



**AN BILLE AIRGEADAIS (CANACHAS AR BHRABUIS
MHIANACH AIRITHE), 1974**
**FINANCE (TAXATION OF PROFITS OF CERTAIN MINES)
BILL, 1974**

*Mar a tugadh isteach
As introduced*

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Allowance in respect of development expenditure and exploration expenditure.
3. Expenditure on abortive exploration.
4. Exploration expenditure incurred by certain bodies corporate.
5. Expenditure incurred by person not engaged in the trade of mining.
6. Investment allowance in respect of exploration expenditure.
7. Allowances for machinery and plant.
8. Annual allowance for mineral depletion.
9. Allowance in relation to corporation profits tax.
10. Marginal mine allowance.
11. Charge to income tax on sums received from sale of scheduled mineral assets.
12. Charge to corporation profits tax on sums received from sale of scheduled mineral assets.
13. Amendment of section 387 of Act of 1967.
14. Amendment of section 389 of Act of 1967.
15. Termination of relief from income tax.
16. Termination of relief from corporation profits tax.
17. Short title, construction and commencement.



AN BILLE AIRGEADAIS (CANACHAS AR BHRABUIS
MHIANACH AIRITHE), 1974

FINANCE (TAXATION OF PROFITS OF CERTAIN MINES)
BILL, 1974

BILL

5

entitled

AN ACT TO AMEND THE LAW IN RELATION TO THE
TAXATION OF PROFITS OF CERTAIN MINES.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :

Interpretation. 1.—(1) In this Act, except so far as is otherwise provided or the 10
context otherwise requires—

1956, No. 8. “the Act of 1956” means the Finance (Profits of Certain Mines)
(Temporary Relief from Taxation) Act, 1956;

1967, No. 6. “the Act of 1967” means the Income Tax Act, 1967;

1920, c. 18. “the Acts relating to corporation profits tax” means Part V of the 15
Finance Act, 1920, and the enactments amending or extending that
Part;

“development expenditure” means capital expenditure—

(a) on the development of a qualifying mine, or

(b) on the construction of any works in connection with a quali- 20
fying mine which are of such a nature that, when the
mine ceases to be operated, they are likely to have so
diminished in value that their value will be little or
nothing,

and includes interest on money borrowed to meet such capital ex- 25
penditure, but does not include—

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

(d) expenditure on the acquisition of a scheduled mineral asset, 30
or

(e) 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; 35

“exploration expenditure” means capital expenditure on searching
in the State for deposits of scheduled minerals or on testing such
deposits or winning access thereto and includes capital expenditure
on systematic searching for areas containing scheduled minerals and

searching by drilling or other means for scheduled minerals within those areas, but does not include expenditure on operations in the course of working a qualifying mine or expenditure which is development expenditure;

5 "mine development allowance" has the same meaning as in section 245 of the Act of 1967;

"qualifying mine" means a mine that is being worked for the purpose of obtaining scheduled minerals;

10 "scheduled mineral asset" means a deposit of scheduled minerals or land comprising such a deposit or an interest in or right over such deposit or land;

"scheduled minerals" has the same meaning as in section 382 of the Act of 1967;

15 "tax" means income tax, sur-tax or corporation profits tax, as may be appropriate.

(2) Save as provided for in sections 3, 4 and 5, expenditure shall not be regarded, for the purposes of this Act, as having been incurred by a person carrying on the trade of working a qualifying mine in so far as it has been or is to be met directly or indirectly out of moneys
20 provided by the Oireachtas or by any other person (not being a person who has carried on the trade of working that mine).

(3) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended or extended by any subsequent enactment.

25 (4) In this Act a reference to a section is to a section of this Act unless it is indicated that reference to some other enactment is intended.

30 (5) In this Act a reference to a subsection or paragraph is to the subsection or paragraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

35 2.—(1) Where a person who is carrying on the trade of working a qualifying mine incurs, on or after the 6th day of April, 1974, any development expenditure or exploration expenditure and makes application under section 245 of the Act of 1967 for a mine development allowance for a year of assessment in respect of such expenditure—

Allowance in respect of development expenditure and exploration expenditure.

