

## CHAPTER 299

### ORE; TAX UPON ROYALTIES

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#### 299.01 TAX ON ROYALTIES.

Subdivision 1. There shall be levied and collected upon all royalty received during each calendar year for permission to explore, mine, take out and remove ore other than taconite, semi-taconite and iron sulphides from land in this state, a tax of 15.5 percent after December 31, 1971.

Subd. 2. There is hereby imposed a tax upon all royalty received for the permission to explore, mine, take out and remove taconite, semi-taconite and iron sulphides from land in this state, a tax of 15 percent to be levied and collected in the same manner as the tax levied by subdivision 1.

**History:** 1923 c 226 s 1; Ex1937 c 84 s 1,2; 1939 c 355; 1941 c 545 s 1,2; 1943 c 589 s 1,2; 1945 c 447 s 1; 1947 c 540 s 1; Ex1955 c 2 art 3 s 1; Ex1957 c 1 art 4 s 2; Ex1959 c 70 art 9 s 1; Ex1971 c 31 art 4 s 3 (2392-1, 2392-1a)

**299.011** [Repealed, Ex1971 c 31 art 4 s 5]

#### 299.012 TAX CREDIT UPON PRODUCTION OF HIGH LABOR COST ORES AND TACONITES.

Subdivision 1. For the purpose of increasing the utilization of low grade, underground, and high labor cost ores and taconites, the royalty tax levied by virtue of section 299.01, subdivisions 1 and 2, on royalty received because of the production of ores in any calendar year from land forming part of any mine which was in production during said year, shall be reduced by a credit in an amount which will make the net effective tax rate thereon equal to the net effective rate of the occupation tax imposed pursuant to section 298.01, because of the production of ores during such calendar year from the mine of which such land forms a part, after the application of the credits against such occupation tax allowed under section 298.02; provided, if such mine produced ore in such calendar year, but the ore produced had no valuation for occupation tax purposes because of the allowable deductions equaling or exceeding the value of the ore produced, the credit allowed hereunder shall be three-fourths of eleven percent, as applied to underground, taconite, and semi-taconite operations, and six-tenths of eleven percent as applied to all other operations, of the royalty received. Any person making payments of royalty taxes in advance of the final determination of such taxes, may assume for the purposes of section 299.08, that the net rate of the tax for the calendar year in question shall be the last full year's net effective occupation tax rate known at the time of the first payment of royalty tax during the current calendar year.

Subd. 2. In the event that the payments for any calendar year are less than the amount of the tax as finally determined by the commissioner of revenue, the amount of such deficiency shall be collected in the manner provided by subdivision 3 or sections 299.09 and 299.10. In the event that there has been collected or

paid an amount of tax for any year in excess of the amount legally due for that year, a credit against future payments shall be allowed.

Subd. 3. In case any tax is not paid at the time provided in section 299.07, the commissioner, not earlier than ten days after notice to the royalty recipient, shall direct the royalty payor to withhold from any royalties due, or to become due to said recipient, the amount of tax determined to be delinquent, and shall direct such royalty payor to remit the same to the commissioner of revenue in the same manner and under the same conditions as prescribed by said section 299.08 for the withholding and remitting of the royalty tax.

**History:** *Ex1959 c 70 art 9 s 3; Ex1971 c 31 art 4 s 4; 1973 c 582 s 3; 1973 c 631 s 11*

### **299.013 TAX ON COPPER-NICKEL ROYALTY.**

Royalty received from and after May 23, 1967, for permission to explore, mine, take out and remove copper-nickel ore from land in this state shall be exempt from the tax imposed thereon under section 299.01, and in lieu thereof, there shall be levied and collected upon all such royalty a tax of one percent plus an additional one percent of the amount of royalty paid on gold, silver, platinum and other precious metals.

**History:** *1967 c 671 s 17; 1976 c 2 s 118*

### **299.02 DEFINITIONS.**

Subdivision 1. **Royalty.** For all purposes of this chapter, the word "royalty" shall be construed to mean the amount in money or value of property received by any person having any right, title, or interest in or to any tract of land in this state for permission to explore, mine, take out and remove ore therefrom.

Subd. 2. **Person.** The word "person" shall be construed to include individuals, copartnerships, associations, companies, and corporations.

**History:** *1923 c 226 s 2 (2392-2)*

### **299.03 REPORTS TO COMMISSIONER.**

Every person to whom royalty of \$5,000 or more is paid shall, on or before the first day of February, make and file with the commissioner of revenue annually a report setting forth the amount of royalty received by that person during the preceding calendar year, and other information as the commissioner of revenue may require.

**History:** *1923 c 226 s 3; 1963 c 523 s 1; 1973 c 582 s 3; 1981 c 164 s 9 (2392-3)*

### **299.04 CONTENTS OF REPORTS.**

It shall be the duty of every person paying royalty, on the first day of February, to make and file with the commissioner of revenue annually a report covering the preceding calendar year, verified by the oath of the person making the same, and setting forth:

- (1) The number of tons mined from each tract of land for the right to mine and remove ore on which such person pays royalty;
- (2) The amount of royalty paid on each tract of land separately;
- (3) The name and post-office address of each person to whom royalty is paid; and
- (4) Such other information as the commissioner of revenue may require.

