

# ISSUE IN FOCUS

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MARCH 2011

## Saskatchewan's Potash Royalty and Mining Tax Regime

**CORE ISSUE:** THE CURRENT POTASH ROYALTY AND MINING TAX REGIME HAS ENCOURAGED EXPANSION OF OUR MINES WHICH CREATE NEW JOBS AND WILL PRODUCE SIGNIFICANT AND SUSTAINABLE ECONOMIC BENEFITS FOR THE PROVINCE. GREATER EMPLOYMENT AND LARGER VOLUMES OF PRODUCTION ARE THE BENEFITS OF AN EFFECTIVE REGULATORY AND TAXATION ENVIRONMENT AND THIS MUST BE MAINTAINED.

### The Potash Royalty and Mining Tax Regime's Importance to Business

While the impact of Saskatchewan's potash royalty and mining tax regime is most directly felt by potash producing companies, it has an undeniable effect on the broader Saskatchewan business community. Potash production is a significant economic driver in Saskatchewan. The industry purchases a variety of goods and services from local businesses and growing potash production increases this demand.

As an example, an economic impact study undertaken for PotashCorp (Saskatchewan's largest potash producer) by SJ Research Services in Regina projected that PotashCorp's Saskatchewan mine expansions would have a multiplier effect of 1.8 on the Saskatchewan economy (every dollar spent results in \$1.80 of economic benefit).<sup>1</sup> The potash royalty and mining tax regime affects the attractiveness and viability of this increased investment, impacting Saskatchewan's total economic benefit.

### The Potash Royalty and Mining Tax Regime Background

The current potash production tax system was introduced on January 1, 1990 and replaced The Potash Resource Payment Agreement tax system. *The Potash Production Tax Schedule of The Mineral Taxation Act* and *The Potash Production Tax Regulations* set out the guidelines for this new system.<sup>2</sup> Since it was first introduced however, the potash production tax system has been altered several times.

While an important mineral exploration incentive program was introduced in 2002, the former NDP government made major changes to the potash production tax system in 2003. The 2003 amendments exempted companies from the profit tax payment on sales above their 2001-2002 average and allowed for faster capital write-offs.<sup>3</sup> The goal of these initiatives was to help the industry realize its immense growth potential.<sup>4</sup> In addition to this first round of changes, the NDP government launched a two year comprehensive review of the potash tax system with the aim of simplifying the structure.

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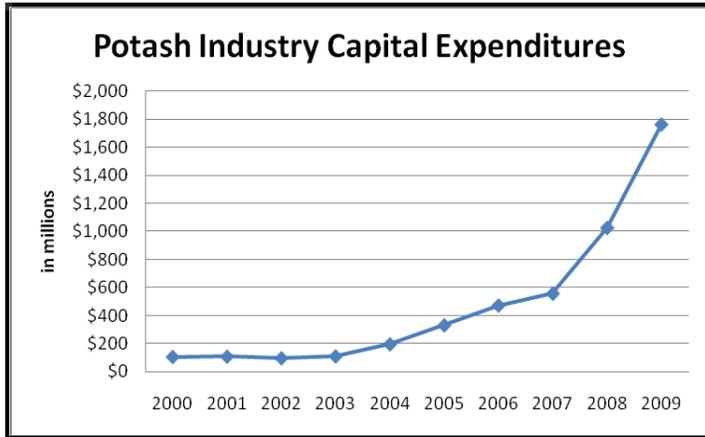
<sup>1</sup> Potash Corporation of Saskatchewan. [PotashCorp Projects Generate Large Economic Impact on Province](http://www.potashcorp.com/news/607/). 1 December 2008. 05 March 2011 <<http://www.potashcorp.com/news/607/>>.

<sup>2</sup> Government of Saskatchewan, Ministry of Energy and Resources. [Potash Information Circular: Potash Production Tax System](http://www.er.gov.sk.ca/Potash-Tax-Guide). 05 March 2011 <[www.er.gov.sk.ca/Potash-Tax-Guide](http://www.er.gov.sk.ca/Potash-Tax-Guide)>.

