

An aerial photograph of a large-scale open-pit mine. The mine's terraced walls are visible, showing various layers of rock and soil. A wide, winding dirt road curves through the site. Two trucks are on the road: a large yellow dump truck carrying a load of dark material, and a smaller white truck. The scene is brightly lit, suggesting a clear day.

**A Practical Guide to Reporting under the  
*Extractive Sector Transparency Measures Act***

# Introduction

The *Extractive Sector Transparency Measures Act* (the “**Act**”) imposes mandatory reporting of payments made by Canadian participants in extractive industries (mining, oil and gas) to foreign and domestic governments, including Aboriginal entities. The stated purpose of the Act is to deter and detect corruption.

Failure to comply with the reporting standards, knowingly making false or misleading statements, or structuring payments in such a way to avoid the reporting requirements, may result in a fine of not more than \$250,000.

**Companies must begin reporting payments made during the first financial year after June 1, 2015.**

## Does the Act Apply to Your Business?

The Act applies to any entity, including controlling entities, **engaged in the commercial development of oil, gas or minerals** that:

- has any securities listed on a stock exchange in Canada (including bonds or warrants) **OR**
- has a place of business in Canada, does business in Canada or has assets in Canada **AND** meets two of the following global size criteria in one of the two most recent financial years:



\$20 million in assets



\$40 million in revenue



Average of 250 employees

*Commercial development of oil, gas or minerals includes exploration, extraction and the acquisition or holding of a permit, license or lease or any other authorization to carry out the exploration or extraction of oil, gas or minerals.*

## What You Need to Know

### What has to be reported?

Each Reporting Entity must report **all payments to foreign and domestic governments, including Aboriginal and indigenous groups, made in relation to the commercial development of oil, gas or minerals** when any one payment or the aggregate of such payments is at least \$100,000.

### When should the report be filed?

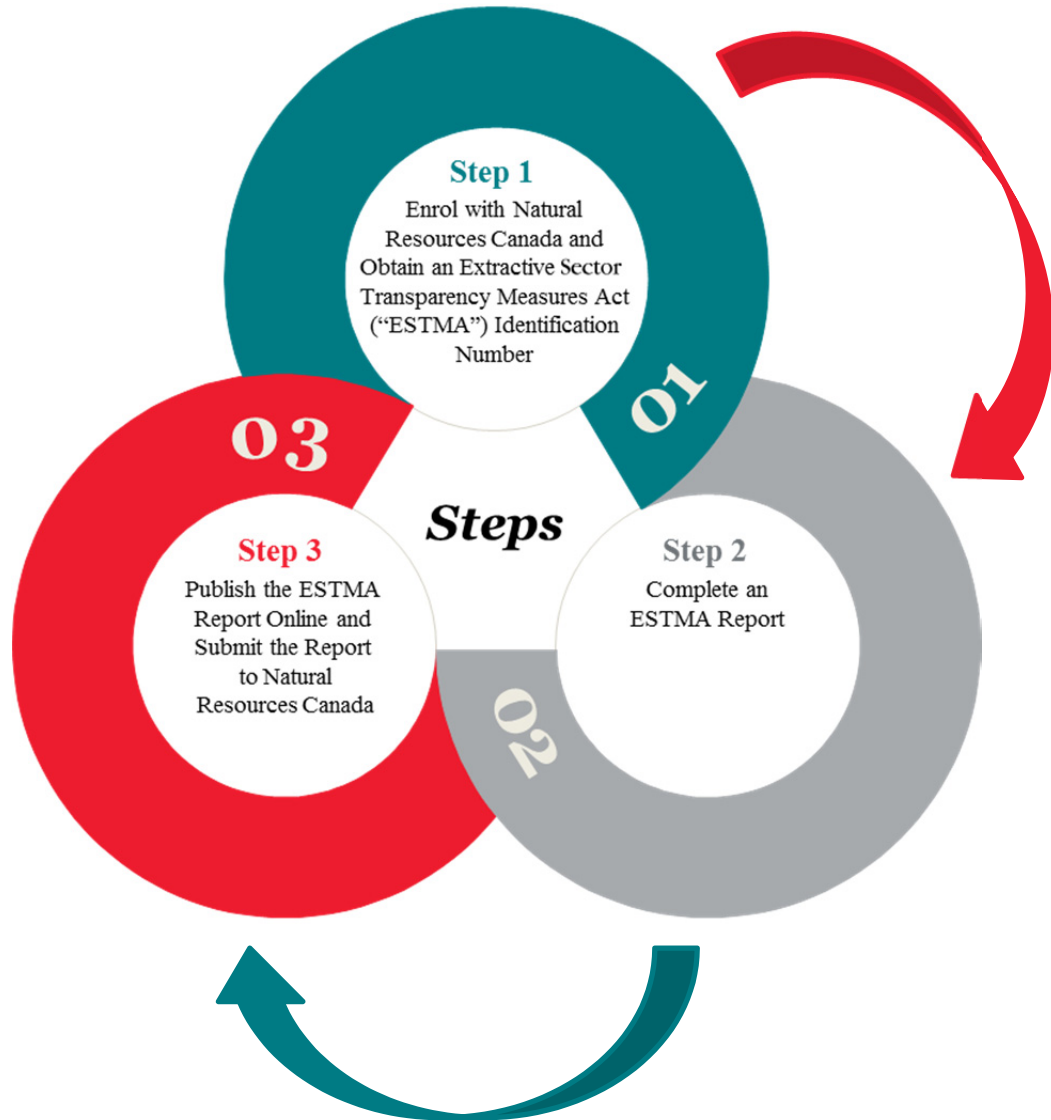
The Reporting Entity must prepare and publish a report **no later than 150 days after a financial year-end following June 1, 2016.**

