

INTRODUCTION FILE

The Income Tax (Am.) Bill 1996

(NAME OF BILL)

CONTENTS: Bill
Objects and Reasons
Notice of Presentation
Covering letter from Minister to Clerk to Parliament
(Authorisation from Minister of Finance under s.60 of Constitution)

FROM: Attorney General's Chambers *11/11/96*

TO: Minister
(for signing Objects & Reasons, Notice of Presentation and covering letter to Clerk) *Handwritten 25/11/96*

TO: ~~Minister of Finance~~
(for signing of letter to Clerk signifying Cabinet approval under s.60 of Constitution) *Handwritten 25/11/96*

TO: *SPD*
Clerk to National Parliament
(for certificate by Speaker)

TO: Attorney General's Chambers
(for printing) *11/11/96*

TO: Clerk to National Parliament
(for reference during 1st, 2nd and 3rd Readings)
(Date passed.....16/12/96. Act No. 12 of 1996)
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TO: Attorney General's Chambers
(for checking before Assent) *11/11/96*

TO: Governor-General
(for Assent) *12/02/97*



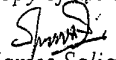
**THE
INCOME TAX
(AMENDMENT)
ACT 1996**

(NO. 12 OF 1996)

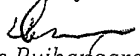
THE INCOME TAX
(AMENDMENT)
ACT 1996
(NO. 12 OF 1996)

Passed by the National Parliament this sixteenth day of December 1996.

This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true and correct copy of the said Bill.


James Saliga
Clerk to National Parliament

Assented to in Her Majesty's name and on Her Majesty's behalf this twelfth day of February 1997.


Moses Puibangara Pitakaka
Governor-General

AN ACT To Amend the Income Tax Act.

ENACTED by the National Parliament of Solomon Islands.

THE INCOME TAX (AMENDMENT) ACT 1996

ARRANGEMENT OF SECTIONS

Section:

1. Short title and commencement .
2. Amendment of section 2 of Cap. 61.
3. Insertion of new section 4A.
4. Insertion of new sections 11H and 11I.
5. Amendment of section 14.
6. Amendment of section 32.
7. Insertion of new section 32C.
8. Amendment of First Schedule.
9. Amendment of Second Schedule.
10. Insertion of new Twelfth Schedule.

1. This Act may be cited as the Income Tax (Amendment) Act, 1996, and shall come into operation on such date as the Minister may appoint by Notice published in the Gazette.

Short title and commencement.

2. Section 2 of the Income Tax Act (hereinafter referred to as the "principal Act") is hereby amended in the following respects -

Amendment of section 2 of Cap. 61.

(a) by inserting therein in proper alphabetical sequence the following new definitions -

"approved mining company" means a company that -

(a) is authorised to carry out mining under a mineral licence acquired under the Mines and Minerals Act; or

Act No.3 of 1990.

(b) has entered into a mining agreement with the Government in accordance with the provisions of section 30(6) of the Mines and Minerals Act;

"special benefits" mean benefits or incentives granted to an approved mining company.;"

(b) by inserting therein immediately after subsection (3) the following new subsection as subsection (4) -

" (4) Unless the context otherwise requires, where any expression defined in paragraph 1 of the Twelfth Schedule appears in any provisions of this Act, such expression shall in relation to an approved mining company have the same meaning assigned to it in the aforesaid Schedule."

3. The principal Act is hereby amended by inserting therein immediately after section 4 the following new section as section 4A-

Insertion of new section 4A.

"Income derived from foreign currency chargeable to tax in Solomon Islands.

4A. (1) Subject to the provisions of subsection (2), any income derived from moneys retained outside Solomon Islands by an approved mining company for the purposes of meeting foreign currency requirements for procuring supplies and services in connection with mining operations shall be deemed to be income derived in Solomon Islands and chargeable to tax.

(2) In computing the income chargeable to tax under the provisions of subsection (1), the tax paid on such income in any foreign country shall not be creditable against income tax or any other tax in Solomon Islands but shall be deductible."

