

CHAPTER 298

OCCUPATION TAX ON MINING

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298.01 OCCUPATION TAX ON PRODUCING ORES. Every person engaged in the business of mining or producing iron ore or other ores in this state shall pay to the state of Minnesota an occupation tax equal to 10½ per cent for the years 1945 and 1946, and nine per cent each year thereafter of the valuation of all ores mined or produced, which said tax shall be in addition to all other taxes provided for by law, said tax to be due and payable from such person on May 1 of the year next succeeding the calendar year covered by the report thereon to be filed as hereinafter provided. All ores mined or produced subsequent to December 31, 1944, shall be subject to the increased rate provided by this section.

[1921 c. 223 s. 1; Ex. 1937 c. 85 s. 1; 1939 c. 356 s. 1; 1941 c. 544 s. 1; 1943 c. 590 ss. 1, 2; 1945 c. 448 s. 1] (2373, 2373-1)

298.02 LOW GRADE ORE. Subdivision 1. **Credit for cost of labor.** For the purpose of increasing employment and the utilization of low-grade, underground, and high labor cost ores, any taxpayer on whom a tax is imposed by reason of the provisions of Minnesota Statutes 1941, Section 298.01, shall be allowed a credit against the occupation tax as computed in said section because of the mining or production of ore from any mine, in an amount equal to 10 per cent of that part of the cost of labor, employed at said mine or in the beneficiation of such ore at or near said mine, in any calendar year, in excess of 30 cents and not in excess of 40 cents per ton of the ore produced during that year, and an amount equal to 15 per cent of that part of the cost of such labor in excess of 40 cents per ton of ore produced during that year; provided, however, that in no event shall the credit allowed hereunder be in excess of 75 per cent of the total of the tax computed under the provisions of Minnesota Statutes 1941, Section 298.01.

Subd. 2. **Credit in lieu.** In lieu of the credit above provided, at the election of the taxpayer, there may be allowed a credit against the occupation tax assessed against any mine of two-thirds of one per cent of the amount of such tax for each one per cent of the total production of iron ore from said mine which is converted into pig iron, sponge iron, or powdered iron, within the limits of the State of Minnesota. The taxpayer shall make such election at the time of filing the occupation tax return for said mine.

Subd. 3. **If declared unconstitutional.** In the event that the credit provided for in Subd. 2 hereof is found unconstitutional by any court of last resort, then the taxpayer shall be limited to the labor credit herein provided in Subd. 1 hereof.

[1939 c. 356 s. 3; 1941 c. 544 s. 3; 1943 c. 590 s. 3; 1945 c. 445 s. 1] (2373-2)

298.03 VALUE OF ORE; HOW ASCERTAINED. The valuation of iron or other ores for the purposes of determining the amount of tax to be paid under the provisions of section 298.01 shall be ascertained by subtracting from the value of such ore, at the place where the same is brought to the surface of the earth, such value to be determined by the commissioner of taxation:

(1) The reasonable cost of supplies used and labor performed at the mine in separating the ore from the ore body, including hoisting, elevating, or conveying the same to the surface of the earth;

(2) If the ore is taken from an open pit mine, an amount for each ton of ore mined or produced during the year equal to the cost of removing the overburden, divided by the number of tons of ore uncovered, the number of tons of ore uncovered in each case to be determined by the commissioner of taxation;

(3) If the ore is taken from an underground mine, an amount for each ton of ore mined or produced during the year equal to the cost of sinking and constructing shafts and running drifts, divided by the number of tons of ore that can be advantageously taken out through such shafts and drifts, the number of tons of ore that can be advantageously taken out in each case to be determined by the commissioner of taxation;

(4) The amount of royalties paid on the ore mined or produced during the year;

(5) A percentage of the ad valorem taxes levied for such year against the realty in which the ore is deposited equal to the percentage that the tons mined or produced during such year bears to the total tonnage in the mine; and

(6) The amount or amounts of all the foregoing subtractions shall be ascertained and determined by the commissioner of taxation.

[1921 c. 223 s. 2; 1925 c. 307 s. 1; Ex. 1937 c. 85 s. 2] (2374)

298.04 ORES SUBJECT TO TAX. All ores mined or produced subsequent to December 31, 1936, shall be subject to the provisions of sections 298.01, 298.03, and 298.04.

