

Mineral Royalties Relief: Repeal

Who is likely to be affected?

Those in receipt of mineral royalties.

General description of the measure

Mineral royalties relief was introduced in the 1970s, when income tax and corporation tax rates were very high. These high rates of taxation deterred mineral exploitation, as land owners were faced with either releasing their minerals for a negligible after tax sum, or with holding on to them. To the extent that the relief has affected landowner behaviour, much of this impact could be expected to have occurred already, given the length of time the relief has been in existence. As tax rates are now much lower than they were in the 1970s, the Government believes that the relief is no longer necessary and it is being repealed.

Policy objective

The repeal supports the Government's objective to simplify the tax system and is part of a package of measures which will repeal reliefs that are no longer necessary, have not achieved their policy rationale or are distortive.

Background to the measure

Following the Office of Tax Simplification review of reliefs, the Government announced at Budget 2011 that it would repeal seven reliefs in Finance Act 2011 and confirmed its intention to abolish a further 36 reliefs in Finance Bill 2012 and beyond, subject to a period of consultation.

Consultation on the abolition of 36 tax reliefs was published on 27 May 2011 and views were requested on the Government's proposal to repeal this relief. The Government response was published on 6 December 2011. All documents are available on both the HM Treasury and HM Revenue & Customs (HMRC) websites.

Detailed proposal

Operative date

This relief will be withdrawn in respect of mineral royalties a person is entitled to receive on or after 1 April 2013 in respect of businesses subject to corporation tax and 6 April 2013 in respect of businesses subject to income tax.

The reliefs in respect of capital losses on mineral leases or agreements will no longer be available for leases or agreements entered into on or after the operative dates.

Current law

Mineral royalties would ordinarily be chargeable to income tax or corporation tax as income. This relief, found at sections 157, 319 and 340 of the Income Tax (Trading and Other Income) Act 2005, sections 135, 258 and 273 of the Corporation Tax Act 2009 and sections 201-203 of the Taxation of Chargeable Gains Act 1992 (TCGA), allows businesses to treat 50 per cent of the total amount of eligible mineral royalties received as a chargeable gain and liable to tax at the generally lower rates of tax on gains, leaving the remaining 50 per cent subject to income tax or corporation tax on income.

Section 202 of TCGA also allows landowners who receive mineral royalties to claim relief for the loss of value of the land in question. The section allows losses to be crystallized at the time the mineral lease or agreement ends. The losses may then be either relieved in the year in which the mineral lease ends or carried back up to 15 years and set off against the chargeable gains on the mineral royalties in those earlier years. Section 202 also permits losses on disposal of the land to which the mineral lease or agreement relates to be carried back up to 15 years.

Proposed revisions

Legislation will be introduced in Finance Bill 2012 to repeal mineral royalties relief in respect of mineral royalties a person is entitled to receive after the operative dates. Consequently any mineral royalties a person is entitled to receive on or after the operative dates will be fully subject to either income tax or corporation tax (as income), depending on the recipient.

The new rules will apply to mineral royalties under existing agreements or leases, as well as to mineral royalties under leases or agreements entered into after 31 March 2013 (for companies within the charge to corporation tax) or 5 April 2013 (for other cases).

Relief available under section 202 of TCGA for capital losses will not apply to mineral leases or agreements entered into on or after the operative dates. The ability to crystallize losses and the entitlement to carry back losses for up to 15 years will be preserved for mineral leases or agreements entered into before the operative dates.

Summary of impacts

Exchequer impact (£m)	2011-12	2012-13	2013-14	2014-15	2015-16
	-	-	negligible	negligible	negligible
	This measure is expected to have a negligible impact on the Exchequer. Any impact will be set out at Budget 2012.				
Economic impact	Withdrawal of the relief is not expected to impact significantly on landowners' willingness to make their land available for future mineral exploitation.				
Impact on individuals and households	This measure is likely to affect less than 800 individuals or households and trusts (including beneficiaries and trustees) that are in receipt of mineral royalties. The relief's abolition will result in the full mineral royalty becoming liable to income tax from 2013 resulting in some individuals or households and trusts paying more tax.				
Equalities impacts	Potential impacts have been considered and no different impact has been identified on people with protected characteristics.				
Impact on business including civil society organisations	There may be some impact on companies in receipt of mineral royalties as this income will now become fully subject to corporation tax. It is difficult to determine precise numbers as take-up of the relief is unknown, but these are expected to be low on the basis that about 700 mineral quarries are thought to be leased, with many of those being leased out by individuals and trusts. It is expected that the impact of this measure on businesses' administrative burdens will be negligible.				
Operational impact (£m) (HMRC or other)	There will be a negligible operational impact for HMRC.				

