



# Finance Act 1970

## 1970 CHAPTER 24

### PART III

#### MISCELLANEOUS

##### *Mineral royalties*

#### **29 Taxation of mineral royalties**

(1) Subject to the following provisions of this section, a person resident or ordinarily resident in the United Kingdom who in any year of assessment or accounting period is entitled to receive mineral royalties under a mineral lease or agreement shall be treated—

- (a) for purposes of income tax (including surtax), or as the case may be for purposes of corporation tax on profits exclusive of chargeable gains, as if the total of the mineral royalties receivable by him under that lease or agreement in that year or period and any management expenses available for set-off against those royalties in that year or period were each reduced by one half; and
- (b) for purposes of Part III of the Finance Act 1965, or as the case may be for purposes of corporation tax on chargeable gains, as if there accrued to him in that year or period a chargeable gain equal to the relevant fraction of the total of the mineral royalties receivable by him under that lease or agreement in that year or period;

and this section shall have effect notwithstanding any provision of section 156(1) of the Taxes Act (rent etc. payable in connection with mines, quarries and similar concerns) making the whole of certain kinds of mineral royalties chargeable to tax under Schedule D, but without prejudice to any provision of that section providing for any such royalties to be subject to deduction of income tax under Part II of the Taxes Act.

(2) For the purposes of subsection (1)(a) above, "management expenses available for set-off" against royalties means—

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- (a) where section 158 of the Taxes Act (expenses of owners of mineral rights) applies in respect of the royalties, any sums brought into account under subsection (1) of that section in determining the amount of the repayment of income tax in respect of those royalties or, as the case may be, deductible from those royalties under subsection (2) of that section in computing the income of a company for purposes of corporation tax ; and
- (b) if the royalties are chargeable to tax under Schedule A, any sums deductible under Part III of the Taxes Act as payments made in respect of management of the property concerned, including amounts of betterment levy treated as such payments under paragraph 6 of Schedule 4 to that Act;

and if neither paragraph (a) nor paragraph (b) above applies, the reference in subsection (1)(a) above to management expenses available for set-off shall be disregarded.

- (3) The relevant fraction referred to in subsection (1)(b) above in relation to the mineral royalties receivable under a mineral lease or agreement—

- (a) shall be one half if betterment levy was not chargeable in respect of the grant of that lease or agreement and has not subsequently become chargeable on any renewal, extension or variation of the mineral lease or agreement ;
- (b) shall be determined in accordance with Part I of Schedule 6 to this Act if, on the last disposition affecting the lease or agreement and giving rise to an assessment to betterment levy, betterment levy was chargeable under Case B within the meaning of Part III of the Land Commission Act 1967; and
- (c) in any other case shall be determined in accordance with regulations made by the Board by statutory instrument, and any such regulations shall secure, so far as practicable, that account is taken of any betterment levy chargeable in respect of a disposition affecting the mineral lease or agreement on a basis comparable with that in the said Part I;

and notwithstanding anything in the enactments relating to the computation of chargeable gains, the amount of the chargeable gain treated as accruing to any person by virtue of subsection (1)(b) above shall be the whole amount calculated in accordance with that subsection, and accordingly no reduction shall be made on account of expenditure incurred by that person or of any other matter whatsoever.

- (4) Where subsection (1) above applies in relation to mineral royalties receivable under a mineral lease or agreement by a person not chargeable to corporation tax in respect of those royalties, then in so far as the amount of income tax paid, by deduction or otherwise, by him in respect of those mineral royalties in any year of assessment exceeds the amount of income tax, exclusive of surtax, for which he is liable in respect of those royalties by virtue of subsection (1)(a) above.—

- (a) the amount of the excess shall in the first instance be set against the tax for which he is chargeable by virtue of subsection (1)(b) above ; and
- (b) on the making of a claim in that behalf, he shall be entitled to repayment of tax in respect of the balance of that excess.

- (5) The provisions of Part II of Schedule 6 to this Act shall have effect in relation to capital losses which accrue during the currency of a mineral lease or agreement.

- (6) In this section and in Schedule 6 to this Act, references to mineral royalties refer only to royalties receivable on or after 6th April 1970, and the expression " mineral royalties" means so much of any rents, tolls, royalties and other periodical payments in the nature of rent payable under a mineral lease or agreement as relates to the

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winning and working of minerals; and the Board may by regulations made by statutory instrument—

- (a) provide whether, and to what extent, payments made under a mineral lease or agreement and relating both to the winning and working of minerals and to other matters are to be treated as mineral royalties; and
- (b) provide for treating the whole of such payments as mineral royalties in cases where the extent to which they relate to matters other than the winning and working of minerals is small.

(7) In this section and in Schedule 6 to this Act—

" minerals " means all minerals and substances in or under land which are ordinarily worked for removal by underground or surface working, but excluding water, peat, top-soil and vegetation ; and

" mineral lease or agreement " means—

- (a) a lease, profit a prendre, licence or other agreement conferring a right to win and work minerals in the United Kingdom ;
- (b) a contract for the sale, or a conveyance, of minerals in or under land in the United Kingdom; and
- (c) a grant of a right under section 1 of the Mines (Working Facilities and Support) Act 1966, other than an ancillary right within the meaning of that Act.

(8) A statutory instrument made in the exercise of any power conferred on the Board by this section shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

(9) In the application of this section to Northern Ireland—

- (a) paragraphs (a) to (c) of subsection (3) above shall not apply but the relevant fraction referred to in subsection (1)(b) above shall be one half;
- (b) references to mineral royalties include references—
  - (i) to periodical payments of compensation under section 29 or section 35 of the Mineral Development Act (Northern Ireland) 1969 or under section 4 of the Petroleum (Production) Act (Northern Ireland) 1964; and
  - (ii) to periodical payments made as mentioned in section 37 of the said Act of 1969 or under section 55(4)(b) of that Act or under section 11 of the said Act of 1964 (payments in respect of minerals to persons entitled to a share of royalties under section 13(3) of the Irish Land Act 1903); and
- (c) in the application of this section to any such payments as are referred to in paragraph (b) above, subsection (5) above shall be omitted, and references in any other provision of this section to the mineral lease or agreement under which mineral royalties are payable shall be construed as references to the enactment under which the payments are made.