[Ex. 1937 c. 85 s. 3] (2374-1)

298.05 MINING COMPANIES TO REPORT ANNUALLY. Every person engaged in such mining or production of ores shall, annually, on or before the first day of March, file with the commissioner of taxation, under oath, a correct report, in such form and containing such information as he may require, covering the preceding calendar year.

[1921 c. 223 s. 3; 1925 c. 307 s. 2] (2375)

298.06 COMMISSIONER TO DETERMINE TAX. Upon receipt by the commissioner of taxation of such report he shall determine, from such information as he may possess or obtain, whether the same is correct or otherwise; and, if found correct, he shall, on or before May first, find and determine therefrom the amount of tax due from such person.

[1921 c. 223 s. 4] (2376)

298.07 WHEN REPORT INCORRECT COMMISSIONER TO FIX AMOUNT OF TAX. Upon receipt by the commissioner of taxation of such report, he shall determine, from such information as he may possess or obtain, whether the same is correct or otherwise; and, if found incorrect, from such information as he may possess or obtain, he shall find and determine the amount of tax due from such person.

[1921 c. 223 s. 5] (2381)

298.08 PROCEDURE WHEN NO REPORT IS FILED; PENALTY FOR FAILURE TO REPORT. If any person subject to sections 298.01, 298.03, 298.05 to 298.16, and 298.21 shall fail to make the report provided for in section 298.05 at the time and in the manner therein provided, the commissioner of taxation shall in such case, upon such information as he may possess or obtain, ascertain the kind and amount of ore mined or produced, together with the valuation thereof, and thereon find and determine the amount of the tax due from such person. There shall be added thereto a penalty for failure to report, which penalty shall equal ten per cent of the tax imposed and be treated as a part thereof.

[1921 c. 223 s. 6] (2382)

298.09 NOTICES; HEARINGS; DETERMINATION OF AMOUNT OF TAX IS FINAL; CERTIORARI. Subdivision 1. On or before May 1 in each year, the commissioner of taxation shall send to each person subject to an occupation tax under the provisions of Laws 1921, Chapter 223, as amended, a notice of the amount of the tax so determined to be due from him. Said notice shall be sent by registered mail and directed to him at the address given in the report filed by him, and, if no report has been filed or no address given, then at such address as the commissioner of taxation may be able to ascertain; but the validity of the tax shall not be affected by the failure of the commissioner of taxation to mail such notice or the failure of the person subject to the tax to receive it.

Subd. 2. On the first secular day following the fourteenth day of May, the commissioner of taxation shall hold a hearing at his office in St. Paul which may be adjourned from day to day. Every person subject to such tax may at such hearing present evidence and argument on any matter bearing upon the validity or correctness of the tax determined to be due from him, and the commissioner of taxation shall review his determination of such tax.

Subd. 3. After such hearing the commissioner of taxation shall make his order either affirming his determination of the tax due from the person so appearing or modifying such determination as he shall deem just and equitable, and, upon the making and filing of such order, said determination shall, except as hereinafter provided, become final and conclusive. The determination of the amount of tax due from any person not appearing at such hearing shall, except as hereinafter provided, become final and conclusive on the second secular day following the fourteenth day of May without further order. The determination by the commissioner of taxation of the amount of any tax due hereunder shall, except as hereinafter provided, be subject to review only on a writ of certiorari issued out of the supreme court on petition therefor presented to said court by the person subject to the tax on or before July first next following the determination of the tax.

Subd. 4. 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 the tax is certified as provided in section 298.10, redetermine the amount thereof. No such redetermination shall be made increasing the tax unless the person from whom the additional amount is due is given ten days written notice thereof and an opportunity to be heard thereon. If an order is made increasing the tax, the same proceedings shall be had as provided for occupation taxes originally determined and certified. Any person who has paid an occupation tax may apply to the commissioner within the time herein limited for a redetermination of the tax, and if the commissioner determines that the tax has been overpaid, he shall make and file an order determining the amount of such overpayment, and credit it against occupation taxes otherwise payable by the person who has overpaid the amount as so determined. If the tax is increased, interest at six per cent per annum from the date payment should have been made shall be determined and paid; if the tax is reduced, interest at the rate of three per cent per annum from the date of overpayment shall be allowed.

