

**298.01 MINING OR PRODUCING ORES.**

Subdivision 1. [Repealed, 1987 c 268 art 9 s 43]

Subd. 2. [Repealed, 1985 c 300 s 30]

Subd. 3. **Occupation tax; other ores.** Every person engaged in the business of mining, refining, or producing ores, metals, or minerals in this state, except iron ore or taconite concentrates, shall pay an occupation tax to the state of Minnesota as provided in this subdivision. For purposes of this subdivision, mining includes the application of hydrometallurgical processes. Hydrometallurgical processes are processes that extract the ores, metals, or minerals, by use of aqueous solutions that leach, concentrate, and recover the ore, metal, or mineral. The tax is determined in the same manner as the tax imposed by section 290.02, except that sections 290.05, subdivision 1, clause (a), 290.17, subdivision 4, and 290.191, subdivision 2, do not apply, and the occupation tax must be computed by applying to taxable income the rate of 2.45 percent. A person subject to occupation tax under this section shall apportion its net income on the basis of the percentage obtained by taking the sum of:

(1) 75 percent of the percentage which the sales made within this state in connection with the trade or business during the tax period are of the total sales wherever made in connection with the trade or business during the tax period;

(2) 12.5 percent of the percentage which the total tangible property used by the taxpayer in this state in connection with the trade or business during the tax period is of the total tangible property, wherever located, used by the taxpayer in connection with the trade or business during the tax period; and

(3) 12.5 percent of the percentage which the taxpayer's total payrolls paid or incurred in this state or paid in respect to labor performed in this state in connection with the trade or business during the tax period are of the taxpayer's total payrolls paid or incurred in connection with the trade or business during the tax period.

The tax is in addition to all other taxes.

Subd. 3a. **Gross income.** (a) For purposes of determining a person's taxable income under subdivision 3, gross income is determined by the amount of gross proceeds from mining in this state under section 298.016 and includes any gain or loss recognized from the sale or disposition of assets used in the business in this state. If more than one ore, mineral, or metal referred to in section 298.016 is mined and processed at the same mine and plant, a gross income for each ore, mineral, or metal must be determined separately. The gross incomes may be combined on one occupation tax return to arrive at the gross income of all production.

(b) In applying section 290.191, subdivision 5, transfers of ores, metals, or minerals that are subject to tax under this chapter are deemed to be sales in this state.

Subd. 3b. **Deductions.** (a) For purposes of determining taxable income under subdivision 3, the deductions from gross income include only those expenses necessary to convert raw ores to marketable quality. Such expenses include costs associated with refinement but do not include expenses such as transportation, stockpiling, marketing, or marine insurance that are incurred after marketable ores are produced, unless the expenses are included in gross income. The allowable deductions from a mine or plant that mines and produces more than one mineral, metal, or energy resource must be determined separately for the purposes of

computing the deduction in section 290.01, subdivision 19c, clause (8). These deductions may be combined on one occupation tax return to arrive at the deduction from gross income for all production.

(b) The provisions of section 290.01, subdivisions 19c, clauses (6) and (8), and 19d, clauses (6) and (9), are not used to determine taxable income.

Subd. 3c. [Repealed, 2006 c 259 art 12 s 17]

Subd. 3d. [Repealed, 2006 c 259 art 12 s 17]

**Subd. 4. Occupation tax; iron ore; taconite concentrates.** A person engaged in the business of mining or producing of iron ore, taconite concentrates or direct reduced ore in this state shall pay an occupation tax to the state of Minnesota. The tax is determined in the same manner as the tax imposed by section 290.02, except that sections 290.05, subdivision 1, clause (a), 290.17, subdivision 4, and 290.191, subdivision 2, do not apply, and the occupation tax shall be computed by applying to taxable income the rate of 2.45 percent. A person subject to occupation tax under this section shall apportion its net income on the basis of the percentage obtained by taking the sum of:

(1) 75 percent of the percentage which the sales made within this state in connection with the trade or business during the tax period are of the total sales wherever made in connection with the trade or business during the tax period;

(2) 12.5 percent of the percentage which the total tangible property used by the taxpayer in this state in connection with the trade or business during the tax period is of the total tangible property, wherever located, used by the taxpayer in connection with the trade or business during the tax period; and

(3) 12.5 percent of the percentage which the taxpayer's total payrolls paid or incurred in this state or paid in respect to labor performed in this state in connection with the trade or business during the tax period are of the taxpayer's total payrolls paid or incurred in connection with the trade or business during the tax period.

The tax is in addition to all other taxes.

