

CHAPTER 298

OCCUPATION TAXES

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298.01 MINING OR PRODUCING ORES.

[For text of subds 1 to 3b, see M.S.1996]

Subd. 3c. Alternative minimum tax. For purposes of calculating the alternative minimum tax under section 290.0921, Minnesota alternative minimum taxable income must be computed under the provisions of subdivisions 3, 3a, and 3b, and the provisions of section 290.0921, except that:

(1) the adjustment for adjusted current earnings under section 56(g) of the Internal Revenue Code of 1986, as amended through December 31, 1996, must be determined using gross income as defined in subdivision 3a; and

(2) the tax preference for depletion under section 57(a)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1996, must be included in alternative minimum taxable income.

[For text of subds 3d to 4c, see M.S.1996]

Subd. 4d. Alternative minimum tax. For purposes of calculating the alternative minimum tax under section 290.0921, Minnesota alternative minimum taxable income must be computed under the provisions of subdivisions 4, 4a, 4b and 4c, and the provisions of section 290.0921, except that:

(1) for purposes of the depreciation adjustments provided by section 56(a)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1996, the basis for depreciable property placed in service is the remaining depreciable basis as defined in subdivision 4c;

(2) the adjustment for adjusted current earnings under section 56(g) of the Internal Revenue Code of 1986, as amended through December 31, 1996, must be determined using gross income as defined in subdivision 4a;

(3) the tax preference for depletion under section 57(a)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1996, must be included in alternative minimum taxable income; and

(4) for purposes of calculating the tax preference for accelerated depreciation or amortization of certain property placed in service before January 1, 1987, under section 57(a)(7) of the Internal Revenue Code of 1986, as amended through December 31, 1996, the deduction allowable for the taxable year shall mean the deduction allowable under subdivision 4c, provided that this modification must not reduce the amount of tax preference to less than zero.

[For text of subds 4e and 5, see M.S.1996]

History: 1997 c 231 art 6 s 24

298.017 DEDUCTIONS.

[For text of subd 1, see M.S.1996]

Subd. 2. Deductions allowed. (a) In calculating the net proceeds for the purpose of determining the tax provided in section 298.015, only those expenses specifically allowed in this subdivision may be deducted from gross proceeds. The carryback or carryforward of deductions shall not be allowed.

(b) Ordinary and necessary expenses actually paid for the mining, production, processing, beneficiation, smelting, or refining of metal or mineral products for:

(1) labor, including wages, salaries, fringe benefits, unemployment and workers' compensation insurance;

(2) machinery, equipment, and supplies, including any sales and use tax paid on it, except that machinery and equipment subject to depreciation shall only be deductible under clause (b)(3);

(3) depreciation as defined and allowed by section 167 of the Internal Revenue Code of 1986, as amended through December 31, 1996;

(4) administrative expenses inside Minnesota; and

(5) reclamation costs actually incurred in Minnesota and paid in a year of production, including the payment of bonds required by the provisions of an environmental permit issued by the state of Minnesota are deductible.

(c) Ordinary and necessary expenses of transporting metal or mineral products are allowed as a deduction if the costs are included in the sale price of the products.

(d) Expenses of exploration, research, or development in this state for the mining and processing of minerals within Minnesota paid in a production year are deductible in the production year.

(e) Expenses of exploration and development in Minnesota incurred prior to production must be amortized and deducted on a straight-line basis over the first five years of production.

History: 1997 c 231 art 6 s 24

298.22 IRON RANGE RESOURCES AND REHABILITATION.

Subdivision 1. (1) The governor shall appoint the commissioner of iron range resources and rehabilitation under section 15.06.

(2) The commissioner may hold other positions or appointments that are not incompatible with duties as commissioner of iron range resources and rehabilitation. The commissioner may appoint a deputy commissioner. All expenses of the commissioner, including the payment of such assistance as may be necessary, must be paid out of the amounts appropriated by section 298.28. The salary of the commissioner must be set by the legislative coordinating commission and may not exceed 75 percent of the salary of the governor.

(3) When the commissioner determines that distress and unemployment exists or may exist in the future in any county by reason of the removal of natural resources or a possibly limited use of natural resources in the future and any resulting decrease in employment, the commissioner may use whatever amounts of the appropriation made to the commissioner of revenue in section 298.28 that are determined to be necessary and proper in the development of the remaining resources of the county and in the vocational training and rehabilitation of its residents, except that the amount needed to cover cost overruns awarded to a contractor by an arbitrator in relation to a contract awarded by the commissioner or in effect after July 1, 1985, is appropriated from the general fund. For the purposes of this section, "development of remaining resources" includes, but is not limited to, the promotion of tourism.

[For text of subs 2 to 6, see M.S.1996]

Subd. 7. **Giants ridge recreation area.** (a) In addition to the other powers granted in this section and other law, the commissioner, for purposes of fostering economic development and tourism within the Giants Ridge recreation area, may spend any money made available to the agency under section 298.28 to acquire real or personal property or interests therein by gift, purchase, or lease and may convey by lease, sale, or other means of conveyance or commitment any or all of those property interests acquired.