40 (a) that expenditure shall be deemed to be expenditure in respect of which that allowance may be granted, whether or not, in the case of exploration expenditure, a deposit of scheduled minerals is found as a result of the expenditure,

(b) the amount of such allowance for that year of assessment shall be equal to the total amount of—

45 (i) the exploration expenditure, and

50 (ii) in the case of development expenditure the amount of the difference between that expenditure and the amount which, in the opinion of the inspector, the assets representing that expenditure are likely to be worth at the end of the estimated life of the aforesaid mine, and

(c) in relation to a case in which this section has had effect, any reference in the Income Tax Acts to an allowance made under the said section 245 shall be construed as including a reference to an allowance made under that section by virtue of this section :

5

Provided that no account shall be taken, for the purposes of this section, of exploration expenditure as a result of which a deposit of scheduled minerals is not found if the expenditure was incurred more than seven years prior to the date on which the person aforesaid commences to carry on the trade of working a qualifying mine.

10

(2) Where a person who is carrying on the trade of working a qualifying mine incurred before the 6th day of April, 1974, capital expenditure in respect of which he was entitled under section 245 of the Act of 1967 to apply for a mine development allowance and there is an amount of that expenditure still unallowed on the said date, the person may elect to have the amount of mine development allowance for the year of assessment 1974-75 in respect of that expenditure increased to an amount equal to the amount of the expenditure so unallowed.

15

(3) In this section the amount of expenditure still unallowed on the 6th day of April, 1974, shall be taken to be the amount of the estimated difference, within the meaning of section 245 (5) (b) of the Act of 1967, less any mine development allowance granted, or deemed under section 245 (13) of the said Act to have been granted, for any year of assessment before the year of assessment 1974-75.

20

25

Expenditure on abortive exploration.

3.—(1) Where a person who is, on the 6th day of April, 1974, carrying on the trade of working a qualifying mine incurred exploration expenditure, on or after the 6th day of April, 1967, but before the said date, and that expenditure was not incurred in connection with the said qualifying mine, then, in charging to tax the profits or gains of the said trade for the year of assessment 1974-75, there shall be allowed a deduction of an amount equal to the amount of that expenditure.

30

(2) Where a person who commences to carry on the trade of working a qualifying mine after the 6th day of April, 1974, incurred exploration expenditure before the said date and that expenditure was not incurred in connection with the said qualifying mine but was incurred within a period of seven years prior to the date on which he commences to carry on the said trade, then in charging to tax the profits or gains of the said trade for the year of assessment in which he commenced to carry on the said trade, there shall be allowed a deduction of an amount equal to the amount of that expenditure.

35

40

(3) Where in a case referred to in subsection (1) or (2) the person concerned is a body corporate and there was or is, after all or part of the expenditure referred to therein had been incurred by it, a change in ownership, within the meaning of the Fifth Schedule to the Finance Act, 1973, of the body corporate or of a body corporate that is a parent body or a wholly-owned subsidiary, within the meaning of section 4, of the first-mentioned body corporate, no deduction shall be allowed under this section in respect of any part of the said expenditure incurred prior to the date of the change in ownership.

45

50

1973, No. 19.

(4) Where, on or after the 6th day of April, 1974, a person commences to carry on the trade of working a qualifying mine but has not incurred the exploration expenditure incurred in connection

55

with that mine, no allowance shall be given under this section or by virtue of *section 2* in respect of exploration expenditure incurred by that person prior to the date on which he commences to carry on the said trade.

5 (5) A person shall not be entitled to a deduction or allowance in respect of the same expenditure both under this section and under some other provision of the Income Tax Acts or the Acts relating to corporation profits tax.

10 4.—(1) Where exploration expenditure, in respect of which an allowance may be claimed by virtue of *section 2* or *section 3*, is or has been incurred by a body corporate (hereinafter in this section referred to as the exploration company) and—

Exploration expenditure incurred by certain bodies corporate.

