

SENATE BILL NO. 460
INTRODUCED BY B. STORY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO THE TAXATION OF METAL MINES; PROVIDING A DEFINITION OF "BASIC TREATMENT AND REFINERY CHARGES" FOR THE PURPOSES OF DETERMINING THE GROSS PROCEEDS TAX OF METAL MINES AND THE METALLIFEROUS MINES LICENSE TAX; CLARIFYING THE TAXATION OF PROCESSED CONCENTRATE UNDER THE METALLIFEROUS MINES LICENSE TAX; AMENDING SECTIONS 15-23-801 AND 15-37-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-23-801, MCA, is amended to read:

"15-23-801. Definitions. As used in this part, the following definitions apply:

(1) "Agreement not at arm's length" means an agreement between parties when the sales price does not represent market value.

(2) "Basic treatment and refinery charges" means the costs or charges incurred in the smelting, refining, or other treatment of ore and includes:

(a) labor costs and employee benefits;

(b) utility costs;

(c) maintenance and administrative services costs;

(d) costs of materials;

(e) depreciation;

(f) pollution control costs; and

(g) any costs, charges, or fees paid by the mining company to other persons or entities for treating or processing ore.

(3) "Gross proceeds" or "gross metal yield" or "gross value of product" means the receipts realized from the extraction and sale of metals or concentrate containing metals.

~~(3)~~(4) "Merchantable value" means the receipts of all salable metals produced or extracted in a county over a 12-month period. If the extracted ores are milled, smelted, or reduced by the taxpayer, then the merchantable value in the county in which they are extracted is the receipts received for these metals after

processing.

(4)(5) "Receipts received" means the monetary payment or refined metal received by the mining company from the metal trader, smelter, roaster, or refinery, determined by multiplying the quantity of metal received by the metal trader, smelter, roaster, or refinery by the quoted price for the metal and then subtracting the following:

- (a) basic treatment and refinery charges;
- (b) costs of transporting the mineral product from the mine or mill to the smelter or other processor, including costs of demurrage, storage, interest, and other miscellaneous costs related to transporting the mineral product;
- (c) quantity deductions;
- (d) price deductions;
- (e) interest; and
- (f) penalty metal, impurity, and moisture deductions as specified by contract between the mining company and the receiving metal trader, smelter, roaster, or refinery."

Section 2. Section 15-37-103, MCA, is amended to read:

"15-37-103. Rate of tax. (1) The license tax to be paid by a person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals or precious or semiprecious gems or stones are produced is an amount computed on the gross value of product derived by the person from mining business, work, or operation within this state during the preceding reporting period.

(2) Concentrate shipped to a smelter, mill, or reduction work is taxed at the following rates:

Gross Value	Rate of Tax
of Product	(percentage of gross value)
first \$250,000	0%
more than \$250,000	1.81% of the increment

(3) Gold, silver, or any platinum-group metal that is dore, bullion, ~~or matte~~, or another form of processed concentrate that is processed in a treatment facility owned or operated by the taxpayer and that is sold or shipped to a refinery for final processing is taxed at the following rates:

Gross Value	Rate of Tax
of Product	(percentage of gross value)

first \$250,000

0%

more than \$250,000

1.6% of the increment"

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 4. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to metal mine production occurring after December 31, 2002.

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