscal year, will correspond to the proportion represented by the operator's annual profit for the fiscal year over all of the amounts each of which is the operator's gross value of annual output, as such expression is defined in the *Mining Tax Act*, 45 in respect of each mine that it operates for the fiscal year.

⁴² The difference corresponds to the depreciation allowance deemed to have been granted to the operator following the transfer of the operator's property from an existing category to a new category. In this regard, see the subsection "Capital cost of property and depreciation allowance granted before the time of transfer" on page 13.

These rules are stipulated in sections 10.2 and 10.3 of the *Mining Tax Act.*

⁴⁴ See note 27.

See note 11. For the calculation of an operator's profit margin, for a fiscal year, if the set of amounts each of which is the operator's gross value of annual output in respect of each mine it operates for a fiscal year were equal to zero, such set will be deemed equal to \$1.

Operator's annual profit

For the calculation of an operator's profit margin, for a fiscal year, if the result obtained by applying the formula used to determine the operator's annual profit,⁴⁶ for the fiscal year, is equal to or less than zero, it shall be deemed equal to one dollar.⁴⁷

□ Determination of the tax rate applicable to annual profit

The tax rates that each apply to a portion of an operator's annual profit, for the calculation of its mining tax for a fiscal year starting after December 31, 2013, will be as follows:

- a 16% tax rate applicable to the portion of the operator's annual profit, for the fiscal year, attributable to the first segment of profit margin;
- a 22% tax rate applicable to the portion of the operator's annual profit, for the fiscal year, attributable to the second segment of profit margin, if any;
- a 28% tax rate applicable to the portion of the operator's annual profit, for the fiscal year, attributable to the third segment of profit margin, if any;

The portion of an operator's annual profit, for a fiscal year, attributable to a particular profit margin segment, will be determined by the following formula:

Where:

- the letter A represents the operator's annual profit for the fiscal year;
- the letter B represents the lesser⁴⁸ of the following percentages:
 - the excess of the operator's profit margin for the fiscal year over the upper limit of the segment preceding the particular segment, if any,
 - the excess of the upper limit of the particular segment over the upper limit of the segment preceding the particular segment, if any;
- the letter C represents the operator's profit margin for the fiscal year.

This formula is given in the first paragraph of section 8 of the *Mining Tax Act.*

For the calculation of an operator's profit margin, for a fiscal year, if the result of the calculation obtained by applying the formula used to determine the operator's annual profit (see preceding note), for the fiscal year, were greater than the set of amounts each of which is the operator's gross value of annual output in respect of each mine it operates for the fiscal year, used for the calculation of its profit margin for the fiscal year, the result of such calculation will be deemed equal to the set of such amounts.

⁴⁸ If the percentage thus calculated is equal to or less than zero, this means that no portion of the operator's annual profit is attributable to this segment of profit margin.

For the calculation of the tax rate applicable to a portion of the operator's annual profit, for a fiscal year, the first segment of profit margin will correspond to the segment not exceeding 35%. The second segment of profit margin will correspond to the segment exceeding 35% but not exceeding 50%. The third segment of profit margin will correspond to the segment exceeding 50% but not exceeding 100%.

For example, the mining tax on the annual profit of an operator, for a fiscal year, that, for such fiscal year, had an annual profit of \$100 million and a profit margin of 62%, would be \$19 774 194, i.e. the total of the following amounts:

- an amount of \$9 032 258 representing a mining tax calculated at a 16% tax rate on the portion of its annual profit attributable to the first segment of profit margin, i.e. \$56 451 613;⁴⁹
- an amount of \$5 322 581 representing a mining tax calculated at a 22% tax rate on the portion of its annual profit attributable to the second segment of profit margin, i.e. \$24 193 548;⁵⁰
- an amount of \$5 419 355 representing a mining tax calculated at a 28% rate on the portion of its annual profit attributable to the third segment of profit margin, i.e. \$19 354 839.⁵¹

1.3 **Integrity rules**

□ Deemed alienation where a person or a partnership ceases to be an operator

Under the *Mining Tax Act*, where an operator ceases, for an indeterminate period, all activities relating to its mining operation, the operator's fiscal year is deemed to end immediately before the time it ceases such activities. To ensure that there is, for the fiscal year, recapture of the excess deduction for depreciation allowance or realization of the terminal loss where the depreciation allowance is insufficient, the *Mining Tax Act* will be amended so that a person or a partnership that ceases, for an indeterminate period, all activities relating to its mining operation is deemed to alienate, at the time (hereafter called "time of alienation") immediately before the time immediately before the one when it ceases such activities, each of its properties of class 1, class 2, class 3, class 4, class 1A, class 2A, class 3A and class 4A, for proceeds of alienation equal to the lesser of the fair market value of such property at the time of alienation or the capital cost of such property at such time (hereafter called "proceeds of alienation").