15 (a) another body corporate is, or is deemed to be, a wholly-owned subsidiary of the exploration company, or

(b) the exploration company is, or is deemed to be, a wholly-owned subsidiary of another body corporate,

the expenditure or so much of it as the exploration company specifies—

20 (i) in the case referred to in *paragraph (a)* may, at the election of the exploration company, be deemed to have been incurred by such other body corporate (being a body corporate which is, or is deemed to be, a wholly-owned subsidiary of the exploration company) as the exploration company specifies,

25 (ii) in the case referred to in *paragraph (b)* may, at the election of the exploration company, be deemed to have been incurred by the body corporate (hereinafter referred to as the parent body) of which the exploration company was, at the time the expenditure was incurred, a wholly-owned subsidiary or by such other body corporate (being a body corporate which is, or is deemed to be, a wholly-owned subsidiary of the parent body) as the exploration company specifies,

30 and in a case where the said expenditure was incurred on a date prior to the incorporation of the body corporate so specified, the provisions of this Act shall apply, in relation to the granting of any allowance in respect of such expenditure, as if the said body corporate had been in existence at the time the expenditure was incurred and had incurred the expenditure at that time :

40 Provided that—

(i) the same expenditure shall not be taken into account in relation to more than one trade by virtue of this section, and

45 (ii) a deduction or allowance shall not be granted in respect of the same expenditure both by virtue of this section and under some other provision of the Income Tax Acts or the Acts relating to corporation profits tax.

50 (2) A body corporate shall, for the purposes of *subsection (1)*, be deemed to be a wholly-owned subsidiary of another body corporate if and so long as all of its ordinary share capital is owned by that other body corporate whether directly or through another body corporate or other bodies corporate, or partly directly and partly through another body corporate or other bodies corporate.

(3) The provisions of Part II of the Fifth Schedule to the Finance Act, 1973, shall apply for the purpose of determining the amount of ordinary share capital held in a body corporate through other bodies corporate.

Expenditure incurred by person not engaged in the trade of mining.

5.—(1) Where, whether before, on or after the 6th day of April, 1974, a person incurs or incurred exploration expenditure which resulted in the finding of a deposit of scheduled minerals and, without having carried on any trade which consists of or includes the working of that deposit and without having claimed any allowance or deduction under or by virtue of this Act in respect of that expenditure, he sells any assets representing that expenditure to another person, then, if that other person carries on such a trade as aforesaid in connection with that deposit, that other person shall, for the purposes of this Act, be deemed to have incurred for the purposes of the trade and in connection with the deposit, exploration expenditure equal to the amount of the exploration expenditure which is represented by the assets or the price paid by him for the assets, whichever is the smaller, and that expenditure shall be deemed to have been incurred by him on the date on which he commences to carry on the trade aforesaid.

(2) A person who claims an allowance by virtue of *subsection (1)* in respect of expenditure represented by assets acquired by him shall not be deemed to have incurred that expenditure unless the working of the aforesaid deposit results in the production of scheduled minerals in reasonable commercial quantities.

(3) A deduction or allowance in respect of the same expenditure shall not be made both under this section and under some other provision of the Income Tax Acts or the Acts relating to corporation profits tax.

(4) *Section 6* shall not apply to expenditure in respect of which an allowance is made by virtue of this section.

Investment allowance in respect of exploration expenditure.

6.—(1) Where a person who is carrying on the trade of working a qualifying mine incurs, on or after the 6th day of April, 1974, exploration expenditure in relation to which *section 2* has effect, there shall, in addition to any mine development allowance granted in respect of such expenditure, be made to him, for the year of assessment for which such mine development allowance is granted, an allowance (which shall be known as an exploration investment allowance) equal to one-fifth of such expenditure and *section 245 (6)* of the Act of 1967 shall apply to an exploration investment allowance as it applies to a mine development allowance.

(2) No allowance shall be made under this section in respect of exploration expenditure—

(a) incurred before the 6th day of April, 1974, whether or not such expenditure is, by virtue of any provision of this Act, the Act of 1956 or the Act of 1967, deemed to have been incurred on or after the said date, or

(b) which is deemed to be incurred by a person other than the person who incurred the expenditure :

Provided that this paragraph shall not apply in respect of expenditure deemed, under *section 4*, to have been incurred by a body corporate other than the body corporate which incurred the expenditure.

