IT 353 - Meaning of mining operations for purposes of Division 10. open cut workings for winning of kaolin.

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There is an Addendum notice for this document.

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TAXATION RULING NO. IT 353

MEANING OF MINING OPERATIONS FOR PURPOSES OF DIVISION 10. OPEN CUT WORKINGS FOR WINNING OF KAOLIN.

F.O.I. EMBARGO: May be released

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I 1071038	MINING OPERATIONS OPEN CUT MINING KAOLIN MINING	DIVISION 10

OTHER RULINGS ON TOPIC : IT 356

PREAMBLE This Office has given consideration to the question as to whether the winning of kaolin by open cut methods by a company amounts to "mining operations" for purposes of Division 10 of the Income Tax Assessment Act.

RULING 2. Having regard to the fact that kaolin deposits have, in many instances, been worked by underground methods, this office considered that operations for its recovery fell into the same category as the recovery of gypsum in the case of Waratah Gypsum Pty Ltd v FC of T (1965) 112 CLR 152; 13 ATD 482. (For further elaboration on this case, reference should be made to Taxation Ruling No.IT356.) In each instance the substance is one which has traditionally been recovered by underground workings and, in the form in which it is required for specialised uses, is not one of the common rocks or substances composing the earth's crust.

3. Although McTiernan J., in the Waratah Gypsum Case, included "clay" amongst the substances "which are never extracted by underground techniques but are quarried as opposed to being mined" it would appear from the substances named generally that his Honour did not have in mind the recovery of rarer clays such as kaolin which, because of their value for particular purposes, make mining operations feasible.

4. It is considered, therefore, that open cut workings of this type be accepted as mining operations for purposes of Division 10.

COMMISSIONER OF TAXATION