<sup>3</sup> Government of Saskatchewan. August 14, 2003. [News Release- New Measures Benefit Potash Industry](http://www.gov.sk.ca/news?newsId=3434fec4-4390-42c0-b801-0753d1161b0d). 01 March 2011. <<http://www.gov.sk.ca/news?newsId=3434fec4-4390-42c0-b801-0753d1161b0d>>

<sup>4</sup> Ibid.

The next set of amendments to the potash production tax system occurred in 2005. Two specific tax changes were introduced at that time. A base-payment holiday of 10 years for new production from mine expansions exceeding 122,000 K<sub>2</sub>O tonnes per year was established, and the depreciation rate on capital expenditures in excess of the base, defined as 90% of 2002 capital expenditures, was increased to 120%.<sup>5</sup>



(Source: Ministry of Energy and Resources)

The government made these changes to the potash tax system to encourage additional potash sales and new investment.<sup>6</sup> As illustrated by the *Potash Industry Capital Expenditures* chart, those initiatives have generated results. Capital expenditures in the potash industry have grown from \$107 million in 2000 to \$1.76 billion in 2009.<sup>7</sup>

Furthermore, increases in capital expenditures have been evident immediately following each set of potash production tax changes.

Potash mine expansions are continuing in Saskatchewan with all three of the province’s potash producing companies, PotashCorp, Mosaic and Agrium, working on increasing capacity. In total, the potash industry is planning to spend \$12 billion in the province by 2020.

In addition to existing producers, new companies are in various stages of mine development in Saskatchewan. To address the industry’s growth, the Saskatchewan Party government implemented another set of amendments to the potash production tax system that took effect January 1, 2010. The purpose of these amendments was to ensure new entrants did not receive an unfair competitive advantage over existing producers because their base levels for the 2003 change would be zero. The 2010 changes established a tax base for new industry entrants as well as a tax floor for all potash producers.<sup>8</sup>

In December 2009 the government also announced that a deduction in determining the profit tax portion of the potash production tax would be allowed for every new potash-related office job created in the province.<sup>9</sup> A lesser deduction would be allowed for positions already located in Saskatchewan and after five years each new job would be treated as an existing job.

<sup>5</sup> Government of Saskatchewan. April 11, 2005. [News Release- New Tax Changes to Grow Potash Industry](http://www.gov.sk.ca/news?newsId=bb226fb0-0a29-4b73-a3af-5e0150ef2d45). 01 March 2011. <<http://www.gov.sk.ca/news?newsId=bb226fb0-0a29-4b73-a3af-5e0150ef2d45>>

<sup>6</sup> Ibid.

<sup>7</sup> Government of Saskatchewan, Ministry of Energy and Resources. [2009-2010 Annual Report](http://www.er.gov.sk.ca/planandannualreport/annualreport). 02 March 2011 <<http://www.er.gov.sk.ca/planandannualreport/annualreport>>

<sup>8</sup> Government of Saskatchewan. November 20, 2009. [News Release- Government Ensures Fairness with Potash Production Tax Changes](http://www.gov.sk.ca/news?newsId=4bef278e-3a3b-409b-8f70-a1c1df2b1acb). 06 March 2011. <<http://www.gov.sk.ca/news?newsId=4bef278e-3a3b-409b-8f70-a1c1df2b1acb>>

<sup>9</sup> Government of Saskatchewan. December 3, 2009. [News Release- Tax Changes Promote Job Growth in Potash](http://www.gov.sk.ca/news?newsId=f90c2528-6eb2-456b-b58b-6eb3e3c9210e). 03 March 2011. <<http://www.gov.sk.ca/news?newsId=f90c2528-6eb2-456b-b58b-6eb3e3c9210e>>

## How are Potash Royalties and Mining Taxes Calculated

In Saskatchewan, mining taxes are calculated based on two payments, the base payment and profit tax.