Allowances for machinery and plant.

7.—(1) Where, on or after the 6th day of April, 1974, new machinery or new plant (other than vehicles suitable for the conveyance by road of persons or goods or the haulage by road of other vehicles) is provided for use for the purposes of the trade of working

a qualifying mine, the said machinery or plant shall, if it is not qualifying machinery or plant, be deemed, for the purpose of section 11 of the Finance Act, 1967, to be qualifying machinery or plant. 1967, No. 17.

(2) Where a person who is carrying on the trade of working a qualifying mine incurred before the 6th day of April, 1974, capital expenditure on the provision of machinery or plant for the purposes of that trade, the amount of that expenditure still unallowed on the said date, within the meaning of section 274 of the Act of 1967, may be allowed as a deduction in charging the profits of the said trade to tax for the year of assessment 1974-75.

(3) Where, on or after the 6th day of April, 1974, a person carrying on the trade of working a qualifying mine incurs capital expenditure on the provision of new machinery or new plant (other than vehicles suitable for the conveyance by road of persons or goods or the haulage by road of other vehicles) for the purposes of that trade, there shall be made to him, for the year of assessment in the basis period for which the expenditure is incurred an allowance equal to one-fifth of the expenditure, and such allowance shall be made as a deduction in charging to tax the profits or gains of the said trade and shall be in lieu of any allowance in respect of such machinery or plant under section 22 (2) of the Finance Act, 1971. 1971, No. 23.

(4) Subsections (3), (4) and (5) of section 22 and sections 23, 24 and 25 of the Finance Act, 1971, shall apply as if for subsections (1) and (2) of the said section 22, insofar as they apply to a person carrying on the trade of working a qualifying mine, there were substituted *subsection (2)* of this section.

8.—(1) Where a person carrying on the trade of working a qualifying mine incurs after the 31st day of March, 1974, capital expenditure on the acquisition of a scheduled mineral asset entitling him to work deposits of scheduled minerals and in connection with that trade he commences to work those deposits, he shall be entitled to mine development allowance under section 245 of the Act of 1967 in respect of such capital expenditure to the extent that he would have been entitled to such allowance if the said capital expenditure had been capital expenditure incurred in the development of the mine, but *section 2* shall not apply in respect of any such expenditure. Annual allowance for mineral depletion.

(2) Where a person who commences to carry on the trade of working a qualifying mine on or after the 6th day of April, 1974, incurred, before the said date, capital expenditure on the acquisition of a scheduled mineral asset in connection with that mine, he shall, for the purposes of this section, be deemed to have incurred that expenditure on the day on which he commences to carry on the said trade and *subsection (1)* shall apply accordingly.

9.—Section 69 (1) of the Finance Act, 1959, is hereby amended by the insertion after paragraph (c) of the following paragraph :

“(cc) an allowance under the Finance (Taxation of Profits of Certain Mines) Act, 1974.”. Allowance in relation to corporation profits tax. 1959, No. 18.

10.—(1) In this section— Marginal mine allowance.

“marginal mine” means a qualifying mine in respect of which the Minister for Industry and Commerce gives a certificate stating that he is satisfied that the profits derived or to be derived from the

working of that mine are such that, if tax is to be charged on those profits in accordance with the provisions of the Income Tax Acts and the Acts relating to corporation profits tax, but excluding the provisions of this section, the mine is unlikely to be worked or to continue to be worked.

5

(2) The Minister for Finance, after consultation with the Minister for Industry and Commerce, may direct, in respect of a marginal mine, that, for any particular year of assessment or any particular accounting period, the tax chargeable on the profits of that qualifying mine is to be reduced to such amount (including nil) as may be specified by him.

10

(3) Where a person is carrying on the trade of working a qualifying mine in respect of which the Minister for Finance gives a direction under subsection (2) in respect of a year of assessment or accounting period, an allowance (which shall be known as a marginal mine allowance) shall be made as a deduction in charging the profits of the said trade to income tax for that year of assessment and as a deduction in computing the profits of the said trade for purposes of corporation profits tax for that accounting period of such amount or amounts as will ensure that the tax charged in respect of the profits of the said trade shall equal the amount specified by that Minister.