4. The principal Act is hereby amended by inserting therein immediately after section 11G the following new sections as sections 11H and 11I respectively -

"Tax credit 11H. (1) Where pursuant to a relevant agreement, an approved mining company has, in any tax year, incurred expenditure in the construction of an approved infrastructure development scheme approved by the Government as provided for in the relevant agreement, the amount of such expenditure not exceeding such amount as specified in the relevant agreement shall be allowed to the approved mining company as a tax credit against the income tax due and payable under this Act by the approved mining company in respect of that tax year provided that -

(a) no other allowance, deduction or tax credit under this Act shall be granted to the approved mining company in respect of such expenditure in that or any other tax year; and

(b) the tax credit for any tax year shall not exceed the amount of income tax payable for that tax year; and provided further that, where the relevant agreement so provides, in relation to any tax year during the period specified in the relevant agreement, such expenditure not exceeding the amount specified in the relevant agreement shall be allowed to the approved mining company as a tax credit against the income tax due and payable under this Act by the approved mining company in respect of that tax year and the tax credit in respect of such tax year to the extent that such tax credit exceeds the amount of income tax payable in such tax year may be carried forward to the immediately succeeding tax year.

(2) For the purposes of subsection (1) "infrastructure development scheme" means a scheme for the development of such infrastructure (other than infrastructure relating to or required by the mining operations carried out by the approved mining company pursuant to the relevant agreement) and in such locality or

area in Solomon Islands as approved by the Government.

Certain restrictions on special benefits granted to approved mining companies. III. An approved mining company shall not be eligible or qualified for exemptions granted to a foreign investor under sections 11A, 11B, 11C, 11D and 11F of this Act. "

5. Subsection (2) of section 14 of the principal Act is hereby amended by inserting at the end therein the following new paragraphs as paragraphs (o) and (p) respectively -

Amendment of section 14.

" (o) the costs incurred in any tax year in respect of rehabilitation and reclamation by an approved mining company in accordance with the relevant agreement shall be deductible in such tax year and shall be debited to the provision for rehabilitation and reclamation costs made in accordance with the relevant agreement in relation to the mining operations by the approved mining company. Where at the end of the mining operations the aforesaid financial provision and the income of the approved mining company is insufficient to meet the rehabilitation and reclamation costs incurred by the approved mining company in accordance with the relevant agreement, any loss resulting therefrom may be carried back and recovered out of the income for the period not exceeding five years commencing from the year when the mining operations cease.

(p) operating and other costs and expenses reasonably incurred by the approved mining company to carry out mining operations including any tax, royalty, charge, duty or other levy (excluding income tax and additional profits tax) payable in Solomon Islands by the approved mining company."

6. Section 32 of the principal Act is hereby amended by inserting therein the following new subsection as subsection (3) -

Amendment of section 32.

" (3) Notwithstanding the provisions of subsections (1) and (2), the tax upon the chargeable income of an approved mining company shall for any tax year be charged at the rate of thirty-five cents in the dollar for every dollar of such chargeable income."

Insertion of
new section
32.

7. The principal Act is hereby amended by inserting therein immediately after section 32B the following new section as section 32C -

" Additional profits tax. 32C. Subject to and in accordance with the provisions of the Twelfth Schedule, an additional profits tax shall be payable by an approved mining company as set forth in the Twelfth Schedule."

Amendment of
First Schedule.

8. The First Schedule to the principal Act is hereby amended by adding at the end thereof the following new paragraph -

" 36. The Minister may by order exempt fees derived from mining operations by expatriate contractors engaged by or on behalf of an approved mining company subject to such conditions as may be specified by the Minister.

Amendment of
Second
Schedule.

9. The Second Schedule to the principal Act is hereby amended by inserting at the end of Part III the following new paragraph as paragraph 12A -

" Certain deductions in respect of an approved mining company.

12A. In computing the gains and profits of an approved mining company, for any tax year -

(a) interest paid by an approved mining company on a loan to finance its mining operations in accordance with the relevant agreement shall be deductible provided that -

(i) the rate of interest on the loan does not exceed a rate based upon an arm's length competitive third party transaction at the time the loan was made; and

(ii) only to the extent that the ratio of loan capital to paid up equity does not exceed 3:1 or such other ratio as the Commissioner may permit;

(b) (i) exploration and development expenditure incurred prior to the date of commencement of commercial production by an approved mining company; and

(ii) where a relevant agreement so provides, exploration and

development expenditure on the approved expansion of the mining project in accordance with the relevant agreement incurred by an approved mining company,

shall be deductible annually at such rate as the Commissioner may permit: Provided that such exploration and development expenditure that is incurred by an affiliate of the approved mining company in accordance with the relevant agreement prior to the date of incorporation of the approved mining company and as may be approved by the Commissioner shall be deemed for the purpose of this subparagraph to have been incurred by the approved mining company; and

(c) subject to paragraph (b), exploration and development expenditure incurred by an approved mining company after the date of commencement of commercial production shall be deductible at the rates set forth in Part III of this Schedule."