[1921 c. 223 s. 7; 1925 c. 307 s. 3; 1943 c. 657 s. 1] (2383)

298.10 COMMISSIONER TO CERTIFY AMOUNT OF TAXES TO STATE AUDITOR; DRAFTS ON PERSONS LIABLE. The commissioner of taxation shall enter on his records the amount of taxes found and determined by him to be due from any person, as herein provided; and, on or before June first, shall certify such amount to the state auditor, who thereupon shall make his draft upon such person for the amount of taxes as thus certified, and place the same in the hands of the state treasurer for collection.

[1921 c. 223 s. 8; 1925 c. 307 s. 4] (2384)

298.11 TIME FOR PAYMENT OF TAXES; PENALTIES. In case the tax provided for in sections 298.01 to 298.16 is not paid before the fifteenth day of June of the year when due and payable, a penalty of ten per cent thereof shall immediately accrue; and thereafter one per cent per month shall be added to such tax and penalty while such tax remains unpaid.

[1921 c. 223 s. 9; 1925 c. 307 s. 5] (2385)

298.12 STATE AUDITOR'S DRAFT PRIMA FACIE EVIDENCE OF AMOUNT DUE. The draft of the state auditor for the tax, or tax and penalties, imposed by the provisions of sections 298.01 to 298.11, shall be prima facie evidence, in any court where proceedings may be brought for its enforcement, that the amount therein stated is due the state from the person against whom the same is drawn.

[1921 c. 223 s. 10] (2377)

298.13 ATTORNEY GENERAL TO COLLECT UNPAID DRAFTS. On July first each year, the state treasurer shall deliver to the attorney general all unpaid drafts for taxes imposed under sections 298.01 to 298.16, and he shall bring an action thereon in the district court of Ramsey county, or of the county where such ores are mined or produced, for the amount of such draft, together with interest, penalties, and costs. The judgment of the court, when so obtained, shall bear interest at the rate of one per cent per month and be enforceable in the manner provided by law for the enforcement of judgments obtained in civil actions.

[1921 c. 223 s. 11] (2378)

298.14 PENALTY FOR FALSE RETURN. Any person who, for the purpose of evading the payment of the tax hereinbefore provided, or any part thereof, makes any false return or report under section 298.05 shall pay to the state a penalty of 50 per cent of the amount of the tax; and any one who shall knowingly make or sign, under oath, any false return of the kind and amount of ores produced therefrom, and of the value thereof, or who shall knowingly submit any other false information required by sections 298.01 to 298.16, shall be deemed guilty of perjury; and, upon conviction, punished therefor as provided by law.

[1921 c. 223 s. 12] (2379)

298.15 RECORDS OF COMPANIES TO BE OPEN TO INSPECTION. All books, way-bills, inventories, correspondence, and memoranda relating to or used in the transaction of the business of any person owning or operating any such mine shall, on demand by the commissioner of taxation, or his authorized representatives, be open to inspection or examination. If any one having charge, control, or possession of these papers and books of such person shall neglect or refuse, on demand of the commissioner of taxation, or his authorized representatives, access to these papers and books, he shall be deemed guilty of a gross misdemeanor; and, upon conviction, punished therefor as provided by law.

[1921 c. 223 s. 13] (2380)

298.16 TAXES TO BE CREDITED TO GENERAL REVENUE FUND. All taxes imposed and collected under the provisions of sections 298.01 to 298.15 shall be paid into the state treasury and credited to the general revenue fund.

[1921 c. 223 s. 14] (2386)

298.17 OCCUPATION TAXES TO BE APPORTIONED. All occupation taxes which shall become due and payable on May 1, 1924, and subsequent thereto, from persons, copartnerships, companies, joint stock companies, corporations, and associations, however or for whatever purpose organized, engaged in the business of mining or producing iron ore or other ores, when collected shall be apportioned and distributed in accordance with the Constitution of the State of Minnesota, Article 9, Section 1A, in the manner following: 50 per cent to the state general revenue fund; 40 per cent to the permanent school fund; and ten per cent to the permanent university fund.

