

## CHAPTER 298

### OCCUPATION TAXES

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#### 298.01 MINING OR PRODUCING ORES.

*[For text of subs 3 to 3b, see M.S.1994]*

Subd. 3c. **Alternative minimum tax.** For purposes of calculating the alternative minimum tax under section 290.0921, Minnesota alternative minimum taxable income must be computed under the provisions of subdivisions 3, 3a, and 3b, and the provisions of section 290.0921, except that:

(1) the adjustment for adjusted current earnings under section 56(g) of the Internal Revenue Code of 1986, as amended through April 15, 1995, must be determined using gross income as defined in subdivision 3a; and

(2) the tax preference for depletion under section 57(a)(1) of the Internal Revenue Code of 1986, as amended through April 15, 1995, must be included in alternative minimum taxable income.

*[For text of subd 3d, see M.S.1994]*

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), and 290.17, subdivision 4, do not apply. The tax is in addition to all other taxes.

*[For text of subs 4a to 4c, see M.S.1994]*

Subd. 4d. **Alternative minimum tax.** For purposes of calculating the alternative minimum tax under section 290.0921, Minnesota alternative minimum taxable income must be computed under the provisions of subdivisions 4, 4a, 4b and 4c, and the provisions of section 290.0921, except that:

(1) for purposes of the depreciation adjustments provided by section 56(a)(1) of the Internal Revenue Code of 1986, as amended through April 15, 1995, the basis for depreciable property placed in service is the remaining depreciable basis as defined in subdivision 4c;

(2) the adjustment for adjusted current earnings under section 56(g) of the Internal Revenue Code of 1986, as amended through April 15, 1995, must be determined using gross income as defined in subdivision 4a;

(3) the tax preference for depletion under section 57(a)(1) of the Internal Revenue Code of 1986, as amended through April 15, 1995, must be included in alternative minimum taxable income; and

(4) for purposes of calculating the tax preference for accelerated depreciation or amortization of certain property placed in service before January 1, 1987, under section 57(a)(7) of the Internal Revenue Code of 1986, as amended through April 15, 1995, the deduction allowable for the taxable year shall mean the deduction allowable under subdivision 4c, provided that this modification must not reduce the amount of tax preference to less than zero.

*[For text of subs 4e and 5, see M.S.1994]*

**History:** 1995 c 264 art 1 s 4; art 7 s 1

#### 298.017 DEDUCTIONS.

*[For text of subd 1, see M.S.1994]*

**Subd. 2. Deductions allowed.** (a) In calculating the net proceeds for the purpose of determining the tax provided in section 298.015, only those expenses specifically allowed in this subdivision may be deducted from gross proceeds. The carryback or carryforward of deductions shall not be allowed.

(b) Ordinary and necessary expenses actually paid for the mining, production, processing, beneficiation, smelting, or refining of metal or mineral products for:

(1) labor, including wages, salaries, fringe benefits, unemployment and workers' compensation insurance;

(2) machinery, equipment, and supplies, including any sales and use tax paid on it, except that machinery and equipment subject to depreciation shall only be deductible under clause (b)(3);

(3) depreciation as defined and allowed by section 167 of the Internal Revenue Code of 1986, as amended through April 15, 1995;

(4) administrative expenses inside Minnesota; and

(5) reclamation costs actually incurred in Minnesota and paid in a year of production, including the payment of bonds required by the provisions of an environmental permit issued by the state of Minnesota are deductible.

(c) Ordinary and necessary expenses of transporting metal or mineral products are allowed as a deduction if the costs are included in the sale price of the products.

(d) Expenses of exploration, research, or development in this state for the mining and processing of minerals within Minnesota paid in a production year are deductible in the production year.

(e) Expenses of exploration and development in Minnesota incurred prior to production must be amortized and deducted on a straight-line basis over the first five years of production.