### Which form to use for reporting?

The prescribed form is detailed below. However, you may instead file a report already prepared for an acceptable jurisdiction. At this time, only the EU Accounting and Transparency Directives form qualifies as an acceptable substitute.

A parent company may file a consolidated report for its subsidiaries. However, each subsidiary that meets the reporting tests set out above must separately register with Natural Resources Canada, as described in Step 1.

# The Reporting Process



## Step 1

### Enrol with Natural Resources Canada and Obtain an *Extractive Sector Transparency Measures Act* (“ESTMA”) Identification Number

- Enrol with Natural Resources Canada via the NRCan eServices Portal:  
<https://www.nrcan.gc.ca/mining-materials/estma/18186>
- Natural Resources Canada will assign a unique ESTMA identification (“ID”) number. The ESTMA ID number must be referenced in all future correspondence with Natural Resources Canada – including in all future ESTMA reports.

## Step 2

### Complete an ESTMA Report

Download the ESTMA reporting template:

<https://www.nrcan.gc.ca/mining-materials/estma/18192>

#### 2.1 Complete a Cover Page for your ESTMA Report

All fields in the cover page are mandatory.

- **Reporting Year:** Insert the start date (From) and end date (To) of the financial year captured in the report.
- **Reporting entity name:** Insert the name of the Reporting Entity that exactly matches the legal name used for enrolment.
- **Reporting Entity ESTMA identification number:** Insert the ESTMA ID number obtained during enrolment.
- **Subsidiary Reporting Entities:** If applicable, enter the names and ESTMA ID number for each Subsidiary Reporting Entity included in the report.

A copy of the ESTMA cover page is included in Appendix A.

#### 2.2 Complete the mandatory attestation statement included on the cover page

- Read both statements carefully, and select the checkbox that applies to your situation.
- Enter the end date of the financial year covered in the report at the end of the checked attestation statement.
- If the attestation through independent audit option was selected, provide a link to the audit opinion received in the appropriate section of the cover page.
- Insert the appropriate full name and position title of the attesting director or officer of the entity and provide the date when the attestation on the report was completed.

**NOTE:** Only the text marked in red in the attestation statement can be amended. Reporting Entities are prohibited from altering any other language in the attestation statement.

*Examples of payments that must be reported include:*

- *taxes, other than consumption taxes and personal income taxes;*
- *royalties;*
- *fees, including rental fees, entry fees and regulatory charges as well as fees or other consideration for licenses, permits or concessions;*
- *production entitlements;*
- *bonuses, including signature, discover and production bonuses;*
- *dividends other than dividends paid as ordinary shareholders; and*
- *infrastructure improvement payments.*



## 2.3 Complete the Payments by Payee and Payments by Project spreadsheets

To access the Payments by Payee and Payments by Project spreadsheets, click on the corresponding tabs at the bottom of the spreadsheet. Reporting Entities may add rows to the payments tables as required; however, columns may not be added or amended.

A copy of the Payments by Payee table and Payments by Project table is included in Appendix A.