10. The Seventh Schedule to the principal Act is hereby amended by inserting at the end thereof the following -

Amendment of
Seventh
Schedule.

- "
- (xi) interest paid on borrowings made overseas or from non-resident companies by an approved mining company and where the relevant agreement so provides by an affiliate company of the approved mining company in relation to the mining operation as approved by the Commissioner shall be at the rate provided in subparagraph (i) or such reduced rate as the Minister may provide by order;
 - (xii) gross payments made to non-Solomon Islands contractors or sub-contractors by an approved mining company and where the relevant agreement so provides by an affiliate company of the approved mining company in relation to the mining operation as approved by the Commissioner for services performed shall be at the rate of seven cents in every dollar; and

- (xiii) no withholding tax shall be payable by an approved mining company on any dividend and, where a relevant agreement so provides, payable by an affiliate company of the approved mining company on any dividend in respect of the income derived from the mining operations of the approved mining company paid to a non-resident person to such extent the Minister may provide by Order."

Insertion of
new Twelfth
Schedule.

11. The principal Act is hereby amended by inserting at the end thereof the following new Schedule as the Twelfth Schedule -

"TWELFTH SCHEDULE
(Section 32C)

Interpretation.

1. In this Schedule, unless the context otherwise requires -

"affiliate company" in relation to an approved mining company means any person, firm or company, directly or indirectly, controlling, controlled by or under common control with the approved mining company;

"date of commencement of commercial production" means the date when the production of minerals from the mining lease for sale commences or such other date as specified in the relevant agreement;

"development expenditure" means expenditure incurred, whether directly or indirectly, in or in connection with the carrying out of development operations in or in connection with the mineral licence area, including expenditure incurred in respect of -

- (a) the acquisition of -
 - (i) machinery, implements, utensils and other articles used for purposes of production, treatment and processing;
 - (ii) furniture, tools and equipment used in offices and export terminals, vehicles, motorised rolling equipment, aircraft, fire and security stations, water and sewage plants, power plants and other works in connection with development operations;

(b) the leasing of fixed and mobile plant, buildings and structures;

(c) labour, fuel, haulage, supplies, materials and repairs and related costs in connection with the drilling, laying, installation and construction of mine facilities and other works in connection with development operations;

(d) the advancement of training and education of Solomon Islands citizens at institutions approved by the Ministry of Education and the provision of educational and scientific materials and equipment;

(e) charges, fees or rent for, or in respect of, land or buildings occupied for purposes of carrying out development operations;

(f) preparation of feasibility studies and applications for requisite approvals and consents and related costs;

(g) the general and administrative expenditure directly connected with development operations;

(h) the restoration of the mineral licence area, or any part thereof, after cessation of development operations in such area to the extent to which such expenditure has been incurred by virtue of any term and condition of the mining lease or the relevant agreement relating to safety or the prevention of pollution;

(i) customs duty and goods tax in respect of the importation for use in or in connection with development operations in the mineral licence area of plant, machinery, equipment, spare parts, materials, supplies or consumable items to be used in or in connection with such development operations; and

(j) such items of expenditure included as development expenditure in a relevant agreement as the Commissioner determines appropriate and by Order specifies;

"development operations" means operations relating to the development and construction of the mine under a mining lease, and includes development operations for the approved expansion of the mining project under the mining lease in accordance with the relevant agreement;

"exploration expenditure" means expenditure incurred, whether directly or indirectly, by an approved mining company in or in connection with the carrying out of prospecting operations in the mineral licence area, including expenditure relating to such operations incurred in respect of -

(a) the acquisition of machinery, implements, utensils and other articles employed in such operations;

Expenditure

(b) labour, fuel, haulage, supplies, materials and repairs and related costs in connection with a survey or study or other prospecting operations;