The base payment is a monthly payment based on a yearly estimate. The *gross* base payment is a 35% resource profits tax which has a minimum payment of \$11 per tonne and a maximum payment of \$12.33 per tonne. However, several deductions can be made from the gross base payment. The legislative changes introduced in 2005 (as outlined above) allow new capacity that commenced on or after January 1, 2005 to be exempt from the base payment for ten years. Additionally, the base payment is further reduced by Crown and Freehold Royalties as well as by other credits.<sup>10</sup>

### Potash Production Taxes

#### Base Payment

Net Base Payment = Gross Base Payment  
– [Crown Royalties + Freehold Royalties  
+ Saskatchewan Resource Credit – Excess  
Deductions] – Tax Credits (prior year)

#### Profit Tax

Net Profit Tax = Gross Profit Tax – Base  
Payment Credits – Tax Credits

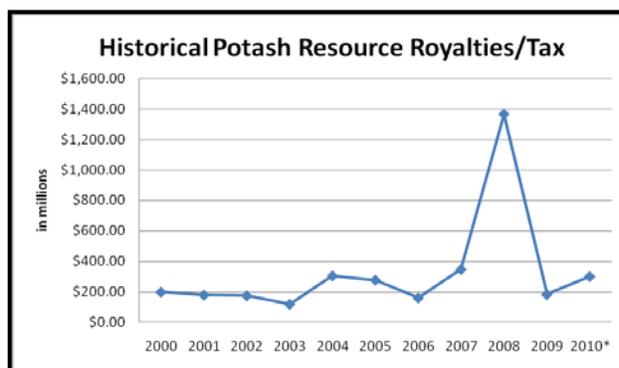
(Source: Ministry of Energy and Resources)

The profit tax is a progressive payment with a 15% rate applied to profits up to \$59.95 per tonne and 35% for profits in excess of that level. As per the 2003 amendments, tonnes sold in excess of the 2001 and 2002 sales average are not subject to the profit tax. Additionally as per the 2005 changes, under the profit tax calculation the government provides accelerated depreciation equal to 120% of capital costs for new capital expenditures in excess of 90% of 2002 capital expenditures. The system allows for losses to be carried forward for five years and an adjusted base payment is credited against the profit tax.<sup>11</sup>

## Historical Potash Resource Royalties

During the period 2000 to 2009, the volume of potash production in Saskatchewan ranged from a low of 8.6 million metric tonnes (MMT) to a high of 10.3 MMT and sales similarly ranged from \$1.744 billion to \$7.378 billion. Over this period the industry paid the province a total of \$2.947 billion in royalties and taxes.<sup>12</sup> Potash resource revenues averaged 4% of provincial revenues between 2003 and 2009.<sup>13</sup>

For 2010-2011 the Government of Saskatchewan is projecting the potash industry will pay \$301.5 million in royalties and taxes. This is \$80.5 million



\* According to 2010-2011 3rd quarter projections  
(Source: Ministry of Energy and Resources)

<sup>10</sup> Government of Saskatchewan, Ministry of Energy and Resources. Potash Information Circular: Potash Production Tax System. 05 March 2011 <[www.er.gov.sk.ca/Potash-Tax-Guide](http://www.er.gov.sk.ca/Potash-Tax-Guide)>.

<sup>11</sup> Mintz, Jack. "The Potash Royalty Mess." 14 October 2010. Financial Post. 06 March 2011 <<http://opinion.financialpost.com/2010/10/14/jack-mintz-the-potash-royalty-mess/>>.

<sup>12</sup> Warnock, John W. "Exploiting Saskatchewan's Potash: Who Benefits." 27 January 2011. Canadian Centre for Policy Alternatives. 05 March 2011 <<http://www.policyalternatives.ca/sites/default/files/uploads/publications/Saskatchewan%20Office/2011/01/Exploiting%20SK%20Potash%2001-25-11.pdf>>.

<sup>13</sup> Conference Board of Canada. 2010. Saskatchewan in the Spotlight: Acquisition of Potash Corporation of Saskatchewan Inc. – Risks and Opportunities. Ottawa: Conference Board of Canada. 01 March 2011.