If such person or partnership resumes its activities relating to its mining operation, it will be deemed to reacquire each such property, at the time it resumes such activities, for a capital cost equal to the lesser of such proceeds of alienation of the property or its fair market value at such time.

⁴⁹ I.e. \$100 million \times [the lesser of (62% - 0%) or (35% - 0%)] \div 62%.

⁵⁰ I.e. \$100 million \times [the lesser of (62% - 35%) or (50% - 35%)] \div 62%.

⁵¹ I.e. \$100 million \times [the lesser of (62% - 50%) or (100% - 50%)] \div 62%.

Application date

This amendment to the *Mining Tax Act* will apply regarding a person or a partnership that ceases to be an operator at a particular time as of the day of publication of this information bulletin.

Deemed alienation where a property ceases to be used

The *Mining Tax Act* will be amended so that an operator that ceases, at a particular time, to actually use in the mining operation, property of class 1, class 2, class 1A or class 2A, is deemed to have alienated such property, at such time, for proceeds of alienation equal to the lesser of the fair market value of such property at such time or the capital cost of such property at such time (hereafter called "proceeds of alienation").

Similarly, an operator that ceases, at a particular time, to regularly use in the mining operation property of class 3, class 4, class 3A or class 4A, will be deemed to have alienated such property, at such time, for proceeds of alienation equal to the lesser of the fair market value of such property at such time or the capital cost of such property at such time (hereafter called "proceeds of alienation").

Such operator will be deemed to have reacquired such property immediately after such time at a capital cost equal to the proceeds of alienation.

Application date

This amendment to the *Mining Tax Act* will apply to an operator regarding property that it ceases to use actually or regularly, as the case may be, in the mining operation at a particular time as of the day of publication of this information bulletin.

□ Presumption that an operator and an associated entity are one and the same person

The *Mining Tax Act* will be amended to stipulate that where during a fiscal year an operator alienates, directly or indirectly, in favour of an entity with which it is associated (hereafter called "associated entity") in such fiscal year, all or part of the mineral substances and, if applicable, the processing products from the operation of a mine in Québec, that such associated entity would be considered to be carrying out mining operation work regarding such mineral substances and, if applicable, such processing products if it had itself extracted the mineral resources from Québec soil and, in the view of the Minister of Natural Resources, it is reasonable to consider that one of the main reasons for the separate existence of the operator and the associated entity, during such fiscal year, is to reduce the amount of mining duties that would otherwise be payable under the *Mining Tax Act* or to increase the credit on duties refundable for losses or the non-refundable credit on account of the minimum mining tax that may be claim, for such fiscal year, the operator and such associated entity will be deemed, for the purposes of the *Mining Tax Act* for such fiscal year, to be one and the same person carrying out all the mining operation work of the operator and the associated entity in respect of the mineral substances and, if applicable, the processing products from the operation of the mine.

INFORMATION BULLETIN

Accordingly, the operator's gross value of annual output from the mine, the operator's output value at the mine shaft head in respect of the mine, the operator's annual earnings from the mine, the operator's annual profit, the mining duties payable by the operator, the operator's credit on duties refundable for losses, the operator's non-refundable credit on account of the minimum mining tax and any other amount determined under a provision of the *Mining Tax Act* in respect of the operator, for the fiscal year, will be calculated taking into account all the mining operation work of the operator and of the associated entity in respect of the mineral substances and, if applicable, the processing products from the operation of the mine.

In addition, the operator and the associated entity will be jointly and severally liable for payment of the mining duties owed, for such fiscal year, and that are reasonably attributable to all such mining operation work.

Application date

This amendment to the *Mining Tax Act* will apply in respect of a fiscal year of an operator that begins at a particular time as of the day of publication of this information bulletin.

