

CHAPTER 298

OCCUPATION TAX ON MINING

298.01 OCCUPATION TAX ON PRODUCING ORES.

Amended by L. 1947 c. 542 s. 1.

"To ascertain the value of the ore at the mine, the commission began with the market quotations at Lake Erie ports and worked backward. It made certain deductions, but refused to allow the claim of relators to others. It rejected their claim for taxes paid on a washing plant; allowed in part only their claim for depreciation in the value of the plant; disallowed taxes paid on ore in stock piles; and refused an allowance for the reduced value of ore with high percentage of phosphorus. It is held that the commission should have allowed taxes paid on a washing plant; that, under the evidence, it allowed a sufficient amount for depreciation in the value of the plant; that it should have allowed taxes paid on ore in stockpiles; and that it should have allowed for the reduced value of ore with a high percentage of phosphorus." State ex rel v Armson, 166 M 230, 207 NW 727.

"The word 'royalties' means the share of the product of a mine delivered, or the money paid to the owner of the land, or one who holds under him, for permission to mine and remove the ore. Money so paid is rent and not the purchase price of ore in place. Neither the time nor the manner of payment, nor the form of the instrument executed by the fee owner, is controlling. The purpose for which the payment was made is the test by which to determine whether or not it was in the nature of a royalty. The evidence was not sufficiently definite and certain to require the commission to allow certain deductions claimed as advance payments of royalty." State ex rel v Armson, 166 M 231, 207 NW 727.

"The royalty tax is a six per cent tax upon all royalty received by the lessor during the year for permission to explore and take out iron ore, the royalty being construed to mean the amount in money or value of property received for the use of land for mining and taking away ore. It is a property tax not deductible as a non-statutory deduction in fixing the valuation of the ore produced in computing the occupation tax." State ex rel v Armson, 181 M 222, 232 NW 35.

The 1922 amendment to the Minnesota Constitution, designated Article 9, Section 1A, by its terms left to the legislature the manner of valuing the ore on which the tax was laid, and classifying the taxpayers so that all taxpayers similarly situated would be treated alike. The provisions of L. 1941, c. 544, and L. 1943, c. 590, giving the taxpayers, within certain classes, by those laws created "credit" for certain high labor costs, in computing their taxes, were, in effect, provisions reducing the rate of tax and were not in the nature of bounties to such taxpayers.

After the adoption of the wide open tax amendment of 1906, the inherent power of the state to tax was restrained only by the equal protection clause of the United States Constitution, Amendment XIV, and the uniformity clause of the 1906 amendment. The state might tax the occupation of mining and classify taxpayers within that occupation if all taxpayers similarly situated were brought within a class and uniformly dealt with. *Lyons v Spaeth*, 220 M 563, 20 NW(2d) 481, 482.

"The mining of iron ore within a state is not interstate commerce, but, like manufacturing, is a local business, subject to local regulation and taxation, even though practically all of the ore mined is shipped out of the state, and, in the case of open pit mining especially, there is practically no break in the continuity of movement from the time the ore is severed from the land until it starts in its interstate transportation." The tax levied by this section is an occupation tax and not a property tax. It is not laid on the land containing the ore nor on the ore after removal, but on the business of mining the ore. *Oliver Iron M'ng. Co. v Lord*, 43 SC 527, 26 US 172.

MINNESOTA STATUTES 1947 ANNOTATIONS

298.02 OCCUPATION TAX ON MINING

704

Tax on the business of severing timber or ore from the soil. § MLR 172.

298.02 LOW GRADE ORE.

Amended by L. 1947 c. 541 s. 1.

The provisions of L. 1941, c. 544, and L. 1943, c. 590, giving the taxpayers within certain classes, by those laws created, "credit" for certain high labor costs in computing the basis of their taxes, were, in effect, provisions reducing the rate of tax and were not in the nature of bounties to such taxpayers. *Lyons v Spaeth*, 220 M 563, 20 NW(2d) 482.

298.03 VALUE OF ORE; HOW ASCERTAINED.

See, *State ex rel v Armson*, 166 M 230, 207 NW 727, under section 298.01.

Allowable deductions in the computation of the occupation tax. *State ex rel v Commissioner*, 209 M 150, 295 NW 962.

298.22 APPROPRIATION FOR REHABILITATION.

This action is a valid enactment, but the court will jealously guard against any perversion of funds. Proposed application of the provisions of the act by paying trainees of private corporation during training period is held invalid. OAG Sept. 14, 1946 (416-B).

The commissioner of iron range resources and rehabilitation cannot lend the money of the state raised by taxation to a private corporation. OAG July 16, 1947 (416-B).

298.23 TACONITE.

Amended by L. 1947 c. 93 s. 1.

298.24 TAX ON MINING OF TACONITE.

Amended by L. 1947 c. 93 s. 2.

298.25 AN ADDITIONAL TAX.

Amended by L. 1947 c. 93 s. 3.

298.26 TAX ON UNMINED TACONITE.

Amended by L. 1947 c. 93 s. 4.

298.27 COLLECTION AND PAYMENT OF TAX.

Amended by L. 1947 c. 193 s. 1.

298.28 PROCEEDS TO GENERAL FUND OF THE STATE AND VARIOUS TAXING DISTRICTS.

Amended by L. 1947 c. 193 s. 2.

298.29 TACONITE MINING COMPANY GRANTED POWER OF EMINENT DOMAIN.

Amended by L. 1947 c. 320 s. 1.