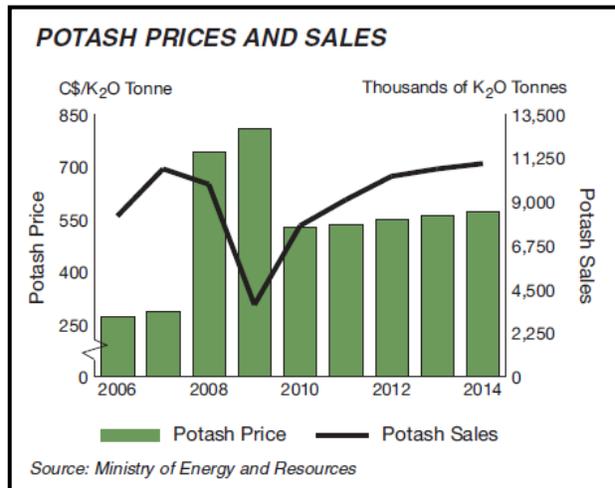
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higher than the initial budget estimate reflecting higher than budgeted prices and sales volumes.<sup>14</sup>

For nearly 20 years, starting in the mid-1980s, the price of potash at the Saskatchewan mine gate generally stayed within a range of between \$125 and \$200 per K<sub>2</sub>O tonne.<sup>15</sup> However, a growing demand and limited supply increases resulted in rapidly increasing potash prices. This growth culminated in a potash price spike in late 2008 and early 2009. The end result is that the mine gate price in Saskatchewan averaged \$825 per K<sub>2</sub>O tonne in 2009.<sup>16</sup> This price spike, combined with a general global recession, caused a sharp drop in demand in 2009. Saskatchewan potash sales fell by 63% to roughly 3.7 million K<sub>2</sub>O tonnes. This drastic rise and fall in price and demand caused unprecedented fluctuation in the province's potash resource revenues.<sup>17</sup>

According to the Saskatchewan government's projections however, the province anticipates greater stability in potash revenues over the next three years. The price of potash is expected to average \$584.46 per K<sub>2</sub>O tonne in 2010, \$583.14 per K<sub>2</sub>O tonne in 2011 and \$610.90 per K<sub>2</sub>O tonne in 2012.<sup>18</sup> The government also anticipates that potash sales will remain relatively stable.<sup>19</sup>

Assuming both these predictions hold true Saskatchewan's potash production tax revenues will remain relatively consistent over the next few years.



Due to the changes made in 2003 and 2005, Saskatchewan's potash production tax revenues will be lower during and immediately following the expansion of the mines in the province. Over the longer term however, this increased production will result in much higher revenues. PotashCorp projects that based on potash prices of \$550 per KCl tonne and 14 million KCl tonnes per year of sales, it will have to pay approximately \$750 million in potash production tax in Saskatchewan after the completion of its expansion phase.<sup>20</sup>

<sup>14</sup> Government of Saskatchewan. "2010-2011 Saskatchewan Budget Update." 04 March 2011. 3rd Quarter Financial Report. 06 March 2011 <<http://finance.gov.sk.ca/QuarterReports/Q3Report201011.pdf>>.

<sup>15</sup> Conference Board of Canada. 2010. Saskatchewan in the Spotlight: Acquisition of Potash Corporation of Saskatchewan Inc. – Risks and Opportunities. Ottawa: Conference Board of Canada. 01 March 2011.

<<http://www.gov.sk.ca/adx/asp/adxGetMedia.aspx?mediaId=1245&PN=Shared>>.

<sup>16</sup> Ibid.

<sup>17</sup> Government of Saskatchewan, Ministry of Finance. March 2010. Saskatchewan Provincial Budget 2010-2011. 08 March 2011 <<http://www.finance.gov.sk.ca/default.aspx?DN=e7e9328e-8c1d-4dc5-aaa9-3411a266e20f>>.

<sup>18</sup> Government of Saskatchewan. "2010-2011 Saskatchewan Budget Update." 25 November 2010. Mid-Year Report. 06 March 2011 <<http://www.finance.gov.sk.ca/QuarterReports/Q2MIDYEARREPORT201011.pdf>>.