**History:** *1923 c 226 s 4; 1973 c 582 s 3 (2392-4)*

**299.05 ASSESSMENT BY COMMISSIONER.**

Upon receipt of the report provided for in section 299.03, the commissioner of revenue shall determine, from information as may be possessed, or obtained, whether the report is correct, or incorrect; and, if found correct, the commissioner shall determine the amount of tax due from the person, enter the amount of the tax in department records, make assessment of taxes due from the person, and the amount that has been paid; and, on or before June 30, of each year, demand payment from the person. The commissioner of revenue shall have power, in case he shall deem the report incorrect, or in case the report is not made and filed with the commissioner as provided in section 299.03, to make findings as to the amount of taxes due after hearing upon notice to the person interested, and the findings shall have the same effect as the determination of the amount of such taxes upon a report made as hereinbefore provided.

A person subletting land for the use of which is received royalty shall be required to pay taxes only on the difference between the amount of royalty paid by him or her and the amount received.

If the amount of tax determined by the commissioner is subsequently found to be erroneous, the commissioner may, at any time within three years from the date allowed above for the original assessment, redetermine the amount of the tax. No redetermination shall be made increasing the tax unless the person from whom the additional amount is due is given ten days written notice of the proposed increase and the person's right to a hearing pursuant to chapter 14. Any person who has paid a royalty tax may apply to the commissioner within three years from the date allowed above for the original assessment for a redetermination of the tax and if the commissioner determines that the tax has been overpaid, he or she shall make and file an order determining the amount of the overpayment and credit the overpayment against the royalty taxes otherwise payable by the person who overpaid the tax. If the tax is increased, interest at the rate specified in section 270.75 from the date payment should have been made shall be determined and added to the tax. If the tax is reduced, interest at the rate of six percent per annum from the date of the overpayment shall be allowed.

**History:** 1923 c 226 s 5; 1931 c 234 s 1; 1947 c 310 s 1; Ex1959 c 70 art 9 s 4; 1963 c 524 s 1; 1973 c 582 s 3; 1973 c 631 s 12; 1981 c 164 s 10; 1982 c 424 s 130 (2392-5)

**299.06 FAILURE TO MAKE REPORTS; PENALTY; PROCEDURE.**

If any person subject to the tax provided by this chapter shall fail to make the report provided for in section 299.03, at the time and in the manner therein provided, there shall accrue upon the tax herein imposed a penalty in an amount equal to ten percent of the tax so imposed, the said penalty to be imposed ratably in proportion to the number of days delinquent but not exceeding 60 days after which the full penalty of ten percent shall be applied. After the said penalty or any proportion thereof has been assessed the commissioner of revenue shall serve notice by certified mail to the royalty recipient at his last known address of the amount of penalty due and of his intention to demand payment thereof from the royalty payor by withholding the same in the same manner as provided for withholding the royalty tax under section 299.08. Thereupon the commissioner not earlier than ten days after notice to the royalty recipient shall direct the royalty payor to withhold from any royalties due, or thereafter to become due said recipient, the amount of the penalty so assessed and remit the same to the commissioner of revenue in the same manner and under the same conditions as prescribed by said section 299.08 for the withholding and remitting of the royalty tax.

**History:** 1923 c 226 s 6; 1947 c 310 s 2; 1973 c 582 s 3; 1973 c 631 s 13; 1978 c 674 s 60 (2392-6)

**299.07 TIME FOR PAYMENT.**

Any portion of such tax that has not been withheld and paid by the royalty payor, as herein required, shall be due and payable on or before July 15, of each year.

**History:** 1923 c 226 s 7; 1925 c 361 s 1; 1931 c 234 s 2; Ex1959 c 70 art 9 s 5; 1973 c 631 s 14 (2392-7)

**299.08 LIEN; PAYMENT OF TAX.**

The situs of royalty, for all purposes of this chapter, shall be in this state; and the tax herein provided for shall be a specific lien from the time the royalty accrues upon all and singular the right, title, and interest of the person to whom such royalty is payable, in and to the land, for permission to explore, mine, take out, and remove ore on which the royalty is paid, and shall be a specific lien upon such royalties as they accrue. Every person paying royalty to another which is subject to tax hereunder, upon which the royalty tax has not been paid, shall withhold the amount of the tax upon such royalty and remit the same to the commissioner of revenue at the time the royalty is paid. Such payment shall operate to discharge to that extent the liability of the person paying such royalty to the royalty recipient. In addition thereto, he shall withhold any additional amounts certified pursuant to section 299.012, subdivision 3. At the time of such payment he shall file with the commissioner of revenue a report thereof on forms to be prescribed by the commissioner of revenue. If any person paying royalty to another shall fail to withhold the tax thereon or the penalty imposed by section 299.06, after notice thereof as therein provided, and pay the same to the commissioner of revenue, he shall be liable for the amount of such tax and penalty, with interest at the rate of 20 percent per annum, adjusted as provided in section 270.75, from the time the same should have been paid, to be recovered in an action by the attorney general for and on behalf of the state. The commissioner of revenue, may, upon petition of any royalty payor or recipient, upon such conditions as he may impose, permit the paying of the tax in one annual payment instead of as such royalty accrues, in which case such annual payment shall be made at such times as the commissioner of revenue directs, not later than June 30 of the year following the accrual of the royalty. No such extension of time shall be granted unless, as one of the conditions thereof, the royalty payor shall guarantee the payment of the tax.

