IT 356 - Meaning of mining operations for purposes of Division 10. Open cut workings

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TAXATION RULING NO. IT 356

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

F.O.I. EMBARGO: May be released

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I 1071043	MINING OPERATIONS OPEN CUT MINING WARATAH GYPSUM CASE	DIVISION 10

OTHER RULINGS ON TOPIC : IT 353

PREAMBLE Following the decision in Waratah Gypsum Pty Ltd v FC of T (1965) 112 CLR 152; 13 ATD 482, this office considered whether extraction by means of open cut workings of certain substances may be accepted as mining operations within the meaning of Division 10.

RULING 2. Where it is clear that the extraction by such methods of any particular substance falls literally within the tests propounded in the Waratah Gypsum case, the activity may be accepted as mining operations. Thus the open cut extraction of talc and of the rarer or more valuable types of felspar, such as used in glass manufacture or ceramic glazes, may be accepted as mining operations because the recovery of these minerals has traditionally been associated with the concept of mining. Likewise the extraction by these methods of the lower grades of felspar, which it is understood are used in the production of bricks and similar building material, would bring these substances within the exclusion mentioned by his Honour.

3. The extraction of kaolin by means of open cut operations may be accepted as mining operations where the product is high grade clay such as is used for paper or rubber fillers, ceramic ware or paints. However, it should be maintained that open cut extraction of the lower grades of kaolin, used in the production of basic building materials, does not constitute mining operations for the purposes of Divison 10. It might be noted in this connection that the Bureau of Mineral Resources, in a booklet on clay issued in 1952, commented in respect of the Longwood deposits worked by South Australian Silicates Co. Pty Ltd - 'For many years this deposit has supplied the bulk of the plastic clay for the South Australian ceramic industry, although the plasticity is only mediocre and firing qualities poor. Although unsuitable for high quality white ware, for which it was used in the past, it is valuable for the manufacture of stoneware, pipes, tiles and bricks.

4. Open cut extraction of the following substances viz., sand, shellgrit, dolomite, limestone, calcite, flint pebbles, fireclay and moulders loam, should not be accepted as mining operations for the purposes of Division 10 without further consideration by this office.

COMMISSIONER OF TAXATION