
Document Number: 2010-0359931E5 (E)

Subject: Additional Tax Re Crown Royalties - Ontario

Document Type: Interpretation - External

Reference Date: 100707

Author: Waugh, Phyllis

Section(s): ON REG - 37/09 7(3), ON TA 36

Document No.: 2010-0359931E5

Please note that the following document, although believed to be correct at the time of issue, may not represent the current position of the CRA.

Prenez note que ce document, bien qu'exact au moment émis, peut ne pas représenter la position actuelle de l'ARC.

PRINCIPAL ISSUES:

Can a corporation have a negative notional resource allowance under the Taxation Act, 2007?

POSITION:

No.

REASONS:

In accordance with subsection 7(3) of Ontario Regulation 37/09 of the Taxation Act, 2007, a corporation cannot have a negative notional resource allowance.

XXXXXXXXXX

2010-035993

P. Waugh

July 7, 2010

Dear XXXXXXXXXXXX :

Re: Notional Resource Allowance

I am writing in reply to your letter dated March 9, 2010 and your telephone conversation on June 16, 2010 with Phyllis Waugh, wherein you request confirmation that a corporation cannot have a negative notional resource allowance for purposes of

the additional tax on Crown royalties under the Taxation Act, 2007 (the "Act").

You have outlined a hypothetical situation where a Corporation is a Canadian resident that carries on active mining operations in Ontario. The Corporation has a negative adjusted resource profit (resource loss) for a particular year. The Corporation has no adjusted Crown royalties for the particular year and you have stated that the Corporation's notional resource allowance for the particular year, as calculated in accordance with subsection 36(3) of the Act, would otherwise be a negative amount.

The situation described in your letter appears to involve a transaction contemplated by a specific taxpayer. It is not this Directorate's practice to comment on proposed transactions involving specific taxpayers other than in the form of an advance income tax ruling. For more information about how to obtain a ruling, please refer to Information Circular 70-6R5, Advance Income Tax Rulings, dated May 17, 2002. This Information Circular and other Canada Revenue Agency ("CRA") publications can be accessed on the internet at <http://www.cra-arc.gc.ca>. However, we are prepared to provide the following general comments.

Section 36 of the Act imposes an additional tax on Crown royalties whereas section 37 of the Act provides a resource tax credit. The tax on Crown royalties is determined by formula which includes calculating a taxpayer's notional resource allowance. In accordance with subsection 36(3) of the Act, the notional resource allowance is prescribed in subsection 7(3) of Ontario Regulation 37/09.

It is our view that for purposes of subsection 36(3) of the Act, a corporation's notional resource allowance cannot be a negative amount. Subsection 7(3) of Ontario Regulation 37/09 states: "For the purposes of subsection 36(3) of the Act, a corporation's notional resource allowance for a taxation year is the amount, if any, calculated using the formula... (emphasis added)". The words "if any" confirm that the result of the notional resource allowance formula cannot be a negative.

We trust that our comments are of assistance.

Yours truly,

Randy Hewlett

Manager

for Director

Ontario Corporate Tax Division

Income Tax Rulings Directorate

Legislative Policy and Regulatory Affairs Branch