

CHAPTER 299

TAX UPON ROYALTIES RECEIVED FOR PERMISSION TO
REMOVE ORE FROM LAND

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299.01 TAX ON SEVERANCE OF ORE FROM LAND; RATE. There shall be levied and collected upon all royalty received during the year ending December 31, 1923, and upon all royalty received during each calendar year thereafter, for permission to explore, mine, take out and remove ore from land in this state, a tax of 10½ per cent for the years 1945 and 1946 and nine per cent each year thereafter.

The increased rates provided hereby shall be applicable to all royalties received subsequent to December 31, 1944.

[1923 c. 226 s. 1; *Ex. 1937 c. 84 ss. 1, 2; 1939 c. 355; 1941 c. 545 ss. 1, 2; 1943 c. 589 ss. 1, 2; 1945 c. 447 s. 1*] (2392-1, 2392-1a)

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.

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

[1923 c. 226 s. 2] (2392-2)

299.03 REPORTS TO COMMISSIONER. Every person to whom royalty is paid shall, on or before the first day of February, make and file with the commissioner of taxation annually a report, verified by the person making the same, setting forth the amount of royalty received by such person during the preceding calendar year, and such other information as the commissioner of taxation may require.

[1923 c. 226 s. 3] (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 taxation 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 taxation may require.

[1923 c. 226 s. 4] (2392-4)

299.05 TAX ON ROYALTIES; ASSESSMENT BY COMMISSIONER. Upon the receipt by the commissioner of taxation of the report provided for in section 299.03, 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 determine therefrom the amount of tax due from such person, enter the amount thereof in his records, make his certificate of taxes due thereon from such person, and the amount that has been paid thereon; and, on or before the first day of May, of each year, file the same with the state auditor and file a duplicate thereof with the state treasurer. The commissioner of taxation shall have power, in case he shall deem the report incorrect, to make his findings as to the amount of such taxes due after hearing upon notice to the person interested, and his 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 he received royalty shall be required to pay taxes only on the difference between the amount of royalty paid by him and the amount received.

[1923 c. 226 s. 5; 1931 c. 234 s. 1] (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 per cent of the tax so imposed, to be added to and collected with such tax. The commissioner of taxation shall, in such case, determine the amount of the ores mined or produced, together with the royalty paid thereon, and shall fix the tax due thereon from such person, together with such penalty, upon such information as he may possess or obtain, and shall proceed as provided by law when such taxes are determined upon the sworn report of the person receiving such royalty. Such findings shall stand in the place of the report required by this chapter to be made by such person and shall be, in all courts of the state, for all purposes, prima facie evidence of the facts therein stated.

[1923 c. 226 s. 6] (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 May thirty-first, of each year.

[1923 c. 226 s. 7; 1925 c. 361 s. 1; 1931 c. 234 s. 2] (2392-7)

299.08 LIEN 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 state treasurer at the time the royalty is paid. Such payment to the state treasurer shall operate to discharge to that extent the liability of the person paying such royalty to the royalty recipient. At the time of such payment he shall file with the state auditor and with the commissioner of taxation a report thereof on forms to be prescribed by the commissioner of taxation. If any person paying royalty to another shall fail to withhold the tax thereon and pay the same to the state treasurer, he shall be liable for the amount of such tax, with interest at the rate of 12 per cent per annum 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 taxation, 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 taxation directs, not later than May thirty-first 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 taxation, in an amount 25 per cent 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 taxation, 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 taxation.

[1923 c. 226 s. 8; 1931 c. 234 s. 3] (2392-8)

299.09 STATE AUDITOR TO MAKE DRAFT FOR TAX; STATE TREASURER TO COLLECT. On or before the tenth day of May, in each year, the state auditor shall make his draft, upon the person against whom a tax has been certified, for the amount of tax and penalty, if any, due and place the same in the hands of the state treasurer for collection. The draft of the state auditor 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 for its enforcement, that the amount therein stated is due the state from the person against whom the same is drawn.

[1923 c. 226 s. 9; 1925 c. 361 s. 2] (2392-9)

299.10 NON-PAYMENT OF TAX, PENALTY; UNPAID DRAFTS COLLECTED BY ATTORNEY GENERAL. If the tax herein provided for is not paid before June first 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 while it remains unpaid. On July first, of each year, the state treasurer shall deliver all unpaid drafts to the attorney general, whose duty it shall be to bring an action thereon in the district court of Ramsey county for the amount of such draft, 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 per cent 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.

[1923 c. 226 s. 10; 1925 c. 361 s. 3] (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 per cent 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.

[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 of the commissioner of taxation, be open to his inspection or examination. If any such person shall neglect or refuse, on request of the commissioner of taxation, access to these papers and books, he shall be guilty of a misdemeanor; and, upon conviction, punished therefor as provided by law.

[1923 c. 226 s. 12] (2392-12)

299.13 TAXES CREDITED TO GENERAL REVENUE 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 revenue fund.

[1923 c. 226 s. 13] (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.

[1931 c. 234 s. 4] (2392-8½)

NOTE: This section applies only to the new provisions of law set forth by laws 1931, Chapter 234.