Other impacts	This measure applies to all sizes of business. The consultation did not identify anything to suggest that the relief's abolition would have a disproportionate impact on small firms.
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Monitoring and evaluation

This change does not require monitoring or evaluation. It removes an unnecessary relief. Any correspondence received on the impact of the repeal will be dealt with on a case by case basis.

Further advice

If you have any questions about this change, please contact Nick Williams on 020 7147 2541 (email: nicholas.williams@hmrc.gsi.gov.uk).

1 Abolition of tax relief in relation to mineral royalties

Schedule 1 contains provision abolishing relief in relation to mineral royalties.

SCHEDULE 1

Section 1

MINERAL LEASES OR AGREEMENTS

Income tax

- 1 (1) The following provisions of ITTOIA 2005 (which provide for income tax relief in relation to mineral royalties) are repealed –
 - (a) section 157 (mineral royalties included as receipts of a trade),
 - (b) section 319 (mineral royalties included as receipts of a UK property business), and
 - (c) sections 340 to 343 (mineral royalties receivable in connection with mines, quarries and other concerns).
- (2) In consequence of the amendments made by sub-paragraph (1) –
 - (a) in ITTOIA 2005 –
 - (i) in section 337, omit the entry relating to section 340 (together with the “and” before that entry), and
 - (ii) in section 339, omit subsection (3), and
 - (b) in the Commissioners for Revenue and Customs Act 2005, in Schedule 4, omit paragraph 132(3)(a).
- (3) The amendments made by this paragraph have effect in relation to mineral royalties which a person is entitled to receive on or after 6 April 2013.

Corporation tax on income

- 2 (1) The following provisions of CTA 2009 (which provide for corporation tax relief on income in relation to mineral royalties) are repealed –
 - (a) section 135 (mineral royalties included as receipts of a trade),
 - (b) section 258 (mineral royalties included as receipts of a UK property business), and
 - (c) sections 273 to 276 (mineral royalties receivable in connection with mines, quarries and other concerns).
- (2) In consequence of the amendment made by sub-paragraph (1)(c), in section 272 of CTA 2009, omit subsection (3).
- (3) The amendments made by this paragraph have effect in relation to mineral royalties which a company is entitled to receive on or after 1 April 2013.

Chargeable gains

- 3 (1) Section 201 of TCGA 1992 (mineral leases: royalties) is repealed.
- (2) In consequence of that amendment, in section 203 of TCGA 1992 –
 - (a) in subsection (1), for “sections 201 and 202” substitute “section 202”, and
 - (b) in the title, for “**sections 201 and 202**” substitute “**section 202**”.

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- (3) The amendments made by this paragraph have effect –
- (a) for the purposes of capital gains tax, in relation to mineral royalties which a person is entitled to receive on or after 6 April 2013, and
 - (b) for the purposes of corporation tax in respect of chargeable gains, in relation to mineral royalties which a company is entitled to receive on or after 1 April 2013.
- 4 (1) Section 202 of TCGA 1992 (mineral leases: capital losses) is amended as follows.
- (2) In subsection (1) –
- (a) after “currency of a mineral lease or agreement” insert “entered into before the relevant date”, and
 - (b) after “in relation to a mineral lease or agreement” insert “entered into before that date”.
- (3) After that subsection insert –
- “(1A) For the purposes of this section “the relevant date” means –
- (a) for the purposes of capital gains tax, 6 April 2013; and
 - (b) for the purposes of corporation tax in respect of chargeable gains, 1 April 2013.”
- (4) In subsection (3), after “termination of a mineral lease or agreement” insert “entered into before the relevant date”.
- 5 In section 203 of TCGA 1992 (provisions supplementary to ss. 201 and 202), in subsection (1) for “as they apply for the interpretation of Chapter 7 of Part 4 of CTA 2009” substitute “(despite their repeal by paragraph 2(1)(c) of Schedule 1 to the Finance Act 2012)”.