(b) Notwithstanding any other law to the contrary, property conveyed under this subdivision and used for residential purposes is not eligible for property tax homestead classification under section 273.124 or for a property tax refund under chapter 290A.

(c) In furtherance of development of the Giants Ridge recreation area, the commissioner may establish and participate in charitable foundations and nonprofit corporations, including a corporation within the meaning of section 317A.011, subdivision 6.

(d) The term "Giants Ridge recreation area" refers to an economic development project area established by the commissioner in furtherance of the powers delegated in this section within St. Louis county in the western portions of the town of White and in the eastern portion of the westerly, adjacent, unorganized township.

History: 1997 c 200 art 1 s 71; 2Sp1997 c 3 s 14

298.24 TAX ON TACONITE AND IRON SULPHIDES.

Subdivision 1. (a) For concentrate produced in 1992, 1993, 1994, and 1995 there is imposed upon taconite and iron sulphides, and upon the mining and quarrying thereof, and upon the production of iron ore concentrate therefrom, and upon the concentrate so produced, a tax of \$2.054 per gross ton of merchantable iron ore concentrate produced therefrom.

(b) On concentrates produced in 1997 and thereafter, an additional tax is imposed equal to three cents per gross ton of merchantable iron ore concentrate for each one percent that the iron content of the product exceeds 72 percent, when dried at 212 degrees Fahrenheit.

(c) For concentrates produced in 1996 and subsequent years, the tax rate shall be equal to the preceding year's tax rate plus an amount equal to the preceding year's tax rate multiplied by the percentage increase in the implicit price deflator from the fourth quarter of the second preceding year to the fourth quarter of the preceding year, provided that, for concentrates produced in 1996 only, the increase in the rate of tax imposed under this section over the rate imposed for the previous year may not exceed four cents per ton. "Implicit price deflator" for the gross national product means the implicit price deflator prepared by the bureau of economic analysis of the United States Department of Commerce.

(d) The tax shall be imposed on the average of the production for the current year and the previous two years. The rate of the tax imposed will be the current year's tax rate. This clause shall not apply in the case of the closing of a taconite facility if the property taxes on the facility would be higher if this clause and section 298.25 were not applicable.

(e) If the tax or any part of the tax imposed by this subdivision is held to be unconstitutional, a tax of \$2.054 per gross ton of merchantable iron ore concentrate produced shall be imposed.

(f) Consistent with the intent of this subdivision to impose a tax based upon the weight of merchantable iron ore concentrate, the commissioner of revenue may indirectly determine the weight of merchantable iron ore concentrate included in fluxed pellets by subtracting the weight of the limestone, dolomite, or olivine derivatives or other basic flux additives included in the pellets from the weight of the pellets. For purposes of this paragraph, "fluxed pellets" are pellets produced in a process in which limestone, dolomite, olivine, or other basic flux additives are combined with merchantable iron ore concentrate. No subtraction from the weight of the pellets shall be allowed for binders, mineral and chemical additives other than basic flux additives, or moisture.

(g)(1) Notwithstanding any other provision of this subdivision, for the first two years of a plant's production of direct reduced ore, no tax is imposed under this section. As used in this paragraph, "direct reduced ore" is ore that results in a product that has an iron content of at least 75 percent. For the third year of a plant's production of direct reduced ore, the rate to be applied to direct reduced ore is 25 percent of the rate otherwise determined under this subdivision. For the fourth such production year, the rate is 50 percent of the rate otherwise determined under this subdivision; for the fifth such production year, the rate is 75 percent of the rate otherwise determined under this subdivision; and for all subsequent production years, the full rate is imposed.

(2) Subject to clause (1), production of direct reduced ore in this state is subject to the tax imposed by this section, but if that production is not produced by a producer of taconite or iron sulfides, the production of taconite or iron sulfides consumed in the production of direct reduced iron in this state is not subject to the tax imposed by this section on taconite or iron sulfides.

[For text of subds 2 and 3, see M.S.1996]

History: 1997 c 231 art 8 s 7

298.28 DIVISION AND DISTRIBUTION OF PROCEEDS.*[For text of subs 1 to 9, see M.S.1996]*

Subd. 9a. **Taconite economic development fund.** (a) 15.4 cents per ton for distributions in 1996, 1998, and 1999 and 20.4 cents per ton for distributions in 1997 shall be paid to the taconite economic development fund. No distribution shall be made under this paragraph in any year in which total industry production falls below 30 million tons.

(b) An amount equal to 50 percent of the tax under section 298.24 for concentrate sold in the form of pellet chips and fines not exceeding 5/16 inch in size and not including crushed pellets shall be paid to the taconite economic development fund. The amount paid shall not exceed \$700,000 annually for all companies. If the initial amount to be paid to the fund exceeds this amount, each company's payment shall be prorated so the total does not exceed \$700,000.

