



Nonferrous Tax Background and Summary

May 10, 2011

MiningMinnesota has worked with the Minnesota Department of Revenue, the Governor's office, and the legislature to address a number of tax issues that would help clarify the current law and encourage the development of the non-ferrous mining and refining industry.

The following is a brief summary of the legislation:

Tax Issues

The Minnesota mining tax scheme does not contemplate an integrated process of mining and refining. Clearly the end product of copper, nickel, cobalt and other non-ferrous metals and minerals could not be produced without further refining. In addition, the ambiguity of the existing tax law creates uncertainty about the various taxes that nonferrous mining operations would be subjected to. The proposed amendments would treat the business of mining and refining as one activity to produce the end product of non-ferrous metal and minerals, and clarify that nonferrous is only subject to net proceeds and occupation taxes.

In 1987, the legislature adopted a "net proceeds tax" designed for non-ferrous mining. No company has ever paid this tax. In order for a mining company to fully understand their tax liability and treat the mining and refining as one process to produce the end product, and to assure that the industry is not subjected to multiple taxes at both the local and state level, several amendments need to be made to the statute in order to make the tax more understandable and comparable to taconite taxation.

Bill Section Summary

Section 1: Some historical documents suggest that the Net Proceeds Tax is parallel to the Production Tax on taconite, designed to tax the value of the extracted mineral--in lieu of the ad valorem tax. The tax works similarly to the Production Tax, has a similar distribution formula. However, when the

tax was enacted, the language was not clear and the Revenue department's interpretation has been that the ad valorem tax would be on the land and buildings in addition to the Net Proceeds Tax. Mining facilities subject to the Production Tax are not subject to the ad valorem tax. Section 1 would exempt the land and buildings and instead impose the Net Proceeds Tax on the "integrated process" of mining and refining, making this similar to the Taconite Production Tax.

Section 2: The Corporate Income Tax exempts persons in the business of mining from the tax and instead imposes the Occupation Tax on those businesses. The Occupation Tax mirrors the Corporate Income Tax. This section would make clear that the business of mining and "*refining*" are exempted from the Corporate Income Tax and would be subject to the Occupation Tax.

Section 3: This section amends the sales tax exemption for business inputs related to taconite production to include "other ores, metals and minerals."

Section 4: This section creates a sales tax exemption for materials and equipment for construction, expansion, or improvement of a hydrometallurgical processing facility. It also creates an exemption for delivery and installation of the materials and equipment.

Section 5: This section defines "*refining*."

Section 6: This section amends the Occupation Tax statute to include "*refining*" of the metals and minerals, including the hydrometallurgical process.

Section 7: : This section amends the definition of gross income to include metals or minerals for purposes of the Occupation Tax. It also amends the statute to include that sales are deemed outside the state after they are made into a commercially marketable product.

Section 8: This section applies the Net Proceeds Tax to metals and minerals mined extracted or "*refined*" in the state.

Section 9 This section allows for the same deductions for the Net Proceeds Tax that are provided for the Occupation Tax. These deductions include ordinary business expense, royalty expense and depletion expense.

Section 10: This section defines "*metal and mineral products*" to include metals and minerals subject to the net proceeds tax.

Section 11: This section repeals the Net Proceeds deduction section.