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

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

EXPLANATORY MEMORANDUM

INTRODUCTION

The Bill is designed to withdraw the twenty year tax exemption in favour of profits from the mining of non-bedded minerals listed in Schedule 13 to the Income Tax Act, 1967 and to replace the exemption by a new scheme of tax allowances. The changes are, in general, being made effective as from 6 April, 1974, that is, as from the commencement of the income tax year 1974-75.

The new scheme of allowances provides for the immediate writing off of exploration and development expenditure against profits from the mining of scheduled minerals and for free depreciation of plant and machinery used in connection therewith. This will enable a person mining scheduled minerals to write off all his expenditure on exploration and development and on plant and machinery against profits from such mining activity before tax has to be paid on the profits.

As an incentive to encourage further exploration, a special investment allowance of 20% of expenditure on exploration incurred on or after 6 April, 1974, will be granted, so that 120% of such exploration expenditure will be allowed against mining profits. An investment allowance of 20% of capital expenditure incurred on or after 6 April, 1974 on new plant and machinery used in connection with qualifying mines will also be granted. This allowance is already available in respect of plant and machinery in use in the designated areas and will be applied to plant and machinery used for the mining of scheduled minerals, regardless of the area in the State where the mining operations take place.

An allowance is also being granted in respect of abortive exploration expenditure incurred within a specified period.

Provision is made for an annual mineral depletion allowance, so that the cost of acquiring a scheduled mineral asset can be written off over the life of the mine, but the net proceeds from the disposal of such assets are being charged to tax. These particular provisions will take effect from the date of circulation of the Bill, 1 April, 1974.

In the case of a mine which is certified by the Minister for Industry and Commerce to be unlikely to be worked because of the tax chargeable on the profits of that mine (that is, a marginal mine), the Minister for Finance is empowered, after consultation with the Minister for Industry and Commerce, to direct that the tax charge on the profits be reduced to such amount (including nil) as he may specify.

Section 1 sets out definitions. The Bill is concerned only with the treatment of profits from the mining of the minerals specified in Schedule 13 to the Income Tax Act, 1967, with the granting of deductions in respect of capital expenditure incurred in searching for and developing deposits of such minerals and the disposal of rights to mine such minerals. Consequently, the terms to be used in the Bill, for example, development expenditure, exploration expenditure, qualifying mine and scheduled mineral asset are given a restricted meaning.

Section 2 enables a person working a qualifying mine to claim immediate allowance against mining profits in respect of the full amount of any exploration expenditure and development expenditure (including interest on borrowings to meet development expenditure) incurred on or after 6 April, 1974. A person already working a qualifying mine will be able to claim immediate allowance of any balance of expenditure (which previously qualified for allowance) still unallowed at that date. Expenditure incurred on or after 6 April, 1974, on abortive exploration (that is expenditure incurred in searching for scheduled minerals where the search turns out to be unsuccessful) is brought within the scope of the relief and allowance will be granted for such expenditure incurred within a period of seven years prior to the date on which the person concerned commences to work a qualifying mine.

Section 3 deals with certain abortive exploration expenditure not covered by section 2 of the Bill, which applies to expenditure on abortive exploration incurred on or after 6 April, 1974. The present section provides relief for—

(*a*) persons carrying on mining operations on 6 April, 1974, in respect of abortive exploration expenditure incurred on or after 6 April, 1967, and

(*b*) persons commencing to carry on mining operations after 6 April, 1974, in respect of abortive exploration expenditure incurred within seven years prior to commencement of mining operations.

The section also provides that where a person commences on or after 6 April, 1974, to work a mine but has not incurred the exploration expenditure which led to its discovery (for example, where he buys a mine from the person who discovered it) he will not be entitled to set off his own abortive exploration expenditure against the profits of that mine.

Section 4 is designed to cover the case where exploration expenditure is incurred by one company in a group of wholly-owned subsidiaries and mining profits are earned by the parent company or by another subsidiary in the group. In such cases, the exploration company may elect to have its exploration expenditure (whether successful or abortive) attributed to any other subsidiary in the group or to the parent company so that the exploration expenditure may be set off against mining profits wherever they arise within the group.

Section 5 provides relief for exploration expenditure incurred by a person who finds a scheduled mineral deposit and then sells the assets to another person who develops and works the mine. In such a case the latter will be able to claim in respect of the exploration expenditure incurred in connection with the mine.

Section 6 provides an investment allowance of 20 per cent of exploration expenditure (whether successful or abortive) incurred on or after 6 April, 1974. The investment allowance is to be granted in addition to mine development allowance so that the person working the mine may claim a deduction equal to 120 per cent of the exploration expenditure.

Section 7 provides for "free depreciation" of new plant and machinery (other than road vehicles) brought into use on or after 6 April, 1974, in the working of a qualifying mine. "Free depreciation" entitles the person operating the mine to specify the amount of depreciation (up to the total cost of the plant and machinery) to be granted to him in any year.

In the case of plant and machinery brought into use before 6 April, 1974, an immediate allowance may be claimed in respect of any balance of expenditure still unallowed at that date.

The section also provides an investment allowance of 20 per cent of the cost of capital expenditure incurred on or after 6 April, 1974, on new plant and machinery used in the working of a qualifying mine which means that 120 per cent of that expenditure will be allowed against mining profits.