When completing the Payments by Payee and Payments by Project tables, it is important to keep the following considerations in mind:

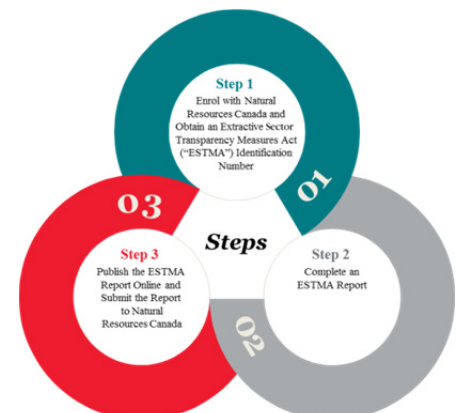
- **Method of accounting:** Payments must be disclosed on a cash accounting basis, and payments may be rounded to the nearest \$10,000.
- **In-kind payments:** The monetary value of any in-kind payment made to a payee by a Reporting Entity must be reported.
  - If a Reporting Entity can determine the cost of an in-kind payment, that is the value that should be reported. If the cost is not determinable, the in-kind payment should be reported at the fair market value. A Reporting Entity must include a supplementary note in its report briefly summarizing how the value of any in-kind payment has been determined.
- **Breakdown of payments:** On the Payments by Payee table, payments must be itemized to indicate which payee received the payment. On the Payments by Project table, payments must be disaggregated and attributed to a specific project.
  - Where a payment is not attributable to a specific project, it may be disclosed in the report without splitting or disaggregating the payment to allocate it to a specific project. Payee-level disclosure for such payments is sufficient.
  - A “**project**” means the operational activities that are governed by a single contract, license, lease, concession or similar legal agreement and form the basis for payment liabilities with a government. Nonetheless, if multiple such agreements are substantially interconnected, this shall be considered a project.
  - “**Substantially interconnected**” means forming a set of operationally and geographically integrated contracts, licenses, leases or concessions or related agreements with substantially similar terms that are signed with a government and give rise to payment liabilities.
- **Currency:** Reporting Entities must report in Canadian currency or in the currency of the Reporting Entity (e.g. currency used in a Reporting Entity’s consolidated financial statements). Reports must use only one type of currency.
  - If a Reporting Entity has made payments in currencies other than Canadian dollars or its reporting currency, it may choose to calculate the currency conversion between the currency in which the payment was made and Canadian dollars or the reporting currency, as applicable, in one of four ways: (1) using the method utilized by the Reporting Entity in its financial statement (2) by converting the payments at the exchange rate existing at the time the payment is made; (2) by using a weighted average of the exchange rates during the period; or (3) based on the exchange rate as of the issuer’s financial year end. Reporting Entities must include a note in their ESTMA reports that disclosed the exchange rate and primary method used for currency conversions.
- **Both tables are mandatory:** Both the Payments by Payee and Payments by Project tables must be completed.



## Step 3

### Publish the ESTMA Report Online and Submit the Report to Natural Resources Canada

- **Publish the completed ESTMA report on the Internet:** Reporting Entities are required to publish their reports online so that they are publicly available online for at least five years. All ESTMA reports published in the last five years must be grouped together at the same link and should be published at a link on the company's main website.
- **Provide the report to Natural Resources Canada:** Provide a link to the Reporting Entity's ESTMA reports, as well as an electronic copy of the most recent report, to Natural Resources Canada not later than 150 days following the end of their financial year via the NRCan eServices Portal.
- **Ensure that the report is up-to-date and accurate:** If a report is amended, Reporting Entities must inform Natural Resources Canada in detail of any changes to the report, provide an electronic copy of the latest version of the report, and ensure that the most up-to-date report is available at the previously provided link.
- **Add a version number to the title of the report for each amended report submitted:** In addition, the amended report must include a note that identifies the amendment(s).
- **Keep records of payments contained in the report:** Reporting entities must keep records of their payments to governments for seven years from the date a payment was published in a report and provided to Natural Resources Canada.

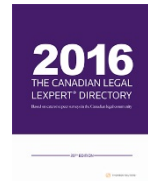


# About Goodmans

Goodmans is internationally recognized as one of Canada's pre-eminent business law firms with market leading expertise in corporate and transaction finance, M&A, commercial contracting, tax, private equity, real estate, restructuring, litigation and other business-related specialities. Goodmans provides a complete range of legal advice and representation to domestic and foreign business clients ranging from entrepreneurial businesses to multinational corporations, financial institutions, pension and private equity funds and governments.

