



MINISTRY OF EMPLOYMENT AND INVESTMENT

INFORMATION LETTER

MTA3

RESOURCE REVENUE BRANCH
MINERAL TAXATION SECTION

**SUBJECT: MINERAL TAX DISPOSITION OF A MINE REGULATION
- JOINT ELECTION**

INTRODUCTION

This information letter provides guidelines regarding the filing of late, amended or revoked joint elections in respect of the disposition of an interest in a mine.

The *Mineral Tax Disposition of a Mine Regulation* provides for a tax-free rollover when an interest in a mine is sold. In order to take advantage of the rollover provisions, the purchaser and vendor must jointly elect within six months after the fiscal year-end of the mine.

In certain circumstances, at the discretion of the Commissioner of Mineral Tax, a late, amended or revoked joint election in respect of the disposition of an interest in a mine may be accepted upon application by the purchaser and the vendor.

THE LAW

Section 2 of the *Mineral Tax Disposition of a Mine Regulation* states that, where an interest in a mine is disposed of together with an equivalent interest in each of the assets used in the operation of the mine, the purchaser and vendor may jointly elect to use an equivalent proportion of the vendor's Cumulative Expenditure Account as the deemed sale price. Section 3(1) of the Regulation requires that the joint election be delivered with the return of the vendor not more than six months after the end of the fiscal year of the mine.

Section 3(2) of the *Mineral Tax Disposition of a Mine Regulation* provides that the Commissioner may, on application by the vendor and purchaser, permit a joint election to be amended or revoked, or extend the period within which an election may be made.

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REQUESTS FOR LATE, AMENDED OR REVOKED ELECTIONS

Each request will be considered on its own particular merits. A request may be granted in the following situations:

- a) There have been tax consequences not intended by the purchaser and vendor, and there is evidence that they took reasonable steps to comply with the law. This could include, for example, the situation where Mineral Tax returns are reassessed by the Commissioner resulting in tax payable differing from what the purchaser and vendor had expected, and it is reasonable to conclude that they would have proceeded differently with regard to the joint election had they known the results of the reassessment at the time.
- b) The request arises for circumstances that are clearly beyond the vendor's and the purchaser's control. Such extraordinary circumstances could include natural or man-made disasters such as flood or fire, civil disturbances or disruptions in services such as postal strike, or serious illness or accident.
- c) It is evident that the vendor and the purchaser acted on incorrect information given by the Ministry.
- d) The subsequent accounting of the transaction by all parties is as if the joint election had been made, or had been made in a particular manner.
- e) It can be demonstrated that the vendor and the purchaser were not aware of the election provisions, took a reasonable amount of care to comply with the law, and undertook remedial action as quickly as possible.

A request may not be granted in the following instances:

- a) It is reasonable to conclude that the vendor and the purchaser made the request for retroactive tax planning purposes. This could include taking advantage of changes to the law enacted after the due date of the election.
- b) Adequate records do not exist to verify whether or not the request can be accepted.
- c) It is reasonable to conclude that the vendor and the purchaser had to make the request due to negligence or carelessness in complying with the law.

APPLICATION PROCEDURES

The vendor and the purchaser should make their request in writing, to:

Commissioner, Mineral Tax Act
Ministry of Employment and Investment
P.O. Box 9328 Stn. Prov. Gov't
Victoria, BC V8W 9N3

To support a request, the vendor and the purchaser should include a full explanation of why the election is late, or why the original election is being amended or revoked.

For changes to the mailing list or additional copies, please contact:

Cindy Head

Resource Revenue Branch, Revenue and Management Services

Ministry of Employment and Investment

PO Box 9328 Stn Prov Gov't, Victoria, B.C. V8W 9N3

Telephone: (250)952-0192 or 1-800-667-1182 FAX: (250)952-0191
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Revenue and Management Services

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Preceded by: MTA2