

Opinion No. 400**Mines and Mining — Taxation — Net Proceeds—Royalty**

HELD: Under Chapter 161, Laws of 1933, the net proceeds of the Northwestern Improvement Company and the royalty of the Northern Pacific Railway Company for the year 1932 must be taxed according to the rate fixed for that year and not according to the rate fixed for the year 1933.

November 27, 1933

You have asked us whether the tax levy made by the board of county commissioners of Rosebud County for the year 1932 or for the year 1933 should apply in the case of the net proceeds assessed to the Northwestern Improvement Company on account of the operation by it of a coal mine during the year 1932 and in the case of royalty assessed to the Northern Pacific Railway Company as a result of such operation.

Every person or corporation engaged in mining from any mine containing coal must on or before the first Monday in March of each year make a statement to the State Board of Equalization showing, among other things, the gross yield of such mineral from such mine for the preceding year, the cost of extraction and transportation, and the royalty paid. From the re-

turn made the board shall calculate the net proceeds in dollars and cents and make its assessment accordingly. (Sections 1 and 2, Chapter 161, Laws of 1933.)

On or before the 15th day of May the State Board of Equalization shall certify the assessment to the county clerk of the county in which the mine is located. The county clerk shall then prepare therefrom a tax roll which must be by him furnished to the county treasurer on or before the 15th day of June following, and thereupon the taxes shall be due and payable. The county treasurer shall proceed to give notice to the operator of the tax levied and shall collect the same in the manner provided by law. The rate of taxation shall be the same as that fixed and levied against other property in and for the year in which the royalty was paid or yielded. (Id., Section 1).

Finally, it is provided by section 6 of Chapter 161 that the Act shall govern the assessment and taxation of net proceeds of mines and mining claims yielded in the year 1932 and thereafter.

From the foregoing we think it is entirely clear that the net proceeds of the Northwestern Improvement Company and the royalty of the Northern Pacific Railway Company for the year 1932 must be taxed according to the rate fixed for that year and not according to the rate fixed for the year 1933. The law does not appear to justify any other view.

Note: See Chapter 188, Laws of 1935.