

SENATE BILL 457

Introduced by Doherty, et al.

3/08	Fiscal Note Requested
3/08	Introduced
3/08	First Reading
3/08	Referred to Taxation
3/16	Fiscal Note Received
3/19	Fiscal Note Printed
3/20	Hearing
4/02	Tabled in Committee

1 *Senate* BILL NO. *457*  
2 INTRODUCED BY *Dwight Dore*

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS  
5 RELATING TO THE ADMINISTRATION OF THE TAXATION OF METAL  
6 MINES; PROVIDING THAT THE MARKET VALUE OF METAL MINE YIELD  
7 BE BASED UPON THE AVERAGE NEW YORK CITY PRICE QUOTATIONS FOR  
8 THE METAL; CHANGING REPORTING FROM AN ANNUAL TO A QUARTERLY  
9 BASIS; REDUCING THE PENALTY FOR DELINQUENT TAX; AMENDING  
10 SECTIONS 15-37-102, 15-37-104, 15-37-105, 15-37-106, AND  
11 15-37-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
12 AND A RETROACTIVE APPLICABILITY DATE."

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 **Section 1.** Section 15-37-102, MCA, is amended to read:

16 "15-37-102. Gross value of metal mine yield --  
17 computation. The "annual quarterly reporting date", as used  
18 in this part, means the last day of the calendar year  
19 quarter. The "annual quarterly gross value of product", as  
20 used in this part, means the receipts-received, as defined  
21 in ~~15-23-0017~~, from market value of all merchantable metals  
22 or concentrate containing metals or precious and  
23 semiprecious gems and stones extracted or produced each  
24 calendar year quarter from any mine or mining property in  
25 the state or recovered from the smelting, milling,

1 reduction, or treatment in any manner of ores extracted from  
2 the mine or mining property or from tailings resulting from  
3 the smelting, reduction, or treatment of the ores. If the  
4 ore requires smelting, milling, reduction, or treatment to  
5 ascertain the metal content of the ore, the gross value of  
6 the product of the ore is determined by taking the market  
7 value of all merchantable metals or mineral products  
8 extracted or recovered through the smelting, milling,  
9 reduction, or treatment, as shown by the dollar amount of  
10 gross smelter returns of the metal or mineral product  
11 without any deductions for costs of smelting, milling,  
12 reduction, treatment, or any other factor. Market value must  
13 be based upon the average quotations of the price of the  
14 metal or mineral product in New York City, as evidenced by  
15 some established authority or market report that issues  
16 market reports during the calendar quarter for which the  
17 report is being made. If there is no quotation covering any  
18 particular product, the department of revenue shall fix the  
19 value of the gross product or the portion of the product in  
20 an equitable manner."

21 **Section 2.** Section 15-37-104, MCA, is amended to read:

22 "15-37-104. Mine operator's statement of gross value --  
23 reports and sampling. (1) Every person engaged in or  
24 carrying on the business of working or operating any mine or  
25 mining property in this state from which gold, silver,



1 copper, lead, or any other metal or metals, precious or  
 2 semiprecious gems or stones are produced must, not later  
 3 than ~~March-31~~ 60 days following the ~~end--of--each--calendar~~  
 4 year quarterly reporting date of each quarter when engaged  
 5 in or carrying on any mining business, work, or operation,  
 6 make out a statement of the gross value of product from all  
 7 mines and mining properties worked or operated by the person  
 8 during the calendar year quarter immediately preceding. If  
 9 good cause is shown, the department may grant a reasonable  
 10 extension of the time for filing statements. The statement  
 11 shall be in the form prescribed by the department of revenue  
 12 and shall show the following:

13 (a) the name, address, and telephone number of the  
 14 owner, lessee, or operator of the mine or mining property;

15 (b) the mine's location by county and legal  
 16 description;

17 (c) the number of tons of ore, concentrate, or other  
 18 mineral products or deposits extracted from the mine or  
 19 mining property during the period covered by the statement;

20 (d) the name and location of the smelter, mill, or  
 21 reduction works to which the ore or concentrate has been  
 22 shipped or sold during the period covered by the statement  
 23 and other information as the department may require;

24 (e) the gross yield of the ores, concentrates, mineral  
 25 products, or deposits in constituents of commercial value,

1 such as the number of ounces of gold or silver, pounds of  
 2 copper, lead, or zinc, or other commercially valuable  
 3 constituents of the ores, concentrates, or mineral products  
 4 or deposits, measured by standard units of measurement,  
 5 during the period covered by the statement;

6 (f) the ~~annual~~ quarterly gross value of product in  
 7 dollars and cents.

8 (2) This section applies regardless of the location of  
 9 any smelter, mill, or reduction works to which the ore or  
 10 concentrate is shipped.

11 (3) Any sampling, testing, or assaying made necessary  
 12 to comply with this section must be completed within this  
 13 state and prior to any mixture of the ore or concentrate to  
 14 be assayed with ore or concentrate from any other mine or  
 15 mining property.

16 (4) If the quarterly statement of gross value is not  
 17 filed with the department within 60 days following the  
 18 calendar quarter ending, a penalty must be assessed. The  
 19 penalty is the greater of \$25 or 2% of the tax that would be  
 20 due under this part if collected quarterly. If good cause is  
 21 shown, the department may waive the penalty."