(c) the advancement of training and education of Solomon Islands citizens at institutions approved by the Ministry of Education and the provision of educational and scientific material and equipment;

(d) charges, fees or rent including tenement fees and compensation for access to land for, or in respect, of land or buildings occupied for purposes of carrying out prospecting operations;

(e) the general and administrative expenditure directly connected with prospecting operations;

(f) the restoration of the mineral licence area, or any part thereof, after cessation of prospecting operations in the area to the extent to which such expenditure has been incurred by virtue of any term and condition of the prospecting licence or the relevant agreement relating to safety or the prevention of pollution;

(g) customs duty and goods tax in respect of the importation for use in or, in connection with prospecting operations in the mineral licence area, of plant, machinery, equipment, spare parts, materials, supplies or consumable items used in or in connection with such prospecting operations; and

(h) such items of expenditure included as exploration expenditure in a relevant agreement as the Commissioner determines appropriate and by Order specifies;

"general and administrative expenditure" means expenditure incurred on general administration and management primarily and principally related to mining operations in or in connection with the mineral licence area, comprising and limited to -

(a) expenditure related to office, field office and general administration in Solomon Islands, including supervisory, legal, accounting and employee relations services (excluding commissions paid to intermediaries by the approved mining company); and

(b) an annual overhead charge for services rendered outside Solomon Islands and not otherwise deducted under any other head of expenditure under this Act, for managing mining operations and for staff advice and assistance including financial, legal, accounting and employee relations services, provided that -

- (i) for the period from the date on which the relevant agreement takes effect until the date on which a mining lease under the agreement is granted to the approved mining company, or such other date as specified in the relevant agreement, such annual charge shall be the approved mining company's verifiable reasonable expenditure as approved by the Commissioner and allowable as deduction in the computation of taxable income under this Act; and
- (ii) for the period commencing from the date on which the mining lease is granted to the approved mining company, or such other date as specified in the relevant agreement, the charge shall be at an amount or rate agreed between the parties to the relevant agreement and specified in the feasibility study approved with the grant of the mining lease;

"gross income" means total income as defined in this Act and shall in relation in this Act and shall in relation to an approved mining company that derives assessable income from mining operations, include any amount received or receivable in the tax year by the approved mining company, including proceeds under a policy of insurance of otherwise, in respect of the loss or destruction of minerals obtained by it from mining operations carried out by it and any interest or amount in the nature of interest or any other amount received or receivable by it in the tax year from or in connection with mining operations carried out by it.

"mineral licence" means a prospecting licence or a mining lease or both;

"mining operations" means prospecting operations, development operations and production operations and includes all other operations incidental thereto carried out by an approved mining company pursuant to a mineral licence;

"net cash receipts" in relation to a mining lease in a tax year, means the result denominated in such foreign currency as specified in

in the relevant agreement which may be a negative amount, that is obtained by aggregating the gross income of the approved mining company from mining operations for that tax year and subtracting therefrom the sum of -

- (i) income tax on taxable income from mining operations paid by the approved mining company in that tax year; and
- (ii) subject to paragraphs 2, 3 and 4, all exploration, development and production expenditures incurred by the approved mining company in that tax year in relation to mining operations but excluding amounts in respect of interest and other financing charges on loans raised by the approved mining company for mining operations carried out by it;

"production expenditure" means expenditure incurred in production operations by the approved mining company and which, is allowed as a deduction in the determination of taxable income under this Act;

"production operations" means operations carried out under the mining lease other than development operations;

"prospecting operations" means operations carried out under a prospecting licence other than development operations;

"relevant agreement" means an agreement between the government and the approved mining company relating to a mineral licence; and

"tax year" means a calendar year or any other period of twelve months as specified in the relevant agreement.

Allowable
expenditure.

2. (1) The expenditures described in subparagraphs (2) to (9) shall be classified under the headings exploration expenditure, development expenditure, production expenditure and general and administrative expenditure in accordance with the definitions of these terms sets out in paragraph 1 and, subject to the provisions of this Schedule shall be allowable deductions in the computation of net cash receipts for the purposes of calculation of additional profits tax.