**History:** 1995 c 264 art 1 s 4

## 298.22 IRON RANGE RESOURCES AND REHABILITATION.

*[For text of subd 1, see M.S.1994]*

Subd. 2. There is hereby created the iron range resources and rehabilitation board, consisting of 11 members, five of whom shall be state senators appointed by the subcommittee on committees of the rules committee of the senate, and five 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 11th member of said board shall be the commissioner of natural resources of the state of Minnesota. Vacancies on the board shall be filled in the same manner as the original members were chosen. At least a majority of the legislative members of the board shall be elected from state senatorial or legislative districts in which over 50 percent of the residents reside within a tax relief area as defined in section 273.134. 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 board for approval by at least eight board members of expenditures and projects for rehabilitation purposes as provided by this section, and the method, manner, and time of payment of all said funds proposed to be disbursed shall be first approved or disapproved by said board. The board shall biennially make its report to the governor and the legislature on or before November 15 of each even-numbered year. The expenses of said board shall be paid by the state of Minnesota from the funds raised pursuant to this section.

*[For text of subs 3 to 5, see M.S.1994]*

**History:** 1995 c 224 s 92

## 298.2211 FINANCING ACTIVITIES.

*[For text of subs 1 to 3, see M.S.1994]*

Subd. 3a. [Repealed, 1995 c 224 s 126]

[For text of subs 4 to 6, see M.S.1994]

#### **298.2214 IRON RANGE HIGHER EDUCATION.**

[For text of subs 1 to 4, see M.S.1994]

Subd. 5. **System approval.** A program may not be offered under a contract executed according to this section unless it is approved by the board of the system offering the program.

**History:** 1995 c 212 art 3 s 52

#### **298.223 TACONITE AREA ENVIRONMENTAL PROTECTION FUND.**

[For text of subd 1, see M.S.1994]

Subd. 2. **Administration.** The taconite environmental protection fund shall be administered by the commissioner of the iron range resources and rehabilitation board. The commissioner shall by September 1 of each year submit to the board a list of projects to be funded from the taconite environmental protection fund, with such supporting information including description of the projects, plans, and cost estimates as may be necessary. Upon approval by at least eight members of the iron range resources and rehabilitation board, this list shall be submitted to the governor by November 1 of each year. By December 1 of each year, the governor shall approve or disapprove, or return for further consideration, each project. Funds for a project may be expended only upon approval of the project by the board and governor. The commissioner may submit supplemental projects to the board and governor for approval at any time.

[For text of subd 3, see M.S.1994]

**History:** 1995 c 224 s 93

#### **298.227 TACONITE ECONOMIC DEVELOPMENT FUND.**

An amount equal to that distributed pursuant to each taconite producer's taxable production and qualifying sales under section 298.28, subdivision 9a, shall be held by the iron range resources and rehabilitation board in a separate taconite economic development fund for each taconite and direct reduced ore producer. Money from the fund for each producer shall be released only on the written authorization of a joint committee consisting of an equal number of representatives of the salaried employees and the nonsalaried production and maintenance employees of that producer. The district 33 director of the United States Steelworkers of America, on advice of each local employee president, shall select the employee members. In nonorganized operations, the employee committee shall be elected by the nonsalaried production and maintenance employees. Each producer's joint committee may authorize release of the funds held pursuant to this section only for acquisition of equipment and facilities for the producer or for research and development in Minnesota on new mining, or taconite, iron, or steel production technology. Funds may be released only upon a majority vote of the representatives of the committee. If a taconite production facility is sold after operations at the facility had ceased, any money remaining in the fund for the former producer may be released to the purchaser of the facility on the terms otherwise applicable to the former producer under this section. Any portion of the fund which is not released by a joint committee within two years of its deposit in the fund shall be divided between the taconite environmental protection fund created in section 298.223 and the northeast Minnesota economic protection trust fund created in section 298.292 for placement in their respective special accounts. Two-thirds of the unreleased funds shall be distributed to the taconite environmental protection fund and one-third to the northeast Minnesota economic protection trust fund. This section is effective for taxes payable in 1993 and 1994.

