

shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than One Hundred (\$100.00) Dollars, or more than Five Hundred (\$500.00) Dollars or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

Approved March 25, 1947.

CHAPTER 64

AN ACT

[S. B. 32]

To provide for a tax on mines and mining and to repeal Chapter 20 of the Session Laws of Alaska, 1937, as amended by Chapters 54, 62 and 67 of the Session Laws of Alaska, 1939, and Chapter 74 of the Session Laws of Alaska, 1941, and all laws inconsistent herewith; and declaring an emergency.

Be it enacted by the Legislature of the Territory of Alaska:

License to mine. Section 1. (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 defined. "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.

(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.

Graduated scale
 on net income.

Over \$1000.00 and not over \$10,000.00.....	4%
Over \$10,000 and not over \$20,000	\$360 plus 5% of excess over \$10,000
Over \$20,000 and not over \$50,000	\$860 plus 6% of excess over \$20,000
Over \$50,000 and not over \$100,000	\$2660 plus 7% of excess over \$50,000
Over \$100,000	\$6160 plus 8% of excess over \$100,000.

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 received 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.

Multiple
 operations
 by one group.

(c) The allowance for depletion included as an allowable deduction from gross income shall be, in the case of coal mines, 5 per centum, in the case of metal mines,

Depletion allow-
 ance scale.

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.

Gross income defined.

(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:

Ordinary treatment processes.

(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 and sagger 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, 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.

Net income of
the taxpayer
defined.

Royalty taxes. (f) Taxes upon royalties shall be paid by the taxpayer receiving same and no deduction, excepting depletion, shall be allowed.

Who required to make returns. Section 2. (a) Requirement for Making Returns. Any person, firm or corporation subject to taxes under this chapter shall make a return stating specifically the items of its gross income from the property, including royalty received and the deductions and credits allowed by this chapter, and such other information for the purpose of carrying out the provisions of this chapter as the Tax Commissioner may by regulations prescribe. The return shall show the mining license number and shall be signed by the taxpayer or his authorized agent, under the penalties of perjury. In cases where receivers, trustees, or assigns are operating the property or business, such receivers, trustees, or assigns shall make returns for such person, firm or corporation engaged in mining, or the recipient of royalty in connection with mining property. Any tax due on the basis of such returns shall be collected in the same manner as if collected from the person, firm or corporation of whose business they have custody and control.

Contents of return.

Time and place for filing. (b) Time and Place for Filing Returns. (1) Returns made on the basis of the calendar year shall be made on or before the 30th day of April following the close of the year. Returns made on the basis of a fiscal year shall be made on or before the last day of the fourth month following the close of the fiscal year.

Extensions by Tax Commissioner. (2) The Tax Commissioner may grant a reasonable extension of time for filing returns, under such rules and regulations as he may prescribe. Except in the case of a taxpayer going abroad, no extension shall be made for more than six months.

(3) Returns of taxpayers shall be made to the Tax Commissioner of the Territory of Alaska at Juneau. Tax-

payers shall make their returns either on a calendar year or fiscal year basis, in conformance with the basis used in making their returns for Federal income tax purposes.

(c) Time for Payment. The total amount of tax imposed by this chapter shall be paid on the 30th day of April following the close of the calendar year, or, if the return should be made on the basis of the fiscal year, then on the last day of the fourth month following the close of the fiscal year.

Time for
payment.

(d) Records by the Taxpayer. Every person, firm or corporation prosecuting or attempting to prosecute or engaging in the business of mining in the Territory shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulation, as the Tax Commissioner may from time to time prescribe.

Records to be
kept.

(e) Whenever in the judgment of the Tax Commissioner necessary he may require any person, firm or corporation, by notice served upon him, to make a return, render under oath such statements, or keep such records, as he deems sufficient to show whether or not such person is liable to tax under this chapter. If any person, firm or corporation fails to make and file a return at the time prescribed by law or by regulations made under authority of law, or makes, wilfully or otherwise, a false or fraudulent return, the Tax Commissioner shall make the return from his own knowledge and from such information as he can obtain through testimony and otherwise. Any return so made and subscribed by the Tax Commissioner shall be prima facie good and sufficient for all legal purposes.

Tax Commis-
sioner may
require return
under oath.

Section 3. Penalties and Interest. (a) Failure to File Returns, submit information or pay tax. Any person required under this chapter to pay any tax, or required to make a return, keep any records, or supply any informa-

Penalties and
interest.

tion, for the purposes of the computation, assessment, or collection of any tax imposed by this chapter, who wilfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$1,000.00, or imprisoned for not more than one year, or both, together with the cost of prosecution.

Perjury.

(b) Any person who wilfully makes and subscribes a return which he does not believe to be true and correct as to every material matter shall be guilty of a felony, and, upon conviction thereof, shall be subject to the penalties prescribed for perjury under the laws of the Territory of Alaska.

Person defined.

(c) Person Defined. The term "Person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under duty to perform the act in respect of which the violation occurs.

Penalty for failure to make return.

(d) Failure to File Return. In case of any failure to make and file a return required by this chapter, within the time prescribed by law or prescribed by the Tax Commissioner in pursuance of law, unless it is shown that such failure is due to reasonable cause and not due to wilful neglect, there shall be added to the tax: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 per centum in the aggregate. The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax, unless the tax has been paid before discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

(e) Negligence. If any part of any deficiency in the tax is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected and paid in the same manner as if it were a deficiency, except that paragraph (g) relating to interest on deficiencies shall not be applicable. Penalty for negligence.

(f) Fraud. If any part of any deficiency in the tax is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency) shall be assessed and collected. Fraud.

(g) Interest. Interest upon the amount determined as a deficiency in the tax shall be assessed at the same time as the deficiency, shall be paid upon notice and demand by the Tax Commissioner, and shall be collected as a part of the tax, at the rate of 6 per centum per annum from the time prescribed for payment of the tax to the date the deficiency is paid. Interest.

(h) All taxes levied or provided or accruing under the provisions of this chapter, and the penalties and interest thereon, are hereby declared to be a lien prior, paramount and superior to all other liens, mortgages, hypothecations, conveyances and assignments, upon all the real and personal property of the person, firm or corporation liable therefor, and also upon all the real and personal property used with the permission of the owner thereof in prosecuting the business of mining in any of its branches, provided, however, that the special remedy provided for the recovery of license taxes, as herein set forth, shall not be deemed exclusive of any other remedy, civil or criminal, or both, now provided by law for the recovery of license taxes. Lien.

Section 4. Period of Limitation for Assessment and Collection. The amount of tax imposed by this chapter

shall be assessed within three years after the return was filed, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period.

Renewal of
license.

Section 5. All applications for renewals of mining licenses shall be made on or before April thirtieth of the calendar year for which renewal is asked.

Repeals.

Section 6. Chapter 20 of the Session Laws of Alaska, 1937, as amended by Chapters 54, 62 and 67 of the Session Laws of Alaska, 1939, and Chapter 74 of the Session Laws of Alaska, 1941, and all other laws inconsistent herewith, are hereby repealed.

Emergency
clause.

Section 7. 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, and the tax levied hereby shall be in full force and effect from and after January 1, 1947.

Governor's veto overridden, March 22, 1947.

CHAPTER 65

AN ACT

[H. B. 112]

To amend Subsection 5 of Section 1 of Chapter 67, Session Laws of Alaska, 1937, as amended by Section 1 of Chapter 20, of the Special Session Laws of Alaska, 1946, relating to per diem of Territorial Officials and Employees.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. That Subsection 5 of Section 1, Chapter 67, Session Laws of Alaska, 1937, as amended by Section