



## **Interpretive Bulletin 2009-02**

### **Layovers for Quartz Mining Claims upon Death of Claimholder** (Sections 110-118 of the *Quartz Mining Act*)

*Note: This interpretive bulletin is not legal advice, and should not be relied upon for legal purposes. It is intended to summarize certain aspects of the Yukon Quartz Mining Act related to mineral rights and, as such, does not attempt to present all aspects of the Act and Regulations. The document may be amended from time to time. For complete information, the reader must refer to the Quartz Mining Act and Regulations.*

#### **Background**

The Mineral Resources Branch, Department of Energy Mines and Resources have developed the following to provide clarification on the issues that arise when a claim owner dies or becomes mentally incapable of performing the annual work and payment of fees necessary to retain a quartz claim in good standing.

#### **Definition**

A layover is a provision of the *Quartz Mining Act* that allows the Minister to exempt the estate of a deceased person from the requirement to perform annual assessment work and pay recording fees on the claim for a fixed period of time after the death or mental incapacity of a claim holder. This suspension of the requirements allows the relatives of the claim holder time to make arrangements regarding the disposition of the estate, including transfer of mineral claims. The layover period cannot exceed three years.

#### **To Request a Layover**

When a claim owner dies, the office of the Mining Recorder should be notified and a layover requested. When requesting a layover, a **copy** of the Death Certificate must be submitted to the office of the Mining Recorder for the district in which the claims are located. The Mining Recorder will then request the Minister issue a layover.

If the claim holder had a legal will at the time of death, the Executor must apply to the court to have the will probated. If the claimholder passed away without a legal will, then the Public Guardian and Trustee may take possession of and administer the estate. Before a claim can be transferred from the estate to another party, the executor or administrator must provide the Mining Recorder with a copy of either a Letter of Probate or a Letter of Administration. It is these documents that confirm who has the legal right to transfer the claims. It is only after receiving a Grant of Probate or Administration that the Mining Recorder can accept the transfer. The transfer document is necessary for the claims to be recorded in the name of the new owner, either the beneficiary or whoever the claims are sold to.

A request for a layover may not be necessary or allowable in some cases. For example if the deceased owner of a claim has already done the required assessment work in order to keep the claim in good standing for three or more years, a layover is not required. In the case of a claim held by a registered corporation, the layover provisions do not apply.

### **Co-owners**

The layover option does not apply to co-owners in respect to their requirement to continue to perform their portion of the annual assessment work and the payment of fees. For example, where a co-owner owns a 50% interest in the claim, he is still required to perform 50% of the assessment work and pay 50% of the recording fees.

During the period of the layover where the estate is the co-owner of a mineral claim, if one or more of the co-owners of a claim fail to contribute to the maintenance of the claim by doing their portion of the required assessment work, their interest may be assigned to the estate of the deceased co-owner and any other contributing co-owners in proportion to their respective interest.

### **Transfer of Claim**

Any person who receives a transfer of a mineral claim that has been in layover shall record the transfer with the Mining Recorder within two months from the date the transfer was signed. If the transfer is not recorded within two months from the date it was signed the claim lapses and the ground is open for staking again **OR**, if the claim is co-owned and the transfer is not recorded or otherwise complied with, the interest of the non-compliant party is assigned to the other co-owners in proportion to their respective interests.

At the end of three years, if the claim has not been transferred, it becomes subject to all the provisions of the *Act*. If the provisions are not complied with, the claims lapse on the original anniversary date of the claim following the termination of the layover.