**History:** 1995 c 264 art 7 s 2

#### **298.24 TAX ON TACONITE AND IRON SULPHIDES.**

Subdivision 1. (a) For concentrate produced in 1992, 1993, 1994, and 1995 there is imposed upon taconite and iron sulphides, 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 \$2.054 per gross ton of merchantable iron ore concentrate produced therefrom.

(b) For concentrates produced in 1996 and subsequent years, the tax rate shall be equal to the preceding year's tax rate plus an amount equal to the preceding year's tax rate multiplied by the percentage increase in the implicit price deflator from the fourth quarter of the second preceding year to the fourth quarter of the preceding year. "Implicit price deflator" for the gross national product means the implicit price deflator prepared by the bureau of economic analysis of the United States Department of Commerce.

(c) The tax shall be imposed on the average of the production for the current year and the previous two years. The rate of the tax imposed will be the current year's tax rate. This clause shall not apply in the case of the closing of a taconite facility if the property taxes on the facility would be higher if this clause and section 298.25 were not applicable.

(d) If the tax or any part of the tax imposed by this subdivision is held to be unconstitutional, a tax of \$2.054 per gross ton of merchantable iron ore concentrate produced shall be imposed.

(e) Consistent with the intent of this subdivision to impose a tax based upon the weight of merchantable iron ore concentrate, the commissioner of revenue may indirectly determine the weight of merchantable iron ore concentrate included in fluxed pellets by subtracting the weight of the limestone, dolomite, or olivine derivatives or other basic flux additives included in the pellets from the weight of the pellets. For purposes of this paragraph, "fluxed pellets" are pellets produced in a process in which limestone, dolomite, olivine, or other basic flux additives are combined with merchantable iron ore concentrate. No subtraction from the weight of the pellets shall be allowed for binders, mineral and chemical additives other than basic flux additives, or moisture.

(f)(1) Notwithstanding any other provision of this subdivision, for the first five years of a plant's production of direct reduced ore, the rate of the tax on direct reduced ore is determined under this paragraph. As used in this paragraph, "direct reduced ore" is ore that results in a product that has an iron content of at least 75 percent. The rate to be applied to direct reduced ore is 25 percent of the rate otherwise determined under this subdivision for the first 500,000 of taxable tons for the production year, and 50 percent of the rate otherwise determined for any remainder. If the taxpayer had no production in the two years prior to the current production year, the tonnage eligible to be taxed at 25 percent of the rate otherwise determined under this subdivision is the first 166,667 tons. If the taxpayer had some production in the year prior to the current production year but no production in the second prior year, the tonnage eligible to be taxed at 25 percent of the rate otherwise determined under this subdivision is the first 333,333 tons.

(2) Production of direct reduced ore in this state is subject to the tax imposed by this section, but if that production is not produced by a producer of taconite or iron sulfides, the production of taconite or iron sulfides consumed in the production of direct reduced iron in this state is not subject to the tax imposed by this section on taconite or iron sulfides.

*[For text of subs 2 and 3, see M.S.1994]*

**History:** 1995 c 264 art 7 s 3

## **298.25 TAXES ADDITIONAL TO OTHER TAXES.**

The taxes imposed under section 298.24 shall be in addition to the occupation tax imposed upon the business of mining and producing iron ore. Except as herein otherwise provided, such taxes shall be in lieu of all other taxes upon such taconite, iron sulphides, and direct reduced ore or the lands in which they are contained, or upon the mining or quarrying thereof, or the production of concentrate or direct reduced ore therefrom, or upon the concentrate or direct reduced ore produced, or upon the machinery, equipment, tools, supplies and buildings used in such mining, quarrying or production, or upon the lands occupied by, or used in connection with, such mining, quarrying or production facilities. If electric or steam power for the mining, transportation or concentration of such taconite, concentrates or direct reduced ore produced therefrom is generated in plants principally devoted to the generation of power for such purposes, the plants in which such power is generated and all machinery,

