

Proposed Amendments to *The Mineral Taxation Act, 1983*

Responses due August 16, 2019



Tourism Saskatchewan/Charles Melnick

Intent of Public Engagement

The Ministry of Energy and Resources (ER) seeks stakeholder input on proposed legislative amendments to *The Mineral Taxation Act, 1983* (the Act) that aim to improve Mineral Rights Tax (MRT) administration. The MRT is levied on freehold mineral rights by the Government of Saskatchewan (GOS), subject to various tax exemptions.

The proposed legislative amendments intend to:

- 1) Move the MRT rate and tax exemption details from the Act to *The Mineral Rights Tax Regulations, 1998* (the Regulations);
- 2) Authorize electronic MRT administration using the GOS's Integrated Resource Information System (IRIS);
- 3) Provide the GOS the authority to accept transfers of tax-exempt freehold mineral titles to the Saskatchewan Crown;
- 4) Clarify non-arm's length transfers of mineral rights and related tax exemption procedures; and,
- 5) Implement housekeeping changes to establish consistency with modern legislative drafting and tax administration standards.

The proposed legislative amendments are part of the GOS's on-going efforts to modernize established Acts and to remove out-of-date operational and administrative requirements; harmonize standards across overlapping legislative areas; and utilize modern technologies to reduce administrative costs and enhance public services.

MRT payers and MRT-exempt individuals/corporations should review the proposed amendments and complete a survey at the link below:

<https://ca.surveygizmo.com/s3/50051207/Proposed-Amendments-to-The-Mineral-Taxation-Act-1983-Survey-copy>

Deadline for survey responses is August 16, 2019

Please email the following if you have questions or concerns:

mineraltaxationconsultation@gov.sk.ca

Thank you in advance for participating in this important initiative. We look forward to your input.

For more information, please refer to the following links for:

The Mineral Taxation Act, 1983:

<http://www.publications.gov.sk.ca/freelaw/documents/English/Statutes/Statutes/M17-1.pdf>

The Mineral Rights Tax Regulations, 1998:

<https://publications.saskatchewan.ca/api/v1/products/1264/formats/2165/download>

Questions and Answers Relating to Mineral Rights Tax:

<https://publications.saskatchewan.ca/api/v1/products/83140/formats/95635/download>

Questions and Answers Relating to Agricultural Corporation Exemption Certificates:

<https://publications.saskatchewan.ca/api/v1/products/83139/formats/95634/download>

1) Move the MRT Rate and Tax Exemption Details from the Act to the Regulations

Current Provisions:

Section 11 of the Act establishes the current MRT rate and its application to freehold mineral rights in the Province of Saskatchewan, subject to the following MRT exemptions:

- Right of ways, station grounds, yards, or terminals of any railway (Section **12**);
- The boundaries of any city, town, or village (Section **12**);
- Subdivided lots intended for residential, business, and cemetery purposes (Section **12**);
- Individual mineral rights holdings not greater than five nominal sections and which could also be held in trust by a registered and approved trust corporation (Section **13**);
- Approved agricultural corporations with mineral rights holdings not greater than five nominal sections (Section **13.1**); and,
- MRT invoice less than \$100 (Section **14**).

Section 41 of the Act authorizes the Lieutenant Governor in Council to make regulations exempting any mineral rights or class of persons from paying the MRT.

Proposed Legislative Amendment:

To consolidate the Act, to ensure consistency between it and the Regulations, and to make the Act easier to read and administer, ER proposes that the MRT rate and the specific MRT exemptions detailed under Sections 12, 13, 13.1, and 14 are moved to the Regulations pursuant to the broad MRT exemption authority granted under Section 41 of the Act and contemporary legislative drafting standards.

Questions for Consideration:

- 1) *Will this proposed legislative amendment either negatively or positively impact your established business practices?*
- 2) *Are there any other implications if this proposed legislative amendment is adopted?*

2) Authorize Electronic MRT Administration Using IRIS

Current Provision:

The Act does not currently authorize electronic MRT administration owing to the fact that the current version of The Act was first passed in 1983, and the last substantive amendment was made in 1992. Online electronic administration was not common during this time.

Proposed Legislative Amendment:

The proposed amendment to authorize electronic MRT administration will streamline and modernize the MRT process. Moving MRT administration into IRIS will further consolidate ER's operational and business practices for Crown dispositions, royalties, and regulatory oversight. IRIS is ER's web-based software designed to manage administrative aspects of ER's business operations. Only since IRIS was established in 2015 has ER been afforded the opportunity to electronically administer the MRT through one, reliable electronic administration system. Transitioning to IRIS will also introduce self-service functions, allowing MRT payers to access electronic copies of their MRT assessment and invoice; apply for Agricultural Corporation Exemptions; and pay their MRT invoice online through pre-authorized debit.