Subd. 9b. **Taconite environmental fund.** Five cents per ton for distributions in 1998 and 1999 shall be paid to the taconite environmental fund for use under section 298.2961. No distribution may be made under this paragraph in any year in which total industry production falls below 30,000,000 tons.

*[For text of subs 10 to 15, see M.S.1996]***History:** 1997 c 231 art 8 s 8,9**298.296 OPERATION OF FUND.***[For text of subs 1 to 3, see M.S.1996]*

Subd. 4. **Temporary loan authority.** (a) The board may recommend that up to \$7,500,000 from the corpus of the trust may be used for loans as provided in this subdivision. The money would be available for loans for construction and equipping of facilities constituting (1) a value added iron products plant, which may be either a new plant or a facility incorporated into an existing plant that produces iron upgraded to a minimum of 75 percent iron content or any iron alloy with a total minimum metallic content of 90 percent; or (2) a new mine or minerals processing plant for any mineral subject to the net proceeds tax imposed under section 298.015. A loan under this paragraph may not exceed \$5,000,000 for any facility.

(b) Additionally, the board must reserve the first \$2,000,000 of the net interest, dividends, and earnings arising from the investment of the trust after June 30, 1996, to be used for additional grants for the purposes set forth in paragraph (a). This amount must be reserved until it is used for the grants or until June 30, 1998, whichever is earlier.

(c) Additionally, the board may recommend that up to \$5,500,000 from the corpus of the trust may be used for additional grants for the purposes set forth in paragraph (a).

(d) The board may require that it receive an equity percentage in any project to which it contributes under this section.

(e) The authority to make loans and grants under this subdivision terminates June 30, 1998.

History: 1997 c 231 art 8 s 10**298.2961 PRODUCER GRANTS.**

Subdivision 1. **Appropriation.** (a) \$10,000,000 is appropriated from the northeast Minnesota economic protection trust fund to a special account in the taconite area environmental protection fund for grants or loans to producers on a project-by-project basis as provided in this section.

(b) The proceeds of the tax designated under section 298.28, subdivision 9b, are appropriated for grants and loans to producers on a project-by-project basis as provided in this section.

*[For text of subd 2, see M.S.1996]***History:** 1997 c 231 art 8 s 11

298.75 AGGREGATE MATERIAL REMOVAL; PRODUCTION TAX.

Subdivision 1. **Definitions.** Except as may otherwise be provided, the following words, when used in this section, shall have the meanings herein ascribed to them.

(1) "Aggregate material" shall mean nonmetallic natural mineral aggregate including, but not limited to sand, silica sand, gravel, building stone, crushed rock, limestone, and granite. Aggregate material shall not include dimension stone and dimension granite. Aggregate material must be measured or weighed after it has been extracted from the pit, quarry, or deposit.

(2) "Person" shall mean any individual, firm, partnership, corporation, organization, trustee, association, or other entity.

(3) "Operator" shall mean any person engaged in the business of removing aggregate material from the surface or subsurface of the soil, for the purpose of sale, either directly or indirectly, through the use of the aggregate material in a marketable product or service.

(4) "Extraction site" shall mean a pit, quarry, or deposit containing aggregate material and any contiguous property to the pit, quarry, or deposit which is used by the operator for stockpiling the aggregate material.

(5) "Importer" shall mean any person who buys aggregate material produced from a county not listed in paragraph (6) or another state and causes the aggregate material to be imported into a county in this state which imposes a tax on aggregate material.

(6) "County" shall mean the counties of Pope, Stearns, Benton, Sherburne, Carver, Scott, Dakota, Le Sueur, Kittson, Marshall, Pennington, Red Lake, Polk, Norman, Mahanomen, Clay, Becker, Carlton, St. Louis, Rock, Murray, Wilkin, Big Stone, Sibley, Hennepin, Washington, Chisago, and Ramsey.

[For text of subs 2 and 3, see M.S.1996]

Subd. 4. If the county auditor has not received the report by the 15th day after the last day of each calendar quarter from the operator or importer as required by subdivision 3 or has received an erroneous report, the county auditor shall estimate the amount of tax due and notify the operator or importer by registered mail of the amount of tax so estimated within the next 14 days. An operator or importer may, within 30 days from the date of mailing the notice, and upon payment of the amount of tax determined to be due, file in the office of the county auditor a written statement of objections to the amount of taxes determined to be due. The statement of objections shall be deemed to be a petition within the meaning of chapter 278, and shall be governed by sections 278.02 to 278.13.

[For text of subs 5 to 7, see M.S.1996]

Subd. 8. The county auditor or its duly authorized agent may examine records, including computer records, maintained by an importer or operator. The term "record" includes, but is not limited to, all accounts of an importer or operator. The county auditor must have access at all reasonable times to inspect and copy all business records related to an importer's or operator's collection, transportation, and disposal of aggregate to the extent necessary to ensure that all aggregate material production taxes required to be paid have been remitted to the county. The records must be maintained by the importer or operator for no less than six years.

History: 1997 c 231 art 8 s 12-14