15

20

Charge to income tax on sums received from sale of scheduled mineral assets.

11.—(1) Where, after the 31st day of March, 1974, a person resident in the State sells any scheduled mineral asset and the net proceeds of the sale consist wholly or partly of a capital sum, he shall, subject to the provisions of this section, be charged to tax under Case IV of Schedule D for the year of assessment in which the sum is received by him on an amount equal to that sum:

25

Provided that where that person is an individual and, not later than twelve months after the end of the year of assessment in which the sum is paid, by notice in writing to the inspector, he elects to be charged to tax for the said year of assessment and for each of the five succeeding years of assessment, on an amount equal to one-sixth of that sum, he shall be so charged.

30

(2) Where, after the 31st day of March, 1974, a person not resident in the State sells any scheduled mineral asset and the net proceeds of the sale consist wholly or partly of a capital sum, then—

35

(a) he shall be charged to tax in respect of that sum under Case IV of Schedule D for the year of assessment in which the sum is received by him, and

(b) section 434 of the Act of 1967 shall apply to that sum as if it were an annual payment payable otherwise than out of profits or gains brought into charge to tax:

40

Provided that where that person is an individual and, not later than twelve months after the end of the year of assessment in which the sum is paid, by notice in writing to the Revenue Commissioners, he elects that the said sum shall be treated for the purpose of tax for that year and for each of the five succeeding years as if one-sixth thereof, and no more, were included in his income chargeable to tax for each of those years respectively, it shall be so treated, and all such repayments and assessments of tax for each of those years shall be made as are necessary to give effect to the election, so, however, that—

45

50

(i) the election shall not affect the amount of tax falling to be deducted and accounted for under the said section 434,

55

(ii) where any sum is deducted under the said section 434, any adjustments necessary to give effect to the election shall be made by way of repayment of tax, and

5 (iii) the said adjustments shall be made year by year and as if one-sixth of the sum deducted had been deducted in respect of tax for each year, and no
10 repayment of, or of any part of, that portion of the tax deducted which is to be treated as deducted in respect of tax for any year shall be made unless and until it is ascertained that the tax (other than sur-tax) ultimately falling to be paid for that year is less than the amount of tax (other than sur-tax) paid for that year.

(3) Where the scheduled mineral asset sold by a person was
15 acquired by him by purchase and the price paid consisted wholly or partly of a capital sum, *subsections (1) and (2)* shall apply as if any capital sum received by him when he sells the asset were reduced by the amount of that sum:

20 Provided that nothing in this subsection shall affect the amount of tax falling to be deducted and accounted for under section 434 of the Act of 1967 by virtue of *subsection (2)*, and where any sum is deducted under the said section 434, any adjustment necessary to give effect to the provisions of this subsection shall be made by way of repayment of tax.

25 (4) Where by virtue of an order made by the Minister for Industry and Commerce under section 14 of the Minerals Development Act, 1940, No. 31,
30 and the said Minister pays compensation to any person in respect of such acquisition, that person shall be deemed, for the purposes of this section, to have sold a scheduled mineral asset for a capital sum equal to the amount of compensation paid to him and the preceding provisions of this section shall apply to the said compensation as they apply to a capital sum received in respect of a sale of a scheduled mineral asset.

35 (5) In this section and in *section 12* any reference to the sale of a right to a scheduled mineral asset includes a reference to the grant of a licence to work scheduled minerals.

40 12.—Where, after the 31st day of March, 1974, a body corporate sells a scheduled mineral asset and the net proceeds of the sale are, by virtue of *section 11*, to be charged to income tax, the amount to be so charged shall be treated for the purposes of corporation profits tax as profits or gains arising to the body corporate in the accounting period in which occurs the date on which the said net proceeds become due and shall be charged to corporation profits
45 tax accordingly.

Charge to corporation profits tax on sums received from sale of scheduled mineral assets.