In the event the royalty is paid in ore instead of in cash the tax provided for herein shall be a specific lien upon the ore apportioned to the royalty recipient; or, if such ore be not apportioned, upon the royalty recipient's interest in the ore mined, and such ore shall not be shipped from this state unless:

- (1) The royalty tax be paid; or
- (2) A bond be given to secure such payment, upon a form and with sureties approved by the commissioner of revenue, in an amount 25 percent in excess of his estimate of the tax; or
- (3) The estimated amount of the tax, such estimate to be made by the commissioner of revenue, be deposited with the state treasurer as security for such payment; or
- (4) The payment of the tax be guaranteed or secured in some other manner satisfactory to the commissioner of revenue.

**History:** 1923 c 226 s 8; 1931 c 234 s 3; 1947 c 310 s 3; Ex1959 c 70 art 9 s 6; 1961 c 560 s 28; 1973 c 582 s 3; 1973 c 631 s 15; 3Sp1981 c 2 art 3 s 19 (2392-8)

**299.09 ASSESSMENT FOR TAX; COLLECTION.**

The assessment of the commissioner of revenue for the tax and penalties imposed by the foregoing provisions of this chapter shall be prima facie evidence, in any court where proceedings may be brought, that the amount therein stated is due the state from the person against whom the same is assessed.

**History:** 1923 c 226 s 9; 1925 c 361 s 2; Ex1959 c 70 art 9 s 7; 1973 c 582 s 3; 1973 c 631 s 16 (2392-9)

**299.10 PENALTY FOR NON-PAYMENT; COLLECTION OF DELINQUENT TAX.**

If the tax herein provided for is not paid by July 15 of the year when due and payable a penalty of ten percent thereof shall immediately accrue and thereafter 20 percent per annum, adjusted as provided in section 270.75, shall be added to such tax while it remains unpaid. On July 16, of each year, the commissioner of revenue shall deliver a certification of unpaid liability to the attorney general, whose duty it shall be to bring an action in the district court of Ramsey county for the amount of such tax, together with penalties, interest, and costs of the proceedings; and the judgment of the court, when so obtained and properly docketed, shall be a lien upon all right, title, and interest of the taxpayer to the land upon which such tax is a lien from the time the same is docketed; and the lien shall continue without limitation, with interest at the rate of one percent per month, and the property may be sold in satisfaction of the judgment in the same manner as provided by law for the sale of property upon execution.

**History:** 1923 c 226 s 10; 1925 c 361 s 3; Ex1959 c 70 art 9 s 8; 1973 c 582 s 3; 1973 c 631 s 17; 3Sp1981 c 2 art 3 s 20 (2392-10)

**299.11 FALSE RETURNS OR REPORTS; PENALTY.**

Any person who, for the purpose of evading the payment of the tax herein provided, or any part thereof, makes any false return or report shall, in addition to the tax provided by this chapter, pay a penalty of 50 percent of the amount of the tax; and any person who shall knowingly make, under oath, any false report or return required by this chapter shall be guilty of perjury; and, upon conviction, punished therefor as provided by law.

**History:** 1923 c 226 s 11 (2392-11)

**299.12 RECORDS; INSPECTION BY COMMISSIONER; REFUSAL OF ACCESS A MISDEMEANOR.**

All books, way-bills, inventories, correspondence, and memoranda relating to or used in the transaction of the business of any person paying or receiving royalty on ore mined in this state shall, upon request be open to inspection or examination by the commissioner of revenue. If any person shall neglect or refuse, on request of the commissioner of revenue, access to these papers and books, that person shall be guilty of a misdemeanor; and, upon conviction, punished therefor as provided by law.

The provisions of section 298.15 which relate to the examination of records, appointment of examiners, issuance of subpoenas and punishment for disobeying a subpoena, are made applicable to royalty tax records, reports, and returns.

**History:** 1923 c 226 s 12; 1973 c 582 s 3; 1981 c 164 s 11 (2392-12)

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## **299.13 TAXES CREDITED TO GENERAL FUND.**

All taxes assessed, levied, and collected under the provisions of this chapter shall be paid into the state treasury and credited to the general fund.

**History:** 1923 c 226 s 13; 1969 c 399 s 1 (2392-13)

## **299.14 APPLICATION.**

Nothing in this act shall be construed as amending, modifying, qualifying, or in any way affecting the nature or character of the tax imposed by this chapter.

**History:** 1931 c 234 s 4 (2392-8 1/2)