

## PART 24 Taxation of Profits of Certain Mines and Petroleum Taxation

### CHAPTER 1 Taxation of profits of certain mines

Mine development allowance. ITA67 s245; CTA76 s21(1) and Sch1 par10; FA80 s17(3); FA96 s132(2) and Sch5 PtlI 670.—(1) In this section—

“mine” means a mine operated for the purpose of obtaining, whether by underground or surface working, any scheduled mineral, mineral compound or mineral substance within the meaning of section 2 of the Minerals Development Act, 1940, but, in relation to capital expenditure incurred before the 6th day of April, 1960, “mine” means an underground excavation made for the purpose of getting minerals;

references to capital expenditure incurred in connection with a mine shall be construed as references to capital expenditure incurred—

(a) in the development of the mine on searching for, or on discovering and testing, mineral deposits or winning access to such deposits, or

(b) on the construction of any works which are of such a nature that when the mine has ceased to be operated they are likely to have so diminished in value that their value will be nil or almost nil,

but as excluding references to—

(i) any expenditure on the acquisition of the site of the mine or of the site of any such works or of rights in or over any such site,

(ii) any expenditure on the acquisition of, or of rights over, the deposits, or

(iii) any expenditure on works constructed wholly or mainly for subjecting the raw product of the mine to any process except a process designed for preparing the raw product for use as such;

references to assets representing capital expenditure incurred in connection with a mine shall be construed as including—

(a) in relation to expenditure on searching for, discovering and testing deposits, references to any information or other results obtained from any search, exploration or enquiry on which the expenditure was incurred,

(b) references to any part of such assets, and

(c) in the case of any such assets destroyed or damaged, references to any insurance moneys or other compensation moneys in respect of such destruction or damage.

(2) Expenditure shall not for the purposes of this section be regarded as having been incurred by a person carrying on the trade of working a mine in so far as the expenditure has been or is to be met directly or indirectly out of moneys provided by the Oireachtas or by any other person (not being a person who has carried on the trade of working that mine).

(3) Any person who carries on the trade of working a mine and who has on or after the 6th day of April, 1946, incurred any capital expenditure in connection with the mine may apply for an allowance (in this section referred to as a “mine development allowance”) in respect of that capital expenditure.

(4) Application for a mine development allowance for any chargeable period may be made to the inspector not later than 24 months after the end of that period.

(5) (a) Subject to paragraph (b), the following provisions shall apply in relation to the amount of a mine development allowance for any chargeable period in respect of any capital expenditure incurred in connection with a mine:

(i) the inspector shall estimate to the best of his or her judgment the life (in this subsection referred to as “the estimated life”) of the deposits, but shall not estimate such life at more than 20 years;

(ii) the inspector shall then estimate the amount of the difference (in this subsection referred to as “the estimated difference”) between the capital expenditure incurred in connection with the mine and the amount which in his or her opinion the assets representing that capital expenditure are likely to be worth at the end of the estimated life;

(iii) the inspector shall, subject to this section, allow as the mine development allowance for that chargeable period an amount equal to a sum which bears to the estimated difference the same proportion as the length of that chargeable period bears to the length of the estimated life;

(iv) if capital expenditure incurred in connection with the mine was incurred during that chargeable period, then, that chargeable period shall for the purposes of subparagraph (iii) be taken to comprise so much only of that chargeable period as is subsequent to the date on which the capital expenditure was incurred.

(b) The total of the mine development allowances shall not exceed the estimated difference.

(6) A mine development allowance to any person carrying on the trade of working a mine shall be made in taxing that trade, and section 304 (4) shall apply in relation to the allowance as it applies in relation to allowances to be made under Part 9.

(7) A mine development allowance shall not be made in respect of any capital expenditure incurred in connection with a mine in any case where the asset representing that capital expenditure is an asset in respect of which an allowance may be made under section 284.

(8) Where a mine development allowance for any chargeable period has been made in respect of capital expenditure incurred in connection with a mine, then, for that chargeable period section 85 shall not apply

as respects any such asset.

(9) Any capital expenditure incurred on or after the 6th day of April, 1946, in connection with a mine by a person about to carry on the trade of working the mine but before commencing such trade shall be treated for the purposes of this section as if it had been incurred on the first day of the commencement of such trade.

(10) Where mine development allowances in respect of any capital expenditure incurred in connection with a mine have been made and the mine has finally ceased to be operated, the following provisions shall apply:

(a) the inspector shall review the mine development allowances;

(b) if on such review it appears that the amount of the difference (in this subsection referred to as “the difference”) between the capital expenditure incurred in connection with the mine and the amount which the assets representing that capital expenditure at such cessation were worth at such cessation exceeds the total of the mine development allowances, then, further mine development allowances equal to the excess may be made for any chargeable period (being the chargeable period in which the mine has finally ceased to be operated or any previous chargeable period), but the total of such further mine development allowances shall not amount to more than the excess and if necessary effect may be given to this paragraph by means of repayment;

(c) if on such review it appears that the difference is less than the total of the mine development allowances, then, the deficiency or the total of the mine development allowances, whichever is the less, shall be treated as a trading receipt of the trade of working the mine accruing immediately before such cessation.

(11) Where the person (in this subsection referred to as “the vendor”) carrying on the trade of working a mine sells to any other person (not being a person who succeeds the vendor in that trade) any asset representing capital expenditure incurred in connection with the mine and by reference to which mine development allowances have been made, the following provisions shall apply:

(a) if the total of the mine development allowances when added to the sum realised on the sale of that asset is less than that capital expenditure by any amount (in this subsection referred to as “the unexhausted allowance”), then, further mine development allowances may be granted to the vendor in respect of any chargeable period (being the chargeable period of such sale or any previous chargeable period), but the total of such further mine development allowances shall not exceed the unexhausted allowance;

(b) if the total of the mine development allowances when added to the sum realised on the sale of that asset exceeds that capital expenditure, then, the amount of such excess or the total of the mine development allowances, whichever is the less, shall be treated as a trading receipt of the trade accruing immediately before the sale.

(12) Where—

(a) mine development allowances in respect of any capital expenditure incurred in connection with a mine

have been made to a person (in this subsection referred to as “the original trader”) carrying on the trade of working the mine, and

(b) another person (in this subsection referred to as “the successor”) succeeds to that trade,

mine development allowances may continue to be made in respect of that capital expenditure to the successor, but in no case shall the amount of such allowances exceed the amount to which the original trader would have been entitled if the original trader had continued to carry on that trade.

(13) Where for any chargeable period a company was entitled to relief from tax by virtue of Chapter II or Chapter III of Part XXV of the Income Tax Act, 1967, then, for the purposes of subsections (5) and (10) to (12), there shall be deemed to have been made for that chargeable period in respect of any expenditure the full mine development allowance which on due claim could have been made for that chargeable period in respect of that expenditure, unless that allowance has in fact been made.

(14) An appeal to the Appeal Commissioners shall lie on any question arising under this section in the like manner as an appeal would lie against an assessment, and the provisions of the Income Tax Acts relating to appeals shall apply accordingly.