Our lawyers are well known for their ability to devise and implement creative and practical legal solutions to business challenges and for their commitment to provide exceptional client service. We draw on our industry experience, strong interdisciplinary practice and relationships to develop and execute transactions in a way that responds to evolving client needs, market trends and regulatory practices.

By combining our results-oriented approach with our expertise in areas such as corporate finance, M&A, banking, tax and regulatory matters, Goodmans offers business insight and a seamless network of services necessary to assist our clients in achieving their goals. Goodmans and its lawyers are consistently recognized by leading industry arbiters that conduct various surveys of clients and peers including:



## Mining Expertise

Goodmans has an experienced and accomplished Mining and Natural Resources practice that advises a diverse range of enterprises active in mining, oil and gas, forestry and other natural resource sectors. The Group frequently advises Canadian and international mining and other resource-based companies on a broad range of matters, including equity and debt financing, venture capital financing, private placements, initial public offerings, structuring acquisitions and joint ventures, negotiation of mineral prospecting and exploration agreements, the acquisition and sale of resource interests, corporate and mineral resource disclosure, and securities law compliance matters. We regularly represent both Canadian and internationally based corporations in their negotiations with a variety of foreign governments.

Our Mining and Natural Resources Group is highly international in scope and its breadth of involvement stretches beyond North America to Asia, Africa, Australia and countries of the former Soviet Union. Calling upon the firm's expertise in corporate, commercial, securities, environmental, tax and regulatory areas, our Mining and Natural Resource lawyers draw on a strong mix of skills to provide a seamless network of services to North American and international clients.

We have provided advice in connection with numerous earn-in and option agreements for mineral resource properties in a variety of jurisdictions. We also are counsel to a number of joint ventures regarding mining properties, both operating mines and properties under development.

We are "repeatedly recommended" as a leading firm by *The Canadian Legal Expert Directory*, and also ranked by *The Legal 500 Canada* and *The Best Lawyers in Canada*. We also have been ranked as one of the leading mining practices in Canada in several issues of *Chambers Global*. Our lawyers are regularly invited as guest speakers both locally and internationally.

Please contact any member of our Mining and Natural Resource Group for further information on the reporting requirements.

## Attachment A – Questions to Ask Your Operating Teams and Subsidiaries

**Have you made any payments to any of the following “payees” in the financial year?**

- government in Canada (including national, regional, provincial or local/municipal levels)
- government in a foreign state (including national, regional, state/provincial, or local/municipal levels)
- body established by two or more governments
- crown corporation or other state-owned enterprise
- Aboriginal or indigenous groups

**Have you made any payments that total, individually or in the aggregate, \$100,000 or more from any one following categories to the same payee in the financial year?**

- Taxes** (other than consumption taxes and personal income taxes) the relate to the commercial development of oil, gas or minerals, including the following:
  - income and profit taxes
  - capital gains taxes
  - capital taxes
  - mining taxes
  - windfall profits taxes
  - resources surcharges
  - petroleum revenue taxes

Amount of taxes paid to each payee in the financial year:

| Payee | Amount |
|-------|--------|
|       |        |
|       |        |

- Royalties**

Amount of royalties paid to each payee in the financial year:

| Payee | Amount |
|-------|--------|
|       |        |
|       |        |

- Fees**, including the following:

- rental fees
- entry fees and regulatory charges
- fees or other consideration for licences, permits or concessions

Amount of fees paid to each payee in the financial year:

| Payee | Amount |
|-------|--------|
|       |        |
|       |        |

- Production entitlements** (a payee's share of oil, gas or mineral production under a production sharing agreement)

Cash value of production entitlements received by each payee in the financial year:

| Payee | Amount |
|-------|--------|
|       |        |
|       |        |

- Bonuses**, including the following:

- signature bonuses
- discovery bonuses
- production bonuses
- any other type of bonus paid in relation to the commercial development of oil, gas or minerals (including share issuances required by law or as consideration for the issuance of a license, permit or concession)

Amount of bonuses paid to each payee in the financial year:

| Payee | Amount |
|-------|--------|
|       |        |
|       |        |

- Dividends**, including the following (but not including dividends paid to payees as ordinary shareholders):

- dividends paid on shares received in lieu of a bonus, production entitlements, royalties or any other payment category

Amount of dividends paid to each payee in the financial year:

| Payee | Amount |
|-------|--------|
|       |        |
|       |        |

- Infrastructure improvement payments** (whether under contractual obligations or otherwise)

Amount of infrastructure improvement payments paid to each payee in the financial year:

| Payee | Amount |
|-------|--------|
|       |        |
|       |        |



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