<sup>19</sup> Government of Saskatchewan, Ministry of Finance. March 2010. Saskatchewan Provincial Budget 2010-2011. 08 March 2011 <<http://www.finance.gov.sk.ca/default.aspx?DN=e7e9328e-8c1d-4dc5-aaa9-3411a266e20f>>.

<sup>20</sup> Johnstone, Bruce. "Potash Corp. Defends Saskatchewan Royalties and Taxes." 10 March 2011. The Leader-Post. 12 March 2011 <[http://www.leaderpost.com/story\\_print.html?id=4419461&sponsor=>](http://www.leaderpost.com/story_print.html?id=4419461&sponsor=>)>.

## Comparing the Potash Royalty and Mining Tax Regime to Other Royalty Regimes in Saskatchewan

According to a 2006 study published by the World Bank, Saskatchewan has one of the most diverse mineral royalty assessment systems in the world.<sup>21</sup> The province uses a general profit-based system for most metallic and non-metallic minerals and a sales-based royalty for uranium, potash, and coal.<sup>22</sup>

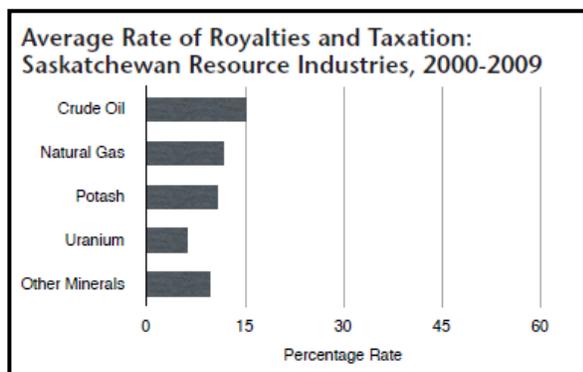
For 2009-10 the value of Saskatchewan's mineral sales is estimated to be \$5.18 billion.<sup>23</sup> The government projects that 76.7% of this revenue will be from potash, 18.1% from uranium, 0.5% from salt and 4.7% from other minerals including bentonite, quarriable materials, coal, sodium and precious and base metals.<sup>24</sup>

Similar to the potash production tax system, the uranium royalty calculation allows companies to recover some of the capital investments made in mine and mill development.<sup>25</sup> Unlike potash however, uranium allowances are not based on actual expenditures, but on standard allowances for certain types of mine development activities.<sup>26</sup> The uranium royalty calculation also incorporates a tiered royalty that allows the province to capture some revenue from price increases.

### Calculation of Saskatchewan Uranium Royalty Payment

$$\text{Royalty Payment} = \text{Basic Royalty} + \text{Tiered Royalty} - \text{Saskatchewan Resource Credit}$$

For its oil royalty calculations the province of Saskatchewan levies royalties based on oil quality, finished drilling date, average oil price and well productivity.<sup>27</sup>



(Source: Warnock, John W. "Exploiting Saskatchewan's Potash: Who Benefits.")

As illustrated by the *Average Rate of Royalties and Taxation* chart, the average tax rate for potash is higher than other minerals in Saskatchewan and only slightly lower than natural gas and crude oil.

In conjunction with its complex royalty regimes, the overall tax system in Saskatchewan is one of the least competitive in Canada. "Its effective tax rate on new investments — 26.5% in 2010 — is only surpassed by Manitoba and Prince Edward Island and is almost 50% higher than the Canadian average."<sup>28</sup>

<sup>21</sup> Otto, James, et als. "Mining Royalties: A Global Study of Their Impact on Investors, Government, and Civil Society." 2006. World Bank. 12 March 2011 <<http://siteresources.worldbank.org/INTOGMC/Resources/336099-1156955107170/miningroyaltiespublication.pdf>>.

<sup>22</sup> Ibid.

<sup>23</sup> Government of Saskatchewan, Ministry of Energy and Resources. 2009-2010 Annual Report. 02 March 2011 <<http://www.er.gov.sk.ca/planandannualreport/annualreport>>

<sup>24</sup> Ibid.