equipment, tools, supplies, transmission and distribution lines used in the generation and distribution of such power, shall be considered to be machinery, equipment, tools, supplies and buildings used in the mining, quarrying, or production of taconite, taconite concentrates or direct reduced ore within the meaning of this section. If part of the power generated in such a plant is used for purposes other than the mining or concentration of taconite or direct reduced ore or the transportation or loading of taconite, the concentrates thereof or direct reduced ore, a proportionate share of the value of such generating facilities, equal to the proportion that the power used for such other purpose bears to the generating capacity of the plant, shall be subject to the general property tax in the same manner as other property; provided, power generated in such a plant and exchanged for an equivalent amount of power which is used for the mining, transportation, or concentration of such taconite, concentrates or direct reduced ore produced therefrom, shall be considered as used for such purposes within the meaning of this section. Nothing herein shall prevent the assessment and taxation of the surface of reserve land containing taconite and not occupied by such facilities or used in connection therewith at the value thereof without regard to the taconite or iron sulphides therein, nor the assessment and taxation of merchantable iron ore or other minerals, or iron-bearing materials other than taconite or iron sulphides in such lands in the manner provided by law, nor the assessment and taxation of facilities used in producing sulphur or sulphur products from iron sulphide concentrates, or in refining such sulphur products, under the general property tax laws. Nothing herein shall except from general taxation or from taxation as provided by other laws any property used for residential or townsite purposes, including utility services thereto.

**History:** 1995 c 264 art 7 s 4

## 298.28 DIVISION AND DISTRIBUTION OF PROCEEDS.

*[For text of subs 1 to 3, see M.S.1994]*

Subd. 4. **School districts.** (a) 27.5 cents per taxable ton plus the increase provided in paragraph (d) must be allocated to qualifying school districts to be distributed, based upon the certification of the commissioner of revenue, under paragraphs (b) and (c).

(b) 5.5 cents per taxable ton must be distributed to the school districts in which the lands from which taconite was mined or quarried were located or within which the concentrate was produced. The distribution must be based on the apportionment formula prescribed in subdivision 2.

(c)(i) 22 cents per taxable ton, less any amount distributed under paragraph (e), shall be distributed to a group of school districts comprised of those school districts in which the taconite was mined or quarried or the concentrate produced or in which there is a qualifying municipality as defined by section 273.134 in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 124.17 for the prior school year shall be multiplied by the ratio of the average adjusted net tax capacity per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapter 124A for the school year ending prior to distribution to the adjusted net tax capacity per pupil unit of the district. Each district shall receive that portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions.

(ii) Notwithstanding clause (i), each school district that receives a distribution under sections 298.018; 298.23 to 298.28, exclusive of any amount received under this clause; 298.34 to 298.39; 298.391 to 298.396; 298.405; or any law imposing a tax on severed mineral values that is less than the amount of its levy reduction under section 124.918, subdivision 8, for the second year prior to the year of the distribution shall receive a distribution equal to the difference; the amount necessary to make this payment shall be derived from proportionate reductions in the initial distribution to other school districts under clause (i).

(d) Any school district described in paragraph (c) where a levy increase pursuant to section 124A.03, subdivision 2, is authorized by referendum, shall receive a distribution according to the following formula. In 1994, the amount distributed per ton shall be equal to the amount per ton distributed in 1991 under this paragraph increased in the same proportion as the increase between the fourth quarter of 1989 and the fourth quarter of 1992 in the implicit price deflator as defined in section 298.24, subdivision 1. On July 15, 1995, and subsequent

years, the increase over the amount established for the prior year shall be determined according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1. Each district shall receive the product of:

(i) \$175 times the pupil units identified in section 124.17, subdivision 1, enrolled in the second previous year or the 1983–1984 school year, whichever is greater, less the product of 1.8 percent times the district's taxable net tax capacity in the second previous year; times

(ii) the lesser of:

(A) one; or

(B) the ratio of the sum of the amount certified pursuant to section 124A.03, subdivision 1g, in the previous year, plus the amount certified pursuant to section 124A.03, subdivision 1i, in the previous year, plus the referendum aid according to section 124A.03, subdivision 1h, for the current year, plus an amount equal to the reduction under section 124A.03, subdivision 3b, to the product of 1.8 percent times the district's taxable net tax capacity in the second previous year.

