

CR 82-219

CERTIFICATE OF RULE ADOPTION

STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF REVENUE )

RECEIVED

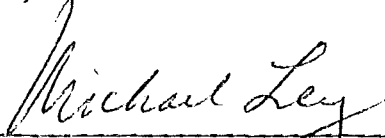
APR 25 1983  
2:45  
Revisor of Statutes  
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Michael Ley, Secretary of the Department of Revenue and custodian of the official records of said department do hereby certify that the annexed rules relating to administration of the mining net proceeds tax were duly approved and adopted by this department on April 25, 1983.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY, WHEREOF, I have hereunto set my hand at 125 South Webster Street in the City of Madison, this 25th day of April, 1983.



\_\_\_\_\_  
Michael Ley  
Secretary of Revenue

7-1-83

ORDER OF THE DEPARTMENT OF REVENUE  
REPEALING, RENUMBERING, AMENDING, REPEALING AND  
RECREATING RULES

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APR 25 1983

IN THE MATTER repealing ss. TAX 12.25, 12.27  
and 12.29; renumbering and amending TAX 12.28;  
amending TAX 1.11(1)(b), (2)(c), (3)(c),  
(4)(a), (4)(c) and (5)(b) and TAX 12.23; and  
repealing and recreating TAX 12.21 and 12.22  
relating to the administration of the mining  
net proceeds tax.

Analysis by the Department of Revenue

The proposed rule changes are due to the enactment of Chapter 86, Laws of 1981, and a review of the existing rules to ensure that they are in accordance with law. TAX 1.11 is amended solely to make clear that the requirements for examination of returns applies to the mining net proceeds tax. TAX 12.21 relating to extension of time for filing reports and penalty for nonfiling is repealed as without statutory authorization and is replaced by a provision on indexing tax rates similar to the rule on income tax indexing. TAX 12.22 relating to confidentiality is repealed and simplified to require that information obtained under the net proceeds tax law not be divulged in the same manner as information obtained under the income tax law. TAX 12.23 relating to the basis of property subject to depreciation is retained in substance and a new subsection is added, making clear that for 1981 the depreciation deduction is the same as for corporate franchise tax purposes. TAX 12.25 is in substance TAX 12.28 renumbered with a minor addition of the statutory authority for the rule.

The present TAX 12.25 relating to expenses paid by others is repealed since the 1981 law deals in detail with costs and expenses of post-mining entities such as smelters. The present TAX 12.27 relating to three-year averaging was grandfathered into the law as it applies to one mining firm but it was removed as a general feature of the 1981 law. Therefore, the rule on the subject is not necessary since it is not of general applicability. The present TAX 12.29 relating to interest has been repealed, since it lacks statutory authorization.

Statement of Statutory Authority

Pursuant to authority vested in the department by s. 70.375(2)(b), Stats., the department hereby repeals, renumbers, amends, recreates, and creates rules interpreting ss. 70.375(2), (4)(b), (k), (5) and (6), 70.38 and 71.09(5)(a), Stats.

SECTION 1. TAX 1.11(1)(b), (2)(c), (3)(c), (4)(a) and (c), and (5)(b) are amended to read:

TAX 1.11 REQUIREMENTS FOR EXAMINATION OF RETURNS. (ss. 70.375(2)(b), 71.11(44), 72.06, 77.61(5), 78,80(3), and 139.38(6), Stats.)

(1)(b) With each requested examination under par. (a) there must also be submitted in writing the following: name and address of each taxpayer whose return is requested; type of tax return, such as mining net proceeds, income, franchise, gift or sales and use tax; the taxable period(s); the taxpayer's social security number, if available, in the case of returns relating to individuals; and a statement indicating that the public officer requesting such examination and his or her authorized agent understands the provisions of ss. 70.375(2)(b), 71.11(44), 72.06, 77.61(5), 78.80(3) and 139.38(6), Stats., that any persons who use or permit the use of any information directly or indirectly so obtained beyond the duties imposed upon them by law or by the duties of their office shall be deemed in violation of said subsections.

(2)(c) With each requested examination under pars. (a) and (b) there must also be submitted in writing the following: name and address of each taxpayer whose return is requested; type of tax return, such as mining net proceeds, income, franchise, gift or sales and use tax; the taxable period(s); the taxpayer's social security number, if available, in the case of returns relating to individuals; and a statement indicating that the chairperson requesting such examination and the committee member or authorized agent who will examine tax returns understands the provisions of ss. 70.375(2)(b), 71.11(44) and 77.61(5), Stats., that any persons who use or permit the use of any information directly or indirectly so obtained beyond the duties imposed upon them by law or by the duties of their office shall be deemed in violation of said subsections.

(3)(c) With each requested examination under pars. (a) and (b) there must also be submitted in writing the following: name and address of each taxpayer whose return is requested; type of tax return, such as mining net proceeds, income, franchise, gift or sales and use tax; the taxable period(s); the taxpayer's social security number, if available, in the case of returns relating to individuals; and a statement indicating that the attorney general requesting such examination and the department of justice employe authorized by the attorney general to examine returns understand the provisions of ss. 70.375(2)(b), 71.11(44) and 77.61(5), Stats., that any persons who use or permit the use of any information directly or indirectly so obtained beyond the duties imposed upon them by law or by the duties of their office shall be deemed in violation of said subsections.