[1923 c. 402 s. 1] (2391)

298.18 TAXES TO GO TO REVENUE FUND IF SECTION 298.17 INVALID. If for any reason section 298.17 shall be held to be invalid, then all such taxes, when collected, shall be paid into the state treasury and credited to the general revenue fund.

[1923 c. 402 s. 2] (2392)

298.19 ORE CARRYING ROADS TO REPORT TO COMMISSIONER. It shall be the duty of every railway company or other common carrier receiving iron ore for original shipment from any mine in this state to make report, in writing, delivered or deposited in the mail addressed to the commissioner of taxation, at St. Paul, Minnesota, on or before the tenth day of May and November, each and every year, the amounts in tons received for shipment, as provided for in sections 298.19 and 298.20, up to and inclusive of the last day of April and October, of each year, setting forth the total amount, in tons, received for shipment from each such

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mine and of the amounts of tons received for shipment since the last date required to be included in the last report, and whether received from open pit, pocket, or stock-pile, stating the amount, in tons, so received from each of such sources. The report shall also show the place where the ore was received for shipment and the name of the shipper in each case.

[1923 c. 354 s. 1] (2389)

298.20 VIOLATION A GROSS MISDEMEANOR. Any railway company or other common carrier which fails, neglects, or refuses to make any report required by section 298.19 shall be deemed guilty of a gross misdemeanor; and, upon conviction, fined not exceeding \$5,000 for each such offense.

[1923 c. 354 s. 2] (2390)

298.21 PERSON. For all purposes of sections 298.01 to 298.16, the word "person" shall be construed to include individuals, copartnerships, companies, joint stock companies, corporations, and all associations, however and for whatever purpose organized.

[1921 c. 223 s. 16] (2388)

298.22 APPROPRIATION FOR REHABILITATION. For the period beginning May 1, 1941, and ending April 30, 1942, there is hereby appropriated from the general revenue fund, for the purposes hereinafter set forth, five per cent of amounts paid and credited into said fund from the proceeds of taxes paid under the provisions of the law relating to occupation taxes on the business of mining or producing iron ore, and on and after May 1, 1942, there is hereby appropriated from the general revenue fund, for the purposes hereinafter set forth, ten per cent of all amounts paid and credited into said fund from the proceeds of these taxes. The office of commissioner of Iron Range resources and rehabilitation is hereby created. The commissioner shall be appointed by the governor, with the advice and consent of the senate, for a term of two years, the first term to begin July 1, 1941. The salary of the commissioner shall be \$5,000 per annum, which shall be paid from the amounts appropriated by this section; provided, that such salary shall be reduced by such amount as he may receive from other funds, and the commissioner may hold such other positions or appointments as are not incompatible with his duties as commissioner of Iron Range resources and rehabilitation. All expenses of the commissioner, including the payment of such assistance as may be necessary, shall be paid out of the amounts appropriated by this section.

When the commissioner shall determine 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 thereof in the future and the decrease in employment resulting therefrom, now or hereafter, he may use such amounts of the appropriation made to him in this section as he may determine to be necessary and proper in the development of the remaining resources of said county and in the vocational training and rehabilitation of its residents.

There is hereby created the iron range resources and rehabilitation commission, consisting of seven members, three of whom shall be state senators appointed by the committee on committees of the Senate, and three of whom shall be representatives, appointed by the Speaker of the House of Representatives, their terms of office to commence on May 1, 1943, and continue until January 3rd, 1945, or until their successors are appointed and qualified. Their successors shall be appointed each two years in the same manner as the original members were appointed, in January of every second year, commencing in January, 1945. The seventh member of said commission shall be the commissioner of conservation of the state of Minnesota. Vacancies on the commission shall be filled in the same manner as the original members were chosen. All expenditures and projects made by the commissioner of iron range resources and rehabilitation shall first be submitted to said Iron Range Resources and Rehabilitation Commission which shall recommend approval or disapproval or modification of expenditures and projects for rehabilitation purposes as provided by Laws 1943, Chapter 590, and the method, manner, and time of payment of all said funds proposed to be disbursed shall be first approved or disapproved by said commission. The commission shall biennially make its report to the governor and the legislature prior to the convening of each regular session. The expenses of said commission shall be paid by the state of Minnesota from the funds raised pursuant to Laws 1943, Chapter 590.