If the total amount provided by paragraph (d) is insufficient to make the payments herein required then the entitlement of \$175 per pupil unit shall be reduced uniformly so as not to exceed the funds available. Any amounts received by a qualifying school district in any fiscal year pursuant to paragraph (d) shall not be applied to reduce general education aid which the district receives pursuant to section 124A.23 or the permissible levies of the district. Any amount remaining after the payments provided in this paragraph shall be paid to the commissioner of iron range resources and rehabilitation who shall deposit the same in the taconite environmental protection fund and the northeast Minnesota economic protection trust fund as provided in subdivision 11.

Each district receiving money according to this paragraph shall reserve \$25 times the number of pupil units in the district. It may use the money for early childhood programs or for outcome-based learning programs that enhance the academic quality of the district's curriculum. The outcome-based learning programs must be approved by the commissioner of children, families, and learning.

(e) There shall be distributed to any school district the amount which the school district was entitled to receive under section 298.32 in 1975.

*[For text of subs 5 to 9, see M.S.1994]*

**Subd. 9a. Taconite economic development fund.** (a) 15.4 cents per ton for distributions in 1994, 1995, 1996, and 1997 shall be paid to the taconite economic development fund. No distribution shall be made under this paragraph in any year in which total industry production falls below 30 million tons.

(b) An amount equal to 50 percent of the tax under section 298.24 for concentrate sold in the form of pellet chips and fines not exceeding 5/16 inch in size and not including crushed pellets shall be paid to the taconite economic development fund. The amount paid shall not exceed \$700,000 annually for all companies. If the initial amount to be paid to the fund exceeds this amount, each company's payment shall be prorated so the total does not exceed \$700,000.

*[For text of subs 10 to 15, see M.S.1994]*

**History:** 1995 c 264 art 7 s 5; 1Sp1995 c 3 art 16 s 13

## **298.296 OPERATION OF FUND.**

*[For text of subs 1 to 3, see M.S.1994]*

**Subd. 4. Temporary loan authority.** The board may recommend that up to \$10,000,000 from the corpus of the trust may be used for loans as provided in this subdivision. The money would be available for loans for construction and equipping of facilities constituting (1) a value added iron products plant, which may be either a new plant or a facility incorporated into an existing plant that produces iron upgraded to a minimum of 75 percent iron content or any iron alloy with a total minimum metallic content of 90 percent; or (2)

a new mine or minerals processing plant for any mineral subject to the net proceeds tax imposed under section 298.015. A loan under this subdivision may not exceed \$5,000,000 for any facility. The authority to make loans under this subdivision terminates December 31, 1997.

**History:** 1995 c 264 art 7 s 6

### **298.75 AGGREGATE MATERIAL REMOVAL; PRODUCTION TAX.**

*[For text of subd 1, see M.S.1994]*

Subd. 2. A county shall impose upon every importer and operator a production tax equal to ten cents per cubic yard or seven cents per ton of aggregate material removed except that the county board may decide not to impose this tax if it determines that in the previous year operators removed less than 20,000 tons or 14,000 cubic yards of aggregate material from that county. The tax shall be imposed on aggregate material produced in the county when the aggregate material is transported from the extraction site or sold. When aggregate material is stored in a stockpile within the state of Minnesota and a public highway, road or street is not used for transporting the aggregate material, the tax shall be imposed either when the aggregate material is sold, or when it is transported from the stockpile site, or when it is used from the stockpile, whichever occurs first. The tax shall be imposed on an importer when the aggregate material is imported into the county that imposes the tax.

If the aggregate material is transported directly from the extraction site to a waterway, railway, or another mode of transportation other than a highway, road or street, the tax imposed by this section shall be apportioned equally between the county where the aggregate material is extracted and the county to which the aggregate material is originally transported. If that destination is not located in Minnesota, then the county where the aggregate material was extracted shall receive all of the proceeds of the tax.

*[For text of subs 3 to 7, see M.S.1994]*

**History:** 1995 c 264 art 16 s 15