(2) Surface rights expenditure cover all expenditure directly attributable to the acquisition, renewal or relinquishment of surface rights acquired and maintained in force for the mineral area.

"prospecting operations" means operations carried out under a prospecting licence other than development operations;

(3) Labour and related expenditure -

(a) gross salaries and wages, including bonuses, of approved mining company's employees directly and necessarily engaged in the mining operations, irrespective of the location of such employees, provided that in the case of those employees, only a portion of whose time is wholly dedicated to the mining operations, only that pro rata portion of applicable salaries and wages will be allowable;

(b) cost relating to the approved mining company of established plans for employees' group life insurance, hospitalisation, company pension, retirement and other benefits of a life nature customarily granted to the approved mining company's employees and the approved mining company's expenditure regarding holiday, vacation, sickness and disability payments applicable to the salaries and wages chargeable under clause (a) shall be allowed at actual cost, provided, however, that such total expenditure shall not exceed twenty-five per cent of the approved mining company's total labour expenditure under clause (a);

(c) expenditure or contributions made pursuant to assessment or obligations imposed under the laws of Solomon Islands which are applicable to the approved mining company's expenditure on salaries and wages chargeable under clause (a);

(d) reasonable travel and personal expenditure of employees of the approved mining company, including those made for travel and relocation of the expatriate employees assigned to Solomon Islands.

(4) The expenditure incurred in respect of transportation of employees, equipment, materials and supplies necessary for the conduct of mining operations.

(5) Charges for services -

(a) the expenditure incurred under contracts for technical and other services entered into by the approved mining company for the mining operations, made with third parties other than affiliated companies of the approved mining company are deductible, provided that the prices paid by the approved mining company are no higher than those generally charged by other international or domestic suppliers for comparable work and services;

(b) in the case of services rendered to the mining operations by an affiliated company of the approved mining company the charges shall be based on the expenditure incurred without including any profits and shall be competitive. The charges shall be no higher than the most favourable prices charged by the affiliated company to third parties for comparable services under similar terms and conditions elsewhere. The approved mining company shall, if requested by the Commissioner, specify the amount of the charges which constitutes an allocated proportion of the general material, management, technical and other expenditure of the affiliated company, and the amount which is the direct cost incurred in respect of providing the services concerned. If required by the Commissioner certified evidence regarding the basis of prices charged shall be obtained by the approved mining company from the auditors of the affiliated company;

(c) in the event that the prices and charges referred to in clauses (a) and (b) are shown to be uncompetitive then the Commissioner may under this Schedule disallow as a deduction such portion of the prices and charges as he deems fit.

(6) For services rendered to the mining operations through the use of property exclusively owned by the approved mining company, the accounts shall be charged at rates not exceeding those prevailing in the region which reflect the cost of ownership and operation of such property or at rates to be agreed.

(7) Material and equipment -

(a) Material and equipment held as inventory shall only be charged to the accounts of the mining operations when such material is removed from the inventory and used in the mining operations;

(b) in the case of defective material or equipment, any adjustment received by the approved mining company from the suppliers or manufacturers or their agents shall be credited to the accounts of the mining operations;

(c) Value of material charged to the account of the mining operations -

(i) except as otherwise provided in subclause (ii) below, material purchased by the approved mining company for use in the mining operations shall be valued to include

invoice price less trade and cash discounts, if any, purchase and procurement fees plus freight and forwarding charges between point of supply and point of shipment, freight to port of destination, insurance, taxes, custom duties, consular fees, other items chargeable against imported material and, where applicable handling and transportation costs from point of importation to warehouse or operating site, and its costs shall not exceed those currently prevailing in normal arms length transactions on the open market;

- (ii) material purchased from or sold to affiliated companies of the approved mining company or transferred to or from activities of the approved mining company other than mining operations -

(aa) in the case of new material (hereinafter referred to as "condition (A)," shall be valued at the current international price which shall not exceed the price prevailing in normal arms length transactions on the open market;

(bb) in the case of used material which is in sound and serviceable condition and is suitable for re-use without reconditioning (hereinafter referred to as "condition B)," shall be priced at not more than seventy-five per cent of the current price of the above mentioned new materials;

(cc) in the case of used material which cannot be classified as condition B, but which, after reconditioning, is further serviceable for the original function as good second hand condition B material or is serviceable for original function, but substantially not suitable for reconditioning (hereinafter referred to as "condition C)," shall be priced at not more than fifty per cent of the current price of the new material referred to above as condition A;

- (iii) the cost of reconditioning shall be charged to the reconditioned material, provided that the condition C material value plus the cost of reconditioning does not exceed the value of condition B material. Material which cannot be classified as condition B or condition C shall be priced at a value commensurate with its use.