22 **Section 3.** Section 15-37-105, MCA, is amended to read:

23 "15-37-105. **Computation and payment of tax.** (1) The tax  
 24 due under this part is computed according to 15-37-103 and  
 25 is due and payable on or before March 31 1 of each year for

1 the products produced in the preceding calendar year. The  
 2 tax due under this part becomes delinquent as of midnight on  
 3 March 31<sup>st</sup> of the year immediately following the production  
 4 year. If good cause is shown, the department may grant a  
 5 reasonable extension of time for payment of the tax. During  
 6 the period of any extension granted, the tax due bears  
 7 interest at a rate of 1% a month or any part thereof.

8 (2) If any person has sold or otherwise disposed of any  
 9 of the mine's products at a price substantially below the  
 10 true market price of the product at the time and place of  
 11 sale or disposal, then the department shall compute the  
 12 gross value of the portion of the mine's product sold or  
 13 disposed of substantially below the market price. The gross  
 14 value shall be based upon the quotations of the price of the  
 15 mine's product in New York City at the time the portion of  
 16 the product was sold or otherwise disposed of as evidenced  
 17 by some established authority or market report, such as the  
 18 Engineering and Mining Journal of New York, or some other  
 19 standard publication, giving the market reports for the year  
 20 covered by the statement. If there is no quotation covering  
 21 any particular product, then the department shall fix the  
 22 value of the gross product or portion of the gross product  
 23 that was sold or otherwise disposed of at a price  
 24 substantially below the true market price at the time and  
 25 place of sale or disposal in a manner as may seem to be

1 equitable."

2 **Section 4.** Section 15-37-106, MCA, is amended to read:

3 "15-37-106. Procedure in case of failure to file  
 4 statements. If any person shall fail, refuse, or neglect to  
 5 make and file all the required ~~annual~~ statement quarterly  
 6 statements of gross yield for a production year on or before  
 7 March 31<sup>st</sup> of the year immediately following the production  
 8 year, the department of revenue shall, immediately after the  
 9 time has expired, ascertain and determine as nearly as may  
 10 be possible from any returns or reports filed with any state  
 11 or county officer or board under any law of this state and  
 12 from any other information which the department may be able  
 13 to obtain the total gross value of product of the person  
 14 from the business during the calendar year immediately  
 15 preceding the year in which the license tax is to be paid.  
 16 The department shall make and file a statement showing the  
 17 amount of the gross value of product and shall ascertain,  
 18 determine, compute, and assess the amount of the license  
 19 taxes due from and to be paid by the person and shall  
 20 immediately give notice to the person in the same manner as  
 21 though the statement had been filed within time. The  
 22 department shall proceed to collect the license tax, along  
 23 with the same penalty and interest as provided for other  
 24 delinquencies."

25 **Section 5.** Section 15-37-108, MCA, is amended to read:

1        \*15-37-108. Delinquent taxes -- penalty. All license  
2 taxes assessed under the provisions of this part shall  
3 become delinquent if not paid on or before midnight of March  
4 31 1 of the year immediately following the production year.  
5 The department shall add to the amount of delinquent  
6 metalliferous mines tax a penalty of ~~10%~~ 8%. The whole  
7 amount of license tax, together with penalty, shall bear  
8 interest at the rate of 1% per month or fraction thereof.  
9 Interest shall be computed from the date the tax becomes  
10 delinquent until it is paid. The department may waive the  
11 ~~10%~~ 8% penalty if it determines that a reasonable cause  
12 exists for failure to pay the tax on or before March 31 1 of  
13 the year immediately following the production year."

14        NEW SECTION. **Section 6.** Effective date -- retroactive  
15 applicability. [This act] is effective on passage and  
16 approval and applies retroactively, within the meaning of  
17 1-2-109, to taxable years beginning after December 31, 1990.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0457, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the laws relating to the administration of the taxation of metal mines; providing that the market value of metal mine yield be based upon the average New York City price quotations for the metal; changing reporting from an annual to a quarterly basis; reducing the penalty for delinquent tax; and providing an immediate effective date and a retroactive applicability date.

FISCAL IMPACT:

Expenditures:

The proposal has no impact on Department of Revenue administrative expenses.

Revenues:

Under current law, the gross value of product from metal mines is represented by the mining company's actual receipts from the smelter or refinery. This amount is net of the costs for smelting or refining, and is further reduced to take account of "non-recoverable" metals and/or "penalty" metals.

Under proposed law, the gross value is represented by the value of all merchantable metals extracted or produced from the mine, based on the gross smelter returns, without deductions for the cost of smelting or refining, or the cost of any "non-recoverable" metals and/or "penalty" metals. In other words, the producer will pay tax on the value of certain metals in the ore for which he receives no compensation from the smelter. These metals may include (1) metals extracted in quantities below any contractual levels, and (2) metals that produce adverse smelting impacts with respect to the primary metal being refined.

The above changes in the proposed bill will result in an increase in the taxable value of metals and in the tax paid. Based on information from 1988, this increase would be about \$515,000. The department does not have more current information that could be used to provide a more current impact.

  
ROD SUNDSTED, BUDGET DIRECTOR      3-16-91  
Office of Budget and Program Planning      DATE

3/19/91  
\_\_\_\_\_  
STEVE DOHERTY, PRIMARY SPONSOR      DATE  
Fiscal Note for SB0457, as introduced      SB 457-1