(4)(a) The tax information to be examined by the district attorney is for use in preparation for a judicial proceeding or an investigation which may result in a judicial proceeding involving any of the taxes or tax credits referred to in ss. 70.375(2)(b), 71.11(44), 72.06, 77.61(5), 78.80(3) and 139.38(6), Stats., and:

(4)(c) With each requested examination under pars. (a) and (b) there must also be submitted in writing the following: name and address of each taxpayer whose return is requested; type of tax return, such as mining net proceeds, income, franchise, gift or sales and use tax; the taxable period(s); the taxpayer's social security number, if available, in the case of returns relating to individuals; and a statement indicating that the district attorney requesting such examination understands the provisions of ss. 70.375(2)(b), 71.11(44) and 77.61(5), Stats., that any persons who use or permit the use of any information directly or indirectly so obtained beyond the duties imposed upon them by law or by the duties of their office shall be deemed in violation of said subsections.

(5)(b) With each requested examination under par. (a) there must also be submitted in writing the following: name and address of each taxpayer whose return

is requested; type of tax return, such as mining net proceeds, income, franchise, gift or sales and use tax; the taxable period(s); the taxpayer's social security number, if available, in the case of returns relating to individuals; and a statement indicating that the public officer and the employe of this state authorized to examine returns understand the provisions of ss. 70.375(2)(b), 71.11(44) and 77.61(5), Stats., that any persons who use or permit the use of any information directly or indirectly so obtained beyond the duties imposed upon them by law or by the duties of their office shall be deemed in violation of said subsections.

SECTION 2. TAX 12.21 is repealed and recreated to read:

TAX 12.21 INDEXED MINING NET PROCEEDS TAX RATE SCHEDULE. (s. 70.375(5) and (6), Stats.) (1) REFERENCE TO STATUTORY PROVISIONS. Section 70.375(5), Stats., prescribes the tax rates to be applied to the net proceeds of the mine of persons engaged in mining metalliferous minerals for taxable years 1981 and 1982.

(2) Section 70.375(6), Stats., provides that "For calendar year 1983 and corresponding fiscal years and thereafter, the dollar amounts in sub. (5) and s. 70.395(1) to (2)(i) shall be changed to reflect the percentage change between the gross national product deflator for June of the current year and the gross national product deflator for June of the previous year, as determined by the U.S. department of commerce as of December 30 of the year for which the taxes are due, except that no annual increase may be more than 10%. The revised amounts shall be rounded to the nearest whole number divisible by 100 and shall not be reduced below the amounts under sub. (5) on November 28, 1981. Annually, the department shall adopt any changes in dollar amounts required under this subsection and incorporate them into the appropriate tax forms."

SECTION 3. TAX 12.22 is repealed and recreated to read:

TAX 12.22 CONFIDENTIALITY OF INFORMATION. (s. 70.375(2)(b), Stats.) Any information received for the taxable year 1981 and thereafter shall not be divulged except as provided in s. 71.11(44), Stats., and Ch. TAX 1.11.

SECTION 4. TAX 12.23 is amended to read:

TAX 12.23 BASIS AND AMOUNT OF DEDUCTION FOR DEPRECIATION AND AMORTIZATION. (s. 70.375(4)(k), Stats., 1979, s. 70.375(4)(k)).

(1) ~~The basis for depreciation and amortization of the property mentioned in s. 70.375(4)(k) of the property eligible for such write-offs prior to January 1, 1981 under s. 70.375(4)(k), Stats., 1979, for mines operated during the taxable year 1977 shall be their net book value as of the beginning of that year provided that the straight line method for computing the expense was used for book purposes. If the straight line method was not used the basis shall be recomputed as if it was used.~~

(2) ~~The amount of the deduction for depreciation on property first eligible for depreciation on or after January 1, 1981 is limited to amounts allowable under s. 71.04(15), Stats.~~

SECTION 5. TAX 12.25 is repealed.

SECTION 6. TAX 12.27 is repealed.

SECTION 7. TAX 12.28 is renumbered TAX 12.25 and amended to read:

TAX 12.25 REVIEW OF ASSESSMENTS, CLAIMS FOR REFUNDS. (s. 70.38, Stats.)

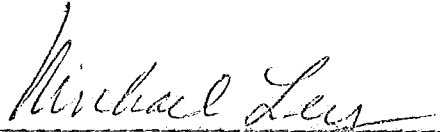
Additional assessments and claims for refunds for excess net proceeds tax payments are subject to the same procedure for review and final determination as additional income tax assessments and claims for refunds under provisions of ch. 71, Stats., as far as the same may be applicable.

SECTION 8. TAX 12.29 is repealed.

The rules contained in this proposed order shall take effect pursuant to authority granted by s. 227.026(1)(intro.), Stats.

Dated: April 25, 1983

DEPARTMENT OF REVENUE



Michael Ley  
Secretary of Revenue