<sup>25</sup> Government of Saskatchewan, Ministry of Energy and Resources. Uranium Information Circular: Royalty and Tax Information. 08 March 2011 <<http://www.er.gov.sk.ca/Default.aspx?DN=892618b1-2ba2-444d-b33e-97c1b5dcb6a0>>.

<sup>26</sup> Ibid.

<sup>27</sup> Government of Saskatchewan. "Ministry of Energy and Resources." January 2011. Saskatchewan Crude Oil Crown Royalty and Freehold Production Tax. 11 March 2011 <<http://www.er.gov.sk.ca/Crude-Oil-Tax-Facts>>

Saskatchewan's uncompetitive tax rate, particularly the charging of the provincial sales tax on business inputs, reduces the attractiveness of local capital expenditures.<sup>29</sup> This is one of the reasons why incentives were put in place to help ease the tax burden while competing in the globally competitive potash industry.

### **How Does Saskatchewan's Potash Royalty and Mining Tax Regime Compare Internationally**

World production of potash totalled 36 MMT in 2008 with only 13 countries being notable potash producers.<sup>30</sup> Canada is the world's leading producer (approximately 30%), followed by Russia (19%) and Belarus (15%).<sup>31</sup> These three countries, combined with China, Germany, Israel and Jordan account for 90% of global production capacity.<sup>32</sup>

Potash production capacities are changing however. As of 2010, plans were in place to increase world production capacity by 28%, from 42.9 MMT in 2010 to 54.7 MMT in 2014.<sup>33</sup> Expansions of existing operations are planned for Canada, Russia, Chile and China and new projects are proposed for Argentina, Belarus, Canada, Chile, China, Congo and Laos.<sup>34</sup>

Changes in the industry in terms of price and demand, have intensified the global competition to attract potash exploration and mining investment dollars. This is putting additional attention and pressure on potash production taxation regimes.

After being hit hard during the economic crisis, Russia has recently implemented a number of general tax incentives to stimulate the development and recovery of its mining sector. These reforms included a reduction in corporate tax rates and accelerated depreciation on newly commissioned fixed assets, along with other measures.<sup>35</sup>

News reports out of Belarus also show their government is interested in increasing its mining operations by enhancing production capacity and will be seeking international tenders in the spring.<sup>36</sup> Belaruskali, Belarus' state-run company, is currently the world's third largest potash producer and according to the CRU 2010 Potash Cost Report, Belarus has the lowest royalties and production taxes (as a % of net revenue) among the major potash producing countries.

Saskatchewan is faced with having to compete against these and other jurisdictions for investment dollars. However, after taking income tax, royalties, the resource surcharge and the potash production

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<sup>28</sup> Mintz, Jack. "Beyond Potash, Saskatchewan is Still a Stagnating Economy." 10 November 2010. [Financial Post](http://opinion.financialpost.com/2010/11/10/jack-mintz-walls-socialist-state/), 14 March 2011 <<http://opinion.financialpost.com/2010/11/10/jack-mintz-walls-socialist-state/>>.

<sup>29</sup> Vander, Casey and Jack Vicq. "A Tax Framework for Saskatchewan's Continuing Prosperity." October 2010. [Canada West Foundation Economic Research Series](http://www.saskchamber.com/files/File/taxplan/taxplan_3mb_main.pdf), 14 March 2011 <[http://www.saskchamber.com/files/File/taxplan/taxplan\\_3mb\\_main.pdf](http://www.saskchamber.com/files/File/taxplan/taxplan_3mb_main.pdf)>.

<sup>30</sup> U.S. Geological Survey, 31 January 2011. [Potash Statistics and Information](http://minerals.usgs.gov/minerals/pubs/commodity/potash/), 12 March 2011.

<<http://minerals.usgs.gov/minerals/pubs/commodity/potash/>>

<sup>31</sup> Ibid.