- (iv) when the use of material is temporary and its service to the mining operations does not justify the reduction in price in relation to materials referred to above as conditions B and C, such material shall be priced on a basis that will result in a net

net charge to the accounts of the mining operations consistent with the value of the service rendered.

(8) Insurance premiums and expenditure incurred for insurance in respect of mining operations pursuant to a relevant agreement shall be deductible, provided that where such insurance is wholly or partly placed with an affiliated company of the approved mining company such premiums and expenditure shall be deductible only to the extent generally charged by competitive insurance companies other than an affiliated company of the taxpayer. Expenditure and losses incurred as a consequence of events which are, and in so far as, not made good by insurance shall be deductible, provided that any expenditure or loss caused by wilful misconduct or negligence of the approved mining company shall not be deductible.

(9) Expenditure incurred by the approved mining company in training of its employees who are nationals of Solomon Islands engaged in the mining operations and such other training as is required under a relevant agreement shall be deductible.

(10) For the purposes of calculation of additional profits tax, general and administrative expenditure shall be deductible. Such expenditure shall be allocated to and form part of exploration expenditure, development expenditure and production expenditure incurred in each tax year in proportion to the amount of exploration expenditure, development expenditure and production expenditure incurred in such tax year, or in such other equitable and consistent manner as determined by the Commissioner.

Expenditure
not deductible.

3. The following expenditure shall not be deductible in the computation of net cash receipts for the purposes of calculating additional profits tax -

(a) interest and any other financing charges or fees incurred on loans raised by the approved mining company;

(b) expenditure incurred on the marketing or transportation of minerals produced by the approved mining company beyond the delivery point designated in the relevant agreement;

(c) costs incurred by the approved mining company in obtaining and maintaining a bank guarantee and performance guarantee required under a relevant agreement (and any other amounts spent on indemnities with regard to non-fulfilment of contractual obligations thereunder);

(d) donations and contributions made by the approved mining company;

(e) expenditure incurred in relation to arbitration in respect of any dispute under a relevant agreement;

(f) fines and penalties imposed on the approved mining company by a court or tribunal;

(g) expenditure incurred by the approved mining company as a result of its wilful misconduct or negligence;

(h) any expenditure which by reference to international mining industry practices is excessive; and

(i) expenditure relating to the negotiation of a relevant agreement.

4. Other expenditure not covered or dealt with in paragraphs 2 and which is incurred by other expenditure the approved mining company for the necessary and proper conduct of the mining operations shall, for the purposes of this Schedule be deductible subject to the prior approval in writing of the Commissioner.

Other
expenditure.

5. (1) (a) An additional profits tax shall be payable by an approved mining company in any tax year when the accumulated present value of net cash receipts, at the end of that tax year, calculated in accordance with the formula set out below, is a positive amount, at the rate of X per cent (X%) of that positive amount -

Additional
profits tax.

"A" = $B(100\% + R) + C$, where

"A" = accumulated present value of net cash receipts at the end of the tax year for which the calculation is made;

"B" = accumulated present value of net cash receipts at the end of the preceding tax year;

"C" = net cash receipts for the tax year in respect of which the assessment of additional profits tax is made;

"R" = the accumulation rate specified in the relevant agreement with the approved mining company;

"X" = the rate of additional profits tax specified in the relevant agreement with the approved mining company,

provided that, where in any tax year the accumulated present value of the net cash receipts is a positive amount, such accumulated present value of the net cash receipts shall, for the purposes of determining the accumulated present value of the net cash receipts in respect of the immediately succeeding tax year, be deemed to be zero;

(b) where, in relation to an approved mining company the relevant agreement so provides, the present value of net cash receipts shall be adjusted by applying the price index agreed in the relevant agreement in the manner set out therein.