50 13.—(1) Section 387 (2) (a) of the Act of 1967 is hereby amended, in respect of companies that commenced or commence to trade in relation to a qualifying mine whether before, on or after the 6th day of April, 1974, by the substitution of "beginning on the commencement day and ending on the 5th day of April, 1974" for "two hundred and forty months beginning on the commencement day" and the said section 387 (2) (a), as so amended, is set out in the Table to this section.

Amendment of section 387 of Act of 1967.

55 (2) In this section and in *sections 14 to 16* of this Act "company" and "qualifying mine" have the meanings respectively assigned to them by the Act of 1956.

TABLE

387. (2) (a) Where a dividend is paid wholly or in part out of the profits and, as respects such dividend, the dividend period is wholly within a period (hereafter in this Chapter referred to as the exemption period) beginning on the commencement day and ending on the 5th day of April, 1974, the company shall be entitled to deduct income tax in accordance with section 456 from such part, if any, of the dividend as exceeds the relevant payment, but shall not be entitled to deduct income tax from the relevant payment.

Amendment of section 389 of Act of 1967.

14.—Section 389 of the Act of 1967 is hereby amended, in respect of companies that commenced or commence to trade in relation to a qualifying mine whether before, on or after the 6th day of April, 1974, by the substitution of “5th day of April, 1974” for “expiration of the twenty-first year” in both places where it occurs and the said section 389, as so amended, is set out in the Table to this section.

TABLE

389. This Chapter shall not have effect for the purpose of income tax in relation to any year of assessment beginning after the 5th day of April, 1974, but this provision shall not prevent section 387 from applying to a dividend paid after the 5th day of April, 1974, in a case in which the whole or part of the dividend is paid out of the profits of a period wholly or partly within the exemption period.

Termination of relief from income tax.

15.—Relief from income tax shall not be given under section 386 of the Act of 1967 to a company in respect of any year of assessment after the year 1973-74, whether the company commenced to trade in relation to the working of a qualifying mine before, on or after the 6th day of April, 1974.

Termination of relief from corporation profits tax.

16.—(1) Subject to subsection (2), relief from corporation profits tax shall not be given under section 6 of the Act of 1956 to a company for any accounting period of the company ending on or after the 6th day of April, 1974, whether the company commenced to trade in relation to the working of a qualifying mine before, on or after the said date.

(2) In the case of any such accounting period of a company part of which is before the 6th day of April, 1974, and part of which is on or after the said date, the profits of the company shall be apportioned between the parts in proportion to the length of the parts and so much only of the profits as is apportioned to the second-mentioned part shall be regarded, for the purposes of subsection (1), as profits of the company of an accounting period ending on or after the said date.

Short title, construction and commencement.

17.—(1) This Act may be cited as the Finance (Taxation of Profits of Certain Mines) Act, 1974.

(2) This Act shall, so far as it relates to income tax, be read and construed together with the Income Tax Acts and shall, so far as it relates to corporation profits tax, be read and construed together with the Acts relating to corporation profits tax.

(3) This Act shall be deemed to have come into force and shall take effect as on and from the 6th day of April, 1974.

BILLE

(mar a tugadh isteach)

dá ngairtear

Acht de leasú an dlí maidir le cánachas ar
bhrabúis mhianach áirithe.

BILL

(as introduced)

entitled

An Act to amend the law in relation to the
taxation of profits of certain mines.

An tAire Airgeadais a thug isteach

Introduced by the Minister for Finance

*Ordáíodh ag Dáil Éireann a chlóbhualadh,
6 Feabhra, 1974*

*Ordered by Dáil Éireann to be printed,
6th February, 1974*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais,
An Stuara, Árd-Oifig an Phoist, Baile Átha Cliath, nó trí
son díoltóir leabhar.

Cló-bhuailte ag CAHILL & Co., LTD.

5p

DUBLIN:
PUBLISHED BY THE STATIONERY OFFICE.

To be purchased through any bookseller, or directly from
the Government Publications Sale Office,
G.P.O., Arcade, Dublin.

Printed by CAHILL & Co. LTD.

5p