

Taxation, Product of Mines Subject to. Coal Mines, Product Subject to Taxation. Product of Mines, Subject to Taxation.

A mining company cannot by its method of procedure render itself immune from taxation, as the net proceeds remain the same as though the company pursued the ordinary method. The net proceeds of a mine are subject to taxation.

August 9th, 1913.

Honorable Board of County Commissioners,

Roundup, Montana.

Gentlemen:

An inquiry has been made at this office, and the question submitted by the county assessor of your county, relative to the assessment of the net proceeds of the Republic Coal Company, a corporation operating in your county, together with the information that the matter is now pending before your honorable board, sitting as a board of equalization.

It appears from the statement made that the stock of the Republic Coal Company is owned by the Chicago, Milwaukee & Puget Sound Railroad Company; that the coal company is operating its mines, and that the product therefrom, instead of being sold in the open market, is turned over to the said stockholder of the coal company, and that the coal company receives only sufficient compensation for the coal so delivered to pay the expenses of the coal production. The coal company therefore reported to the assessor that it does not have any net proceeds.

Sec. 3, Article XII of the State Constitution, and the statute enacted in pursuance thereof, provide for the taxation of the "net proceeds of all mines and mining claims," and the supreme court of this state has held that the phrase, "mines and mining claims,"

includes coal mines.

M. C. Co. v. Livingston, 21 Mont. 66; 52 Pac. 780.

It is the very evident meaning of the law that the net proceeds of all mines and mining claims, including the product of coal mines, should be subject to taxation, and it is not the policy of the law that any property, whether the product of coal mines or otherwise, should be relieved from taxation by reason of any particular method to be observed by the owner of such property in the transaction of his or its business.

The ordinary method of transacting business by a corporation of this character is to sell its product, and to place the receipts therefrom in the treasury of the company, and after paying the operating expenses, to declare dividends, and by that means paying to its stockholders the net proceeds, but it appears in this case that this corporation in effect pays its dividends to its stockholder by delivering to such stockholder the product of the mine and receiving from the stockholder only sufficient compensation to pay the operating expenses. I do not understand that a mining company can by this method of procedure render its product immune from taxation, but that the net proceeds of the mine still remain the same as though the company pursued the ordinary method of marketing its coal and paying dividends to its stockholders in cash, instead of paying dividends in the product of the mine. The net proceeds I understand to be the value of the coal, less the operating and other expenses, which the law permits to be deducted. Of course, it is wholly a question of fact: (a) whether there are any net proceeds, and (b) the amount thereof. The ascertainment of the value of the net proceeds, of course, is a question which must address itself to the assessor, as well as to your honorable board, and the rules to be observed, as the market value, the demand, etc., must be such as will enable you to reach as nearly as possible the true value. In other words, neither the board nor the assessor are absolutely bound by the valuation placed upon any property by the owner or owners thereof. I do not mean to be understood as deciding that this company is resorting to a subterfuge to escape taxation, for that is a question of fact which I cannot pass upon, and from the general nature of the inquiry and for the reason that it is largely dependent upon matters of fact, I am unable at this time to go further than to state the general rule for the taxation of this species of property, as above stated.

Yours very truly,

D. M. KELLY,
Attorney General.