EXPLANATORY NOTE

MINERAL LEASES OR AGREEMENTS

SUMMARY

1. This Schedule simplifies the tax code by repealing mineral royalties relief.

DETAILS OF THE SCHEDULE

Income tax

2. Paragraph 1 repeals sections 157, 319 and 340 to 343 of the Income Tax (Trading and Other Income) Act 2005 (ITTOIA 2005). Those sections treat half of the mineral royalties that a person may receive under a mineral royalty agreement or lease as subject to income tax. Paragraph 1 also makes other, consequential amendments. These changes, have effect for mineral royalties receivable on or after 6 April 2013.

Corporation tax on income

3. Paragraph 2 repeals sections 135, 258 and 273 to 276 of the Corporation Tax Act 2009 (CTA 2009). Those sections treat half of the mineral royalties that a person may receive under a mineral royalty agreement or lease as subject to corporation tax as income. Paragraph 2 also makes a consequential amendment. These changes have effect for mineral royalties receivable on or after 1 April 2013.

Chargeable gains

4. Paragraph 3 repeals section 201 of the Taxation of Chargeable Gains Act 1992 (TCGA 1992). Section 201 treats half of the mineral royalties that a person receives as a chargeable gain. Paragraph 3 also makes various consequential amendments to TCGA 1992. These changes have effect for mineral royalties which a person is entitled to receive on or after 1 April 2013 for the purposes of corporation tax on chargeable gains, and on or after 6 April 2013 for the purposes of capital gains tax (CGT).
5. Paragraph 4 amends section 202 TCGA 1992 to limit the loss relief that the section provides in respect of mineral royalties leases or agreements to cases where the lease or agreement is entered into before 1 April 2013, for corporation tax purposes, or 6 April 2013, for CGT purposes.
6. Paragraph 5 makes a consequential amendment to section 203 TCGA 1992, which supplements sections 201 and 202.

BACKGROUND NOTE

7. Mineral royalties relief applies to certain “royalties” received by the owners (individuals, companies and others) of land in the UK in respect of leases or agreements etc to extract certain minerals from their land. The relief was introduced in 1970 when income and corporation tax rates were very high.
8. The relief provides (in its current form) that 50 per cent of the total amounts of royalties receivable are to be treated as a chargeable gain and liable to tax at the generally lower rates of tax on gains, leaving the remaining 50 per cent subject to income tax or corporation tax on income.
9. The Government considers that with much lower rates of income and corporation tax this relief is no longer necessary. Consequently the relief will be withdrawn in respect of mineral royalties receivable on or after 1 April 2013 in respect of businesses subject to corporation tax and 6 April 2013 in respect of businesses subject to income tax.
10. This means that any mineral royalties which a person is entitled to receive on or after the operative dates will be fully subject to either income tax or corporation tax, depending on the recipient. This applies both to mineral royalties received under existing agreements or leases, as well as to leases or agreements entered into on or after the operative dates.
11. Section 202 TCGA 1992 provides special loss relief where land subject to a mineral lease or agreement reduces in value. Where the landowner realises a loss on disposing of their interest in the land at or before the end of the period for which lease etc runs, they may carry back the loss on the disposal and set it off against the chargeable gains on the royalties payments for up to 15 years. Alternatively, a landowner may claim to be treated as having disposed of their interest in the land at the end of the lease etc, in order to crystallise a capital loss, which may then be similarly carried back for up to 15 years, or else set off against gains in the normal way. Where leases or agreements were entered into before the date of withdrawal of mineral royalties relief, the ability to crystallize losses and the entitlement to carry back losses for up to 15 years is preserved.
12. The Office of Tax Simplification was commissioned by the Chancellor to undertake a review of the reliefs and allowances available in the tax system. Following their review, the Government announced at Budget 2011 that it would repeal seven reliefs immediately and abolish a further 36 reliefs, subject to a period of consultation over the summer. The Government response to the consultation, published on 6 December 2011, confirmed the abolition of this relief.
13. If you have any questions about this change, or comments on the legislation, please contact Nick Williams on 020 7147 2541 (email: nicholas.williams@hmrc.gsi.gov.uk).