

CHAPTER 299

TAX UPON ROYALTIES RECEIVED FOR PERMISSION TO REMOVE
FROM LAND**299.01 TAX ON SEVERANCE OF ORE FROM LAND; RATE.**

HISTORY. 1923 c. 226 s. 1; M.S. 1927 s. 2392-1; Ex. 1937 c. 84 ss. 1, 2; M. Supp. s. 2392-1a; 1939 c. 355; 1941 c. 545 ss. 1, 2; 1943 c. 589 ss. 1, 2; 1945 c. 447 s. 1.

Where the lessee has covenanted to pay all taxes and assessments he must pay the royalty tax. *Marble v Oliver*, 172 M 263, 215 NW 71.

The royalty and the occupation tax are complementary and the lessees must pay the royalty tax. *State ex rel v Armson*, 172 M 235, 215 NW 74; *Fryberger v Inland Steel*, 174 M 139, 218 NW 553; *Fraser v Vermillion*, 175 M 305, 221 NW 13.

The mining tax imposed by Laws 1921, Chapter 223, is an occupation tax. The mining royalty tax imposed by Laws 1923, Chapter 226, is a property tax. The two are complementary and supplementary. *State ex rel v Armson*, 181 M 221, 232 NW 35.

The lease required the lessee to pay the royalty tax "levied during the term of the lease." One paying a royalty tax reports February 1st on the previous year, the tax is certified by the auditor before May 1st, and the tax becomes due and payable June 1st. The lessee terminated his lease in November, 1929, and the tax had not at that time been "levied." *Day v Inland Steel*, 185 M 53, 239 NW 776.

The royalty tax cannot be enforced against the interest in the land from which the royalty arose, where the recipient of the royalty conveyed such land prior to the time such tax became a lien thereon, the grantee having no notice of the existence of the tax. *State v Rea*, 189 M 456, 250 NW 41.

Obligations assumed by an assignee of a mining lease as consideration for the assignment are "royalty" for the privilege of mining ore and, as such, deductible in ascertaining the occupation tax. *State ex rel v Bjornson*, 194 M 649, 259 NW 392, 262 NW 574.

Advance royalty paid by a lessee of a mining lease, or by an assignee of the lessee or a sublessee, cannot be deducted from the occupation tax on ore mined after the lease has expired. *State ex rel v Wallace*, 196 M 199, 264 NW 773.

Mesaba-Cliffs Mining Company was lessee in two separate mining leases, both mines being owned by the same lessor. In the lease to the Holman mine there were advance royalty credits of \$469,492.56 on January 1, 1938, and on Canisteo there were none. The parties by agreement applied the credit to the Canisteo lease. In determining the occupation tax of Mesaba Company on ore mined during 1938 from the Canisteo, it was entitled to deduct royalty credits so transferred. *State ex rel v Commissioner*, 209 M 150, 295 NW 652.

Laws 1923, Chapter 226, does not violate the requirements of the constitution nor the due process clause of the federal fourteenth amendment. *Lake Superior v Lord*, 13 F(2d) 227, 271 US 577.

Lessee under a mining lease held not to establish right to reformation of tax covenant on ground of lessor's inequitable conduct, where both parties were silent as to liability for royalty tax. *International Harvester Co. v Mississippi Land Co.* 43 F(2d) 17, 282 US 905.

The procedural effect of *res ipsa loquitur*. 20 MLR 256.

299.02 DEFINITIONS.

HISTORY. 1923 c. 226 s. 2; M.S. 1927 s. 2392-2.

The tax imposed by Laws 1921, Chapter 223, is an occupation tax. The royalty tax imposed by Laws 1923, Chapter 226, is a property tax. The two are comple-

MINNESOTA STATUTES 1945 ANNOTATIONS

1845

TAX UPON ROYALTIES 299.14

mentary and supplementary. The lessee must pay the royalty tax. *Marble v Oliver*, 172 M 263, 215 NW 71; *State ex rel v Armson*, 181 M 221, 232 NW 35.

A state lease imposes upon the lessee the duty of paying all taxes, and the duty falls upon one who takes an assignment of the lease. *Fryberger v Inland*, 174 M 139, 218 NW 553.

Where the owner of two mines leases them to the same assignee under separate leases, the assignee may transfer royalty credits from one mine to the other and deduct the credits so transferred. *State ex rel v Commissioner*, 209 M 150, 295 NW 652.

299.03 REPORTS TO COMMISSIONER.

HISTORY. 1923 c. 226 s. 3; M.S. 1927 s. 2392-3.

See *State v Rea*, 189 M 456, 250 NW 41, and *State ex rel v Commissioner*, 209 M 150, 295 NW 652.

299.04 CONTENTS OF REPORTS.

HISTORY. 1923 c. 226 s. 4; M.S. 1927 s. 2392-4.

See *State ex rel v Commissioner*, 209 M 150, 295 NW 652.

299.05 TAX ON ROYALTIES; ASSESSMENT BY COMMISSIONER.

HISTORY. 1923 c. 226 s. 5; M.S. 1927 s. 2392-5; 1931 c. 234 s. 1.

See *State v Rea*, 189 M 456, 250 NW 41, and *State ex rel v Bjornson*, 194 M 649, 259 NW 392, 262 NW 574.

299.06 FAILURE TO MAKE REPORTS; PENALTY; PROCEDURE.

HISTORY. 1923 c. 226 s. 6; M.S. 1927 s. 2392-6.

299.07 TIME FOR PAYMENT.

HISTORY. 1923 c. 226 s. 7; 1925 c. 361 s. 1; M.S. 1927 s. 2392-7; 1931 c. 234 s. 2.

299.08 LIEN OF TAX.

HISTORY. 1923 c. 226 s. 8; M.S. 1927 s. 2392-8; 1931 c. 234 s. 3.

See *State v Rea*, 189 M 456, 250 NW 41, and *State ex rel v Commissioner*, 209 M 150, 295 NW 652.

299.09 STATE AUDITOR TO MAKE DRAFT FOR TAX; STATE TREASURER TO COLLECT.

HISTORY. 1923 c. 226 s. 9; 1925 c. 361 s. 2; M.S. 1927 s. 2392-9.

299.10 NON-PAYMENT OF TAX, PENALTY; UNPAID DRAFTS COLLECTED BY ATTORNEY GENERAL.

HISTORY. 1923 c. 226 s. 10; 1925 c. 361 s. 3; M.S. 1927 s. 2392-10.

299.11 FALSE RETURNS OR REPORTS; PENALTY.

HISTORY. 1923 c. 226 s. 11; M.S. 1927 s. 2392-11.

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

HISTORY. 1923 c. 226 s. 12; M.S. 1927 s. 2392-12.

299.13 TAXES CREDITED TO GENERAL REVENUE FUND.

HISTORY. 1923 c. 226 s. 13; M.S. 1927 s. 2392-13.

299.14 APPLICATION.

HISTORY. 1931 c. 235 s. 4; M.S. 1927 s. 2392-8½.