Original

McKinley
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IN THE HOUSE BY MR. Hurley
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HOUSE BILL NO. 32

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

TWENTY-FIRST SESSION

A BILL

For an Act entitled: "An act to amend Section 35-1-31 ACLA 1949, as amended by Chapter 64 Session Laws of Alaska, 1951, imposing a mining license tax and declaring an emergency."

BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

Section 1. (a) Section 35-1-31 ACLA 1949, as amended by Chapter 64, Session Laws of Alaska, 1951, is hereby amended to read as follows:

Section 35-1-31. MINING LICENSE REQUIRED: "MINING" DEFINED: AMOUNT OF TAX: DEPLETION ALLOWANCE: GROSS AND NET INCOME DEFINED: DEDUCTIONS: TAXES UPON ROYALTIES.

(a) Any person, firm or corporation, prosecuting or attempting to prosecute, or engaging in the business of mining in the Territory of Alaska during the calendar year 1947, and in all subsequent years, shall apply for and obtain from the Department of Taxation a license and thereafter pay for such license for the said business of mining.

"Mining" as used in this Section means any operation by which valuable metals, ores, minerals, asbestos, gypsum, coal, marketable earth or stone, or any of them, are extracted, mined or taken from the earth. Provided, however, that (BASE) all mining operations (METALS) shall be exempted from the provisions of Article 3, Chapter 1, Title 35, ACLA

1949, as amended by this Act, for a period of three and one-half (3½) years from the date production begins.

Check code 1943 page 168

For the purpose of administering this Act, the Territorial Commissioner of Mines shall certify to the Tax Commissioner, the dates upon which the properties producing (BASE) all metals as herein defined, shall have come into production; and the Tax Commissioner shall issue a certificate of exemption to the producer, accordingly.

(b) The license tax on mining shall be as follows: Upon the net income of the taxpayer from the property in Alaska (computed with allowable depletion) plus royalty received in connection with mining property in Alaska.

Over ($1,000.00) $10,000.00 and not over
($10,000.00) $20,000.00 . . . . (4%) 2%
Over ($10,000.00) $20,000.00 and not over
($20,000.00) $50,000.00 . . . .
($360 PLUS 5% OF EXCESS OVER $10,000.00) 3%
Over ($20,000.00) $50,000.00 and not over
($50,000.00) $100,000.00 . . . .
($860 PLUS 6% OF EXCESS OVER $20,000) 4%
Over $100,000.00 ($6160 PLUS 8% OF EXCESS OVER
$100,000) 6%

Where mining operations are conducted in two or more places by the same person, association, or company, or affiliated association or company, such operations shall be treated as a single mining operation and the tax hereunder shall be computed upon the aggregate income derived from all such mining operations; provided, further, that the lessor of any mine operated under a lease shall be deemed to be engaged in mining within the provisions of this Act, and the royalties received by him shall be deemed to be the net income hereunder of his said mining operations, and where such lessor receives royalties from more than one mine or mining operation, the tax, payable hereunder by such lessor, shall be computed upon the aggregate royalties received by such lessor from all such mines or mining operations as though they constituted a single mining operation.

(c) The allowance for depletion included as an allowable deduction from gross income shall be, in the case of coal mines, (5) 10 per centum, in the case of metal mines, fluorspar, flake graphite, vermiculite, beryl, feldspar, mica, talc, lepidolite, spodumene, barite, ball and sagger clay, or rock asphalt mines, and potash mines or deposits, 15 per centum, and in the case of sulphur mines or deposits, 23 per centum, of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowable be less than it would be if computed on a reasonable cost basis.

(d) Definition of Gross Income from property.

As used in this section the term "gross income from the property" means the gross income from mining in the Territory of Alaska. The term "mining", as used in this section, shall be considered to include not merely the extraction of the ores or minerals from the ground but also the ordinary treatment processes normally applied by mine owners or operators in order to obtain the commercially marketable mineral product or products. The term "ordinary treatment processes", as used in this section, shall include the following:

(1) In the case of coal--cleaning, breaking, sizing and loading for shipment; (2) in the case of sulphur --pumping to vats, cooling, breaking and loading for shipment; (3) in the case of iron ore, bauxite, ball andsagger clay, rock asphalt, and minerals which are customarily sold in the form of a crude mineral product --sorting, concentrating and sintering to bring to shipping grade and form, and loading for shipment; and (4) in the case of lead, zinc, copper, gold, silver, platinum metals, or fluorspar ores, potash and ores which are not customarily sold in the form of the crude mineral product--crushing, grinding, and beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic), cyanidation, leaching, crystallization, precipitation (but not including as an ordinary treatment process electrolytic deposition roasting, thermal or electric smelting or refining), - or by substantially equivalent processes or combination of processes used in the separation or extraction of

the product or products from the ore, including the furnacing of quicksilver ores.

(e) "Net income of the Taxpayer (computed without allowances for depletion) from the Property", means the "Gross income from the property" as defined in paragraph (d) less the allowable deductions attributable to the mineral property upon which the depletion is claimed and the allowable deductions attributable to the processes listed in paragraph (d) insofar as they relate to the product of such property, including overhead and operating expenses, development costs properly charged to expense, depreciation, taxes, losses sustained, <u>and in the case of an individual or partnership, a reasonable allowance for the salary or wages of the individual or partners who are actively engaged in carrying out the activities or business of the individual or partnership,</u> etc., but excluding any allowance for depletion, and any deduction for Federal income taxes, or for the tax imposed by this act. Deductions not directly attributable to particular properties or processes shall be fairly allocated. To illustrate: In cases where the taxpayer engages in activities in addition to mineral extraction in the Territory of Alaska and to the processes listed in paragraph (d), deductions for depreciation, taxes, general expenses, and overhead, which cannot be directly attributed to any specific activity, shall be fairly apportioned between (1) the mineral extraction and processes listed in paragraph (d), and (2) the additional activities taking into account the ratio which the operating expenses directly attributable to the mineral extraction and the processes listed in paragraph (d) bear to the operating expenses directly attributable to the additional activities. If more than one mineral property is involved, the deductions apportioned to the mineral extraction and the processes listed in paragraph (d) shall, in turn, be fairly apportioned to the several properties taking into account their relative production.

(f) Taxes upon royalties shall be paid by the taxpayer receiving same and no deductions, excepting depletion, shall be allowed. (L 1947, ch 64 s 1, p 182, effective March 22, 1947.)

Section 2. The provisions of this Act shall apply to the taxable year beginning January 1, 1953, and it shall be applicable to the entire current year including that part which has elapsed prior to the effective date of this Act; and to all ensuing taxable years.

Section 3. An emergency is hereby declared to exist, and this Act shall be in full force and effect from and after the date of its passage and approval.