

CHAPTER 299

TAX UPON ROYALTIES RECEIVED FOR PERMISSION TO REMOVE ORE FROM LAND

299.01 TAX ON SEVERANCE OF ORE FROM LAND; RATE.

Amended by L. 1947 c. 540 s. 1.

Chapter 299 providing for a tax on royalties received for permission to remove ore from land originated with L. 1923, c. 226. It is valid notwithstanding the many claims of invalidity presented in the instant case. The tax being laid on land neither the owner's residence nor the place fixed for the payment of royalty is important. It is a tax on the interest in land owned by the person by whom the tax should be paid. It does not extend to the severance from the land of quarries or forests or other subjects of severance, but only to ores. *Lake Superior Mines v Lord*, 46 SC 627, 271 US 577.

299.02 DEFINITIONS.

"To ascertain the value of the ore at the mine, the commission began with the market quotations at Lake Erie ports and worked backward. It made certain deductions, but refused to allow the claim of relators to others. It rejected their claim for taxes paid on a washing plant; allowed in part only their claim for depreciation in the value of the plant; disallowed taxes paid on ore in stock piles; and refused an allowance for the reduced value of ore with high percentage of phosphorus. It is held that the commission should have allowed taxes paid on a washing plant; that, under the evidence, it allowed a sufficient amount for depreciation in the value of the plant; that it should have allowed taxes paid on ore in stockpiles; and that it should have allowed for the reduced value of ore with a high percentage of phosphorus." *State ex rel v Armson*, 166 M 230, 207 NW 727.

"The word 'royalties' means the share of the product of a mine delivered, or the money paid to the owner of the land, or one who holds under him, for permission to mine and remove the ore. Money so paid is rent and not the purchase price of ore in place. Neither the time nor the manner of payment, nor the form of the instrument executed by the fee owner, is controlling. The purpose for which the payment was made is the test by which to determine whether or not it was in the nature of a royalty. The evidence was not sufficiently definite and certain to require the commission to allow certain deductions claimed as advance payments of royalty." *State ex rel v Armson*, 166 M 231, 207 NW 727.

Advance royalty paid by a lessee of the mining lease, or by an assignee of the lessee, or a sublessee, cannot be deducted from the occupation tax on ore mined after the lease has expired. *State ex rel v Wallace*, 196 M 199, 264 NW 773.

299.05 TAX ON ROYALTIES; ASSESSMENT BY COMMISSIONER.

"The royalty tax is a six per cent tax upon all royalty received by the lessor during the year for permission to explore and take out iron ore, the royalty being construed to mean the amount of money or value of property received for the use of land for mining and taking away ore. It is a property tax not deductible as a non-statutory deduction in fixing the valuation of the ore produced in computing the occupation tax." *State ex rel v Armson*, 181 M 222, 232 NW 35.

The word "levy," as ordinarily understood, consists of determining the amount of the tax and extending such amount on the official books. The levy, as in the instant case, is not made until the tax commissioner determines the amount thereof and causes the amount thereof to be extended on the records of the state auditor's office, this being the requirement of the statute. *Day v Inland Steel*, 185 M 53, 239 NW 776.

MINNESOTA STATUTES 1947 ANNOTATIONS

299.06 TAX UPON ROYALTIES

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Obligations assumed by an assignee of a mining lease as consideration for the assignment are "royalty" for the privilege of mining ore and as such taxable in ascertaining the occupation tax. State ex rel v Bjornson, 194 M 649, 259 NW 392, 262 NW 574.

299.06 FAILURE TO MAKE REPORTS; PENALTY; PROCEDURE.

Amended by L. 1947 c. 310 s. 2.

299.08 LIEN OF TAX.

Amended by L. 1947 c. 310 s. 3.

Allowable deductions in computation of occupation tax. State ex rel v Commissioner, 209 M 150, 295 NW 962.