The legislative amendment may require consequential amendments to the Regulations stipulating the terms, conditions, and processes of electronically administering the MRT through an electronic administration system such as IRIS.

Questions for Consideration:

- 1) *Will this proposed legislative amendment either negatively or positively impact your established business practices?*
- 2) *Are there any other implications if this proposed legislative amendment is adopted?*

3) Provide the GOS the Authority to Accept Transfers of Tax-Exempt Freehold Mineral Titles to the Saskatchewan Crown.

Current Provisions:

The Act does not authorize ER to accept transfers of tax-exempt freehold mineral titles on behalf of the Saskatchewan Crown. Freehold mineral owners often request to transfer their tax-exempt mineral titles to the Saskatchewan Crown to avoid the complexities of administering their mineral rights. Additionally, some non-profit associations and religious organizations that cannot manage their mineral rights and are unwilling to or cannot afford to hire a trust company have also approached ER for similar reasons.

Proposed Legislative Amendment:

ER proposes that the GOS is granted the authority to accept transfers of tax-exempt mineral titles under the Act. These transfers will be completely voluntary and will be made at the discretion of the freehold mineral owner. This legislative proposal should reduce the number of orphaned freehold mineral titles, which can significantly impede the development of mineral commodities when a mineral rights owner is unknown or cannot be found.

The proposed legislative amendment will require consequential amendments to the Regulations that stipulate the terms, conditions, and process of transferring tax-exempt freehold mineral titles to the Saskatchewan Crown.

Questions for Consideration:

- 1) *Will this proposed legislative amendment either negatively or positively impact your established business practices?*
- 2) *Are there any other implications if this proposed legislative amendment is adopted?*

4) Clarify Non-Arm's Length Transfers of Mineral Rights and Related Tax-Exemption Procedures:

Current Provisions:

Section 17 of the Act outlines the provisions regulating the non-arm's length transfer of mineral rights from a taxable corporation to a tax-exempt person. If the tax-exempt person receiving the mineral rights is related to the taxable corporation in any way, either as a successor, heir, executor, administrator, or any other legal representative of any such corporation, the Act deems the transfer non-arm's length and the taxable corporation remains liable to pay the MRT on the mineral rights indefinitely, even after the transfer.

This provision has inadvertently impacted small, family-owned businesses and corporations. For example, often individuals will transfer their mineral rights into a family-owned business or corporation to simplify mineral rights administration and property tax assessments. However, by doing so, these individuals often unknowingly subject their previously tax-exempt mineral rights to the MRT. Pursuant to the non-arm's length provisions in the Act, the family business or corporation cannot be relieved of its tax obligations if it transfers the mineral titles back to the same tax-exempt individuals.

Proposed Legislative Amendment:

Include a provision in the Act allowing, at the Minister's discretion and pursuant to stringent regulatory requirements, non-arm's length transfers of mineral rights from a taxable corporation to tax-exempt persons subject to any terms and conditions that the minister considers appropriate to impose. This proposed amendment would provide relief to families who have inadvertently subjected their family businesses to the MRT for an indefinite period of time.

This proposed legislative amendment will also require consequential amendments to the Regulations at a later date that specify the terms, conditions, and process of accepting non-arm's length transfers of mineral rights from a taxable corporation to related persons.

Questions for Consideration:

- 1) *Will this proposed legislative amendment either negatively or positively impact your established business practices?*
- 2) *Are there any other implications if this proposed legislative amendment is adopted?*

5) Implement Housekeeping Changes to Establish Consistency with Modern Legislative Drafting and Tax Administration Standards

Current Provisions:

Having been introduced in 1983, many of the provisions of the Act are currently outdated and do not meet the GOS's contemporary legislative drafting standards.

Proposed Legislative Amendment:

In keeping with the GOS's contemporary legislative drafting standards, ER proposes the following legislative amendments to the Act:

- **Antiquated language** such as references to 'he' and 'him' be changed to gender-neutral language such as 'they' and 'them'; and certain references in Latin be removed;
- **Outdated references** to provisions of Government of Canada Acts, such as the *Veterans' Land Act* be removed;
- **Undefined terms** such as arm's length, individuals, and mineral parcels be defined in the Act and at a later date in the Regulations; and,
- **Reference to outdated units of measurement** such as 'acres' be converted into 'hectares'.

Questions for Consideration:

- 1) *Will this proposed legislative amendment either negatively or positively impact your established business practices?*
- 2) *Are there any other implications if this proposed legislative amendment is adopted?*

The Mineral Taxation (Modernization) Amendment Act, 2019

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