**Subd. 4a. Gross income.** (a) For purposes of determining a person's taxable income under subdivision 4, gross income is determined by the mine value of the ore mined in Minnesota and includes any gain or loss recognized from the sale or disposition of assets used in the business in this state.

(b) Mine value is the value, or selling price, of iron ore or taconite concentrates, f.o.b. mine. The mine value is calculated by multiplying the iron unit price for the period, as determined by the commissioner, by the tons produced and the weighted average analysis.

(c) In applying section 290.191, subdivision 5, transfers of iron ore and taconite concentrates are deemed to be sales in this state.

(d) If iron ore or taconite and a mineral, metal, or energy resource referred to in section 298.016 is mined and processed at the same mine and plant, a gross income for each mineral, metal, or energy resource must be determined separately from the mine value for the iron ore or taconite. The gross income may be combined on one occupation tax return to arrive at the gross income from all production.

**Subd. 4b. Deductions.** For purposes of determining taxable income under subdivision 4, the deductions from gross income include only those expenses necessary to convert raw iron ore or taconite concentrates to marketable quality. Such expenses include costs associated with beneficiation and refinement but do not

include expenses such as transportation, stockpiling, marketing, or marine insurance that are incurred after marketable iron ore or taconite pellets are produced. The allowable deductions from a mine or plant that mines and produces iron ore or taconite and one or more mineral or metal referred to in section 298.016 must be determined separately for the purposes of computing the deduction in section 290.01, subdivision 19c, clause (8). These deductions may be combined on one occupation tax return to arrive at the deduction from gross income for all production.

Subd. 4c. **Special deductions; net operating loss.** (a) For purposes of determining taxable income under subdivision 4, the provisions of section 290.01, subdivisions 19c, clauses (6) and (8), and 19d, clauses (6) and (9), are not used to determine taxable income.

(b) The amount of net operating loss incurred in a taxable year beginning before January 1, 1990, that may be carried over to a taxable year beginning after December 31, 1989, is the amount of net operating loss carryover determined in the calculation of the hypothetical corporate franchise tax under Minnesota Statutes 1988, sections 298.40 and 298.402.

Subd. 4d. [Repealed, 2006 c 259 art 12 s 17]

Subd. 4e. [Repealed, 2006 c 259 art 12 s 17]

Subd. 5. **If declared unconstitutional.** If the taxes imposed in subdivisions 3 and 4 are found unconstitutional by any court of last resort, then persons engaged in the business of mining or producing iron ore or other ores shall pay the occupation taxes imposed in Minnesota Statutes 1986, chapter 298.

Subd. 6. **Deductions applicable to mining both taconite and other ores; ratio applied.** If a person is engaged in the business of mining or producing both iron ores, taconite concentrates, or direct reduced ore, and other ores from the same mine or facility, that person must separately determine the mine value of (1) the iron ore, taconite concentrates, and direct reduced ore, and (2) the amount of gross proceeds from mining other ores in Minnesota. The ratio of mine value from iron ore, taconite concentrates, and direct reduced ore to gross proceeds from mining other ores must be applied to deductions common to both processes to determine taxable income for tax paid pursuant to subdivisions 3 and 4.

**History:** (2373, 2373-1) 1921 c 223 s 1; Ex1937 c 85 s 1; 1939 c 356 s 1; 1941 c 544 s 1; 1943 c 590 s 1,2; 1945 c 448 s 1; 1947 c 542 s 1; Ex1955 c 2 art 2 s 1; Ex1957 c 1 art 4 s 1; Ex1959 c 70 art 8 s 1; Ex1971 c 31 art 4 s 1; 1973 c 631 s 1,2; 1984 c 502 art 7 s 10; 1985 c 300 s 20; 1Sp1985 c 14 art 10 s 7; 1987 c 268 art 9 s 22-25; 1988 c 719 art 2 s 51,52; 1989 c 27 art 1 s 3-9; 1Sp1989 c 1 art 10 s 38,39; 1991 c 291 art 11 s 12-15; 1993 c 375 art 8 s 14; 1994 c 587 art 1 s 24; 1995 c 264 art 1 s 4; art 7 s 1; 1996 c 471 art 9 s 15; 1997 c 231 art 6 s 24; 1Sp2001 c 5 art 9 s 26,27; 2002 c 377 art 8 s 3,4; 1Sp2005 c 3 art 3 s 16,17; 2006 c 259 art 12 s 2-8; 1Sp2011 c 7 art 7 s 4,5; 2013 c 143 art 6 s 31; art 17 s 15; 2014 c 275 art 1 s 99,100