<sup>32</sup> U.S Geological Survey. "2008 Minerals Yearbook." June 2010. [Potash \[Advance Release\]](http://minerals.usgs.gov/minerals/pubs/commodity/potash/myb1-2008-potas.pdf), 11 March 2011

<<http://minerals.usgs.gov/minerals/pubs/commodity/potash/myb1-2008-potas.pdf>>.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> PricewaterhouseCoopers Russia. "Metals and Mining in Russia and the CIS." 2010. 09 March 2011

<<http://www.pwc.com/gx/en/mining/issues-trends/pdf/metals-and-mining-in-russia-2010.pdf>>.

<sup>36</sup> Khamentovsky, Sergei. "Belarus might increase mining operations volume by enhancing production capacity." 09 February 2011. [Beltele Radio Company](http://www.tvr.by/eng/economics.asp?id=43299), 12 March 2011 < <http://www.tvr.by/eng/economics.asp?id=43299>>

tax into consideration, Saskatchewan is the highest-cost jurisdiction in regard to potash taxation.<sup>37</sup>

In fact, the CRU 2010 Potash Cost Report found that Saskatchewan's potash royalties and production taxes, when expressed as a percentage of net revenue, were twice as high as any other jurisdiction in the world.<sup>38</sup>

As the 2006 World Bank report pointed out, "Saskatchewan has developed special royalties for commodities in which the province has a major competitive advantage from an endowment perspective: potash and uranium. The richness and size of deposits in this jurisdiction allow the governments to capture a higher share of the profits (rents) from the deposit."

For example, PotashCorp estimates that once the accelerated depreciation allowances for its capital expenditures are complete, the company will return to a normalized total tax rate of between 40-45%.<sup>39</sup>

### **Saskatchewan Chamber of Commerce Position**

In 2003 and 2005, the NDP government made major changes to the potash production tax system in order to help the industry realize its immense growth potential in Saskatchewan. The province is now seeing results from these initiatives. The economic spin-offs and jobs created by the industry's increased capital investment and capacity is spreading wealth across the province.

Saskatchewan charges a premium on its potash resources when compared to international levels, but the quality of our deposits and the stability and attractiveness of our political environment allows producers to justify these additional costs.

The Saskatchewan Chamber of Commerce is adamant that the provincial government must maintain the current royalty and potash production tax regime to order to preserve the growth of one of Saskatchewan's core economic drivers.

Saskatchewan's potash producing companies are currently expanding their capacity based on an established taxation environment. Altering this environment could significantly impact the continuation of these projects. Also, it could further threaten the investment plans of, and the ability to attract, new large-scale investors. Changing the rules midway through projects sends the wrong message to the international investment community. For Saskatchewan to truly be "open for business," the province needs to recognize and respect business planning timelines and return on investment requirements.

Consistency and fairness are two key advantages that Saskatchewan has over other potash producing countries and it is absolutely necessary that we maintain them.

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<sup>37</sup> Johnstone, Bruce. "Potash Corp. Defends Saskatchewan Royalties and Taxes." 10 March 2011. [The Leader-Post](http://www.leaderpost.com/story_print.html?id=4419461&sponsor=>). 12 March 2011 <[http://www.leaderpost.com/story\\_print.html?id=4419461&sponsor=>](http://www.leaderpost.com/story_print.html?id=4419461&sponsor=>)>.

<sup>38</sup> Boyd, Bill. "Review Threatens Have Status." 23 February 2011. [The StarPhoenix](http://www.thestarphoenix.com/opinion/Review+threatens+have+status/4329854/story.html?cid=megadrop_story). 11 March 2011 <[http://www.thestarphoenix.com/opinion/Review+threatens+have+status/4329854/story.html?cid=megadrop\\_story](http://www.thestarphoenix.com/opinion/Review+threatens+have+status/4329854/story.html?cid=megadrop_story)>.

<sup>39</sup> Johnstone, Bruce. "Potash Corp. Disputes Figures." 11 March 2011. [The Leader-Post](http://www2.canada.com/reginaleaderpost/news/story.html?id=5730ba4f-73f9-4d9c-bc9d-db8142bd1435&p=2). 15 March 2011 <<http://www2.canada.com/reginaleaderpost/news/story.html?id=5730ba4f-73f9-4d9c-bc9d-db8142bd1435&p=2>>.

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