Section 8 makes provision for a mineral depletion allowance in respect of expenditure incurred after 31 March, 1974, on acquiring deposits of scheduled minerals. (*Sections 11* and *12* impose a charge to tax on sums received from the sale of such deposits). The allowance will be given by way of mine development allowance under section 245 of the Income Tax Act, 1967, so that the cost of acquiring the deposits will be spread over the life of the mine (or 20 years if shorter). A person who commences to work a deposit of scheduled minerals on or after 6 April, 1974, and who incurred expenditure on acquiring the deposit before that date will be deemed to have incurred the expenditure on the date he commences to work the deposit.

Section 9 is a machinery provision to ensure that where an allowance is given for income tax purposes a corresponding allowance will be given for purposes of corporation profits tax.

Section 10 provides for relief for marginal mines. It authorises the Minister for Finance, after consultation with the Minister for Industry and Commerce, to direct that the tax chargeable on the profits of a marginal mine be reduced to such amount (including nil) as may be specified by him.

Section 11 imposes a charge to income tax on sums received from the sale, after 31 March, 1974, of scheduled mineral assets. There is provision enabling the sum brought into charge, in the case of an individual, to be spread over a period of six years so as to avoid hardship which might arise if the sum were treated as income of one year. The charge extends to payments received in compensation where the rights to work such minerals are acquired by the Minister for Industry and Commerce by virtue of an order under section 14 of the Minerals Development Act, 1940.

Section 12 imposes, in the case of a company, a charge to corporation profits tax on sums charged to income tax under section 11.

Sections 13 and *14* are consequential on the repeal, as from 6 April, 1974, of the exemption from income tax in respect of profits from the mining of scheduled minerals under section 15 of the Bill. As the period of exemption ends on 5 April, 1974, this date is being inserted as the terminal date in the references in section 387 (2) and section 389 of the Income Tax Act, 1967. Section 387 (2) deals with the income tax, if any, to be deducted from dividends paid in respect of a period which falls within the exemption period and section 389 ensures that dividends paid, after the termination of the exemption period, but out of profits of a period within the exemption period, will continue to carry the benefit of the income tax exemption.

Section 15 terminates, with effect from the year 1974-75, the exemption from income tax in respect of profits from the mining of scheduled minerals.

Section 16 terminates the exemption from corporation profits tax in respect of profits from the mining of scheduled minerals. The termination is with effect from 6 April, 1974, and there is provision for apportionment where an accounting period overlaps that date.

Section 17 is self-explanatory.

An Roinn Airgeadais,
Aibreán, 1974.

Wt. 108809/G/1. 900. 4/74. C.&Co. (7880). G.16.

Section 8 makes provision for a mineral depletion allowance in respect of expenditure incurred after 31 March, 1974, on acquiring deposits of scheduled minerals. (*Sections 11* and *12* impose a charge to tax on sums received from the sale of such deposits). The allowance will be given by way of mine development allowance under section 245 of the Income Tax Act, 1967, so that the cost of acquiring the deposits will be spread over the life of the mine (or 20 years if shorter). A person who commences to work a deposit of scheduled minerals on or after 6 April, 1974, and who incurred expenditure on acquiring the deposit before that date will be deemed to have incurred the expenditure on the date he commences to work the deposit.

Section 9 is a machinery provision to ensure that where an allowance is given for income tax purposes a corresponding allowance will be given for purposes of corporation profits tax.

Section 10 provides for relief for marginal mines. It authorises the Minister for Finance, after consultation with the Minister for Industry and Commerce, to direct that the tax chargeable on the profits of a marginal mine be reduced to such amount (including nil) as may be specified by him.

Section 11 imposes a charge to income tax on sums received from the sale, after 31 March, 1974, of scheduled mineral assets. There is provision enabling the sum brought into charge, in the case of an individual, to be spread over a period of six years so as to avoid hardship which might arise if the sum were treated as income of one year. The charge extends to payments received in compensation where the rights to work such minerals are acquired by the Minister for Industry and Commerce by virtue of an order under section 14 of the Minerals Development Act, 1940.

Section 12 imposes, in the case of a company, a charge to corporation profits tax on sums charged to income tax under section 11.

Sections 13 and *14* are consequential on the repeal, as from 6 April, 1974, of the exemption from income tax in respect of profits from the mining of scheduled minerals under section 15 of the Bill. As the period of exemption ends on 5 April, 1974, this date is being inserted as the terminal date in the references in section 387 (2) and section 389 of the Income Tax Act, 1967. Section 387 (2) deals with the income tax, if any, to be deducted from dividends paid in respect of a period which falls within the exemption period and section 389 ensures that dividends paid, after the termination of the exemption period, but out of profits of a period within the exemption period, will continue to carry the benefit of the income tax exemption.

Section 15 terminates, with effect from the year 1974-75, the exemption from income tax in respect of profits from the mining of scheduled minerals.

Section 16 terminates the exemption from corporation profits tax in respect of profits from the mining of scheduled minerals. The termination is with effect from 6 April, 1974, and there is provision for apportionment where an accounting period overlaps that date.

Section 17 is self-explanatory.

An Roinn Airgeadais,
Aibreán, 1974.

Wt. 108809/G/1. 900. 4/74. C.&Co. (7880). G.16.