This commission is hereby authorized and directed to cause to be made a study of high labor costs mining in the state of Minnesota and of the policy and plans for future development of low grade ore, and to cooperate with and advise the commissioner of iron range resources and rehabilitation in the development of the natural resources of the state of Minnesota.

[1941 c. 544 s. 4; 1943 c. 590 s. 4]

298.23 TACONITE. For the purpose of sections 298.23 to 298.28, "taconite" is defined as ferruginous chert or ferruginous slate in the form of compact, siliceous rock, in which the iron oxide is so finely disseminated that substantially all of the iron-bearing particles of merchantable grade are smaller than 20 mesh. Taconite may be further defined as ore-bearing rock which is not merchantable as iron ore in its natural state, and which cannot be made merchantable by simple methods of beneficiation involving only crushing, screening, washing, jigging, drying, or any combination thereof.

[1941 c. 375 s. 1]

298.24 TAX ON MINING OF TACONITE. There is hereby imposed upon taconite, 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 five cents per ton of merchantable iron ore concentrate as shipped therefrom, plus one-tenth of one cent per ton for each one per cent that the iron content of such shipping product exceeds 55 per cent, when dried at 212 degrees Fahrenheit.

[1941 c. 375 s. 2]

298.25 AN ADDITIONAL TAX. Such tax shall be in addition to the occupation tax imposed upon the business of mining and producing iron ore and in addition to the royalty tax imposed upon royalties received for permission to mine and produce iron ore. Except as herein otherwise provided, it shall be in lieu of all other taxes upon such taconite, or the lands in which it is contained, or upon the mining or quarrying thereof, or the production of concentrate therefrom, or upon the concentrate produced, or upon the machinery, equipment, tools, supplies and buildings used in such mining, quarrying or production. Nothing herein shall prevent the assessment and taxation of the surface of such lands at their value thereof without regard to the taconite therein, nor the assessment and taxation of merchantable iron ore or other minerals, or iron-bearing materials other than taconite in such lands in the manner provided by law.

[1941 c. 375 s. 3]

298.26 TAX ON UNMINED TACONITE. In any year in which at least 1,000 tons of iron ore concentrate is not produced from any 40-acre tract or governmental lot containing taconite, a tax may be assessed upon the taconite therein at the mill rate prevailing in the taxing district and spread against the assessed value of the taconite, such assessed value to be determined in accordance with existing laws. The amount of the tax spread under authority of this section by reason of the taconite in any tract of land shall not exceed \$1.00 per acre.

[1941 c. 375 s. 4]

298.27 COLLECTION AND PAYMENT OF TAX. The tax provided by section 298.24 shall be collected and paid in the same manner and at the same time as provided by law for the payment of the occupation tax. Reports shall be made and hearings held upon the determination of the tax at the same times and in the same manner as provided by law for the occupation tax. The commissioner of taxation shall have authority to make reasonable regulations as to the form and manner of filing reports necessary for the determination of the tax hereunder, and by such regulations may require the production of such information as may be reasonably necessary or convenient for the determination of the tax. All the provisions of the occupation tax law with reference to the assessment, determination, and collection of the occupation tax, including all provisions for penalties and for appeals from or review of the orders of the commissioner of taxation relative thereto, are hereby made applicable to the tax imposed by section 298.24, except in so far as inconsistent herewith.

[1941 c. 375 s. 5]

298.28 PROCEEDS TO GENERAL FUND OF THE STATE AND VARIOUS TAXING DISTRICTS. The proceeds of the tax collected under section 298.24 shall be distributed by the state treasurer, upon certificate of the commissioner of taxa-

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tion, to the general fund of the state and to the various taxing districts in which the lands from which the taconite was mined or quarried were located in the following proportions: one-fourth thereof to the city, village, or town; one-fourth thereof to the school district; one-fourth thereof to the county; one-fourth thereof to the state. The amount so distributed shall be divided among the various funds of the state, or of the taxing districts in the same proportion as the general ad valorem tax thereof. If in any year the state shall not spread any general ad valorem tax levy against real property, the state's proportion of the tax shall be paid into the general revenue fund.