(2) Where an approved mining company carries on mining operations on two or more areas that are the subject of two or more mining leases, this Schedule applies, in relation to the operations of the approved mining company on and in connection with each of the mining leases as if it were the only mining lease on which the approved mining company carries on mining operations.

(3) For the purposes of the application of this Schedule by virtue of subparagraph (2) in relation to an approved mining company in relation to a mining lease -

(a) any thing relating exclusively to any other mining lease on which the approved mining company carries on mining operations shall be disregarded; and

(b) amounts of expenditure (including expenditure on plant for use in operations on two or more of the mining leases on which the taxpayer carries on mining operations) or other amounts to which clause (a) does not apply shall be apportioned in such manner as the Commissioner may determine.

(4) The additional profits tax shall be payable within 90 days of the end of the tax year concerned. Interest on the amount of the additional profits tax payable in any tax year shall accrue as of the due date at the rate applicable under section 71 of the Act in relation to late payment of income tax (hereinafter called "Accrued Interest") and shall be payable within 30 days of the notification issued by the Commissioner pursuant to subparagraph (5)

(5) The Commissioner shall notify the approved mining company of his assessment of additional profits tax and accrued interest for each tax year. If the amount of additional profits tax paid to the government is less or more than the amount of, the commissioner's assessment, the shortfall together with accrued interest thereon shall be promptly paid by the approved mining company or the excess, if any, subject to the Government's right to set

off against such excess any sums due from the approved mining company in accordance with the relevant agreement shall be refunded to the approved mining company, as may be the case.

(6) The provisions of section 70(5), relating to advance payments of income tax shall apply, *mutatis mutandis*, to an approved mining company in relation to the payment of additional profits tax.

6. The net proceeds received in connection with mining operations by the approved mining company shall be included as gross income of the approved mining company in the tax year received. Such net proceeds shall include, but not limited to, the following -

(a) the net proceeds of any insurance or claim in connection with the mining operations or any assets relating thereto where the costs of such insurance have been included as allowable expenditure under this Schedule;

(b) revenue received by the approved mining company from third parties or affiliated companies for the use of property or assets relating to the mining operations where the costs of such property or assets have been included as allowable expenditure under this Schedule;

(c) any adjustment received by the approved mining company from the suppliers or manufacturers or their agents in connection with defective material for use in the mining operations where the costs of such material have been included as allowable expenditure under this Schedule;

(d) the cost of materials which have been included as allowable expenditure under this Schedule, where such materials are subsequently exported from Solomon Islands without being used in the mining operations;

(e) the proceeds from the sale or exchange by the approved mining company of plant or facilities from or in connection with the mineral licence area or, plant or facilities where the expenditure incurred on the acquisition thereof has been included as allowable expenditure under this Schedule;

(f) the proceeds from the sale or exchange by the approved mining company of any licence, lease or other right held by the approved mining company relating to the mining operations;

(g) the proceeds from the sale of any mining information which relates to the mineral licence area provided that expenditure incurred in respect of the

Miscellaneous
income and
credits.



acquisition of such information has been included as allowable expenditure under this Schedule.

(h) the proceeds derived from the sale or licence of any intellectual property developed in the course of the mining operations.

Duplication of charges and credits.

7. Notwithstanding any provision of this Schedule, where any expenditure is allowed or any credit given under any provision of this Schedule there shall be no duplication of that allowance or the credit under any other provision of this Act.

Additional profits tax statements.

8. (1) The approved mining company shall prepare with respect to each tax year an additional profits tax statement containing the following information -

(a) the value of net cash receipts for the tax year, identifying separately each of the categories of gross income and allowable deductions provided for under this Act;

(b) the appropriate value of the price index for the tax year;

(c) the accumulated present value of the net cash receipts for the tax year;

(d) the amount of additional profits tax payable for the tax year.

(2) The information required in subparagraph (1) shall be presented in sufficient detail so as to enable the Commissioner to verify the timing and amount of additional profits tax payment.

(3) The Commissioner may require the submission of additional profits tax statements more frequently than annually or at such intervals as specified in the relevant agreement.

(4) The additional profits tax statement for each tax year shall be submitted to the Commissioner not later than sixty days after the end of such tax year.

(5) The approved mining company shall submit to the Commissioner such records, returns and information relating to the approved mining company's liability to additional profits tax as may be prescribed or required by the Commissioner."