

**Mines, Net Proceeds of. Taxes, Net Proceeds Ascertained for. Interest, for Borrowed Money not a Charge. Depreciation, Not an Offset. Gross Earnings, What Are.**

Interest charges for borrowed money invested, and charges for depreciation, may not be deducted from the gross income of a mine to determine the taxable net proceeds.

October 3, 1916.

Hon. R. G. Wiggerhorn, County Attorney,  
Red Lodge, Montana.

Dear Sir:

I am in receipt of your recent letter wherein you submit the question as to whether in determining the net proceeds of mines, the mine owner may deduct interest charges for borrowed money invested, and charges for depreciation, from the gross earnings?

It is a rule of law rigidly adhered to by our courts that taxation is the rule and exemption is the exception.

N. P. Ry. Co. v. Mjelde, 48 Mont. 287.

The Legislature has prescribed the items for which deductions may be made, and it is my opinion nothing may be deducted from the gross income of a mine to determine the taxable net proceeds thereof, except the expenditures specifically mentioned in Section 2565, Revised Codes, the net proceeds being determined by means of the statement required by Section 2566. Interest on borrowed capital, and charges for depreciation, are not mentioned as items to be considered, and therefore, may not be deducted from the gross income.

You call my attention to an opinion addressed to the Board of County Commissioners at Roundup, Montana, under date of August 9, 1913, Volume 5, Opinions Attorney General, page 267, which you intimate may be authority for the contention that interest on borrowed capital invested in mining ventures, may properly be deducted from the gross income of a mine, in order to determine the net proceeds. The question of how to determine the net proceeds of a mine was not involved in that opinion, except as relating to the gross income, the point decided being that neither the Board of Equalization, nor the county assessor, are bound by any arbitrary value placed upon the gross proceeds but may determine the true value in order to determine the taxable net proceeds.

Yours very truly,

J. B. POINDEXTER,  
Attorney General.