[1941 c. 375 s. 6]

298.29 TACONITE MINING COMPANY GRANTED POWER OF EMINENT DOMAIN. The business of mining and beneficiating taconite, as defined in Minnesota Statutes 1941, Section 298.23, is declared to be in the public interest and necessary to the public welfare, and the taking of private property therefor is declared to be for a public use and purpose. Any corporation or association engaged in or preparing to engage in the business of mining and beneficiating taconite is authorized to acquire, for the purposes of such business, easements, rights of way, and surface rights over, through, or across any lands, not owned by the state or devoted to a public purpose, for the erection and maintenance of pipe lines, pole lines, conduits, sluiceways, roads, railroads, or tramways. It may also acquire, for the purposes of such business, flowage rights, rights to transport crude ore, concentrates therefrom, or waste materials, and lands upon which to deposit tailings, stripping, and other waste products of such business. It may also acquire necessary sites of grounds for plants and other buildings requisite to the proper carrying on of such business. To such end it shall have and enjoy the right of eminent domain to be exercised in accordance with Minnesota Statutes 1941, Chapter 117, and acts amendatory thereof, all of which provisions shall govern in so far as they may be applicable hereto. Nothing herein shall be construed as authorizing the taking of any property owned by the state, or any municipal subdivision thereof, or the acquisition of any rights in public waters except after permit, lease, license, or authorization issued pursuant to law.

[1945 c. 275 s. 1]

298.30 PERMITS AND LICENSES. The commissioner of conservation is authorized to grant permits and licenses or leases on and across lands owned by the state for any of the purposes set forth in section 298.29, and to lease state owned lands for the depositing of stripping, lean ores, tailings, or waste products of such business. He is also authorized to license the flooding of state lands in connection with any permit or authorization for the use of public waters issued by the Legislature or issued by the commissioner pursuant to law. Such permits, licenses, and leases shall be upon such conditions and for such consideration and for such period of time as the commissioner may determine.

[1945 c. 275 s. 2]

298.31 PERMISSION TO USE WATERS OF BIRCH LAKE AND DUNKA RIVER; LIMITATIONS. Any company or association engaged in the mining and beneficiation of taconite as defined in Minnesota Statutes 1941, Section 298.23, or constructing a beneficiation plant for that purpose, is authorized to use water from Birch Lake situated in Township 61, Range 13, and Township 61, Range 12, in St. Louis county, and in Township 61, Range 11, in Lake county, and to use water from the Dunka River, a tributary of said lake, in any plant for the beneficiation or concentration of taconite, or in the sintering, agglomeration or other treatment of concentrates from taconite, and, so far as may be necessary for such purposes, to construct a dam or dams in or across said Dunka River and to alter the natural water level and volume of flow of said river, and to flood or otherwise affect lands of the state adjacent to said river, all subject to the conditions and restrictions that:

(a) A permit therefor be first obtained from the commissioner of conservation in accordance with and subject to the provisions of Laws 1937, Chapter 468, as amended, so far as applicable, except as herein otherwise prescribed, which permit,

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when granted, shall be irrevocable for the term thereof without consent of the permittee, except for breach or non-performance of any condition of the permit by the permittee;

(b) The commissioner may allow and prescribe in the permit such time as he deems reasonable for the commencement of any construction or operations undertaken under the permit, and may, for cause shown, extend such time on application of the permittee, regardless of the limitations of said Chapter 468, as amended;

(c) All water withdrawn from said lake, or said river, for said purposes, except such as may be lost in evaporation or is contained in the finished product, shall be returned to such drainage basin;

(d) Such water, after use in such beneficiation process, and the tailings from such beneficiation process, shall be so deposited as to allow reasonable time for settlement before such water is returned to the lake, subject to such other requirements as may be prescribed in the permit; and

(e) No lands of the state shall be flooded or otherwise affected without lease or license for such purpose having first been obtained from the commissioner of conservation of the state.

[1945 c. 283 s. 1]