2. CALCULATION OF THE NON-REFUNDABLE CREDIT ON ACCOUNT OF THE MINIMUM MINING TAX

An operator that is required to pay mining duties, for a fiscal year, corresponding to its mining tax on its annual profit for the fiscal year may deduct from its mining duties payable, for the fiscal year, an amount corresponding to its non-refundable credit on account of the minimum mining tax, for such fiscal year.

The non-refundable credit on account of the minimum mining tax an operator may claim, for a fiscal year, corresponds to the lesser of the following amounts:

- the amount corresponding to the excess of the mining tax on the operator's annual profit, for the fiscal year, over the operator's minimum mining tax for the fiscal year;
- the amount corresponding to the cumulative balance on account of the operator's minimum mining tax at the end of the fiscal year.

Cumulative balance on account of an operator's minimum mining tax

The cumulative balance on account of an operator's minimum mining tax, at a particular time, corresponds to the excess, over all of the amounts each of which is an amount of non-refundable credit on account of the minimum mining tax deducted by the operator for a fiscal year ended before such time, of all of the amounts each of which is the excess, if any, of the operator's minimum mining tax for a fiscal year ended before such time over the mining tax on the operator's annual profit for such fiscal year ended before such time.⁵²

In the case where an operator is part of an amalgamation, as such term is defined in the *Mining Tax Act*,⁵³ with one or more other corporations, its cumulative balance on account of the minimum mining tax will be transferred to the corporation resulting from the amalgamation according to the usual rules.

If the result of the calculation of such excess of the operator's minimum mining tax for a fiscal year ended before such time over the mining tax on the operator's annual profit for such fiscal year ended before such time is less than zero, it will be deemed equal to zero.

In this regard, see section 1 of the *Mining Tax Act*.

3. ADJUSTMENTS TO THE CALCULATION OF THE ADJUSTED ANNUAL LOSS TO REFLECT THE IMPROVEMENT TO THE PROCESSING ALLOWANCE

Where an operator suffers an annual loss rather than earning an annual profit for a fiscal year, it may claim, for such fiscal year, a credit on duties refundable for losses that may not exceed 16% of the lesser of the following amounts:

- the amount of its adjusted annual loss for the fiscal year;
- an amount corresponding to the pre-production development expenses⁵⁴ it incurred for the fiscal year, without exceeding the amount it deducted, for the fiscal year, on account of the pre-production development allowance, to which is added, if it is an eligible operator for the fiscal year, 50% of the amount corresponding to the exploration expenses⁵⁵ it incurred for the fiscal year, without exceeding the amount it deducted, for the fiscal year, on account of the exploration allowance.

An operator's adjusted annual loss, for a fiscal year, corresponds to the annual loss suffered by the operator, for the fiscal year, reduced by the lesser of the following amounts:

- the amount of the processing allowance it could claim, for such fiscal year, if such allowance was calculated solely on the basis of the limit based on its capital cost of each property that is a processing asset;
- the amount of the annual loss suffered by the operator, for the fiscal year, multiplied by a rate of 55%.

The changes to the parameters used for the calculation of the processing allowance that an operator may deduct in calculating its annual earnings, announced in this information bulletin,⁵⁶ will also apply to the calculation of an operator's adjusted annual loss for the purposes of determining the credit on duties refundable for losses.

Accordingly, an operator's adjusted annual loss, for a fiscal year starting after December 31, 2013, corresponds to the excess of the operator's annual loss, for the fiscal year, over the lesser of the following amounts:

- the amount of the processing allowance the operator could claim, for the fiscal year, if it was calculated solely on the basis of the limit based on its capital cost of each property that is a processing asset using the new rates;⁵⁷
- the amount of the operator's annual loss, for such fiscal year, multiplied by a rate of 75%.

These expenses are the ones mentioned in subparagraph *a* of subparagraph 1 of the second paragraph of section 16.11 of the *Mining Tax Act*.

These expenses are the ones mentioned in subparagraph *a* of subparagraph 1 of the second paragraph of section 16.9 of the *Mining Tax Act*.

⁵⁶ In this regard, see the subsection "Measure fostering processing in Québec" on page 17.

⁵⁷ See the preceding note.

INFORMATION BULLETIN

May 6, 2013

2013-4

The other rules applicable for the calculation of the credit on duties refundable for losses an operator may claim, for a fiscal year, remain unchanged.