

NONFERROUS METALLIC MINERALS EXTRACTION SEVERANCE TAX ACT (EXCERPT)
Act 410 of 2012

211.782 Definitions.

Sec. 2. As used in this act:

(a) "Beneficiation" means milling, processing, grinding, separating, concentrating, pelletizing, and other processes necessary to prepare nonferrous metallic mineral ore for sale or transfer.

(b) "Department" means the department of treasury.

(c) "Mineral" means a naturally occurring solid substance that is extracted from the earth in this state primarily for its nonferrous metallic mineral content for commercial, industrial, or construction purposes. Mineral does not include gypsum, lime, limestone, salt, dolomite, basalt, granite, sandstone, shale, clay, stone, gravel, marl, peat, sand, gemstones, coal, substances extracted from potable water or brine, substances extracted from oil or natural gas, low-grade iron ore that is defined and taxed under 1951 PA 77, MCL 211.621 to 211.626, any property that is defined and taxed under 1963 PA 68, MCL 207.271 to 207.279, or any other substance not extracted primarily for its nonferrous metallic mineral content.

(d) "Mineral-producing property" means real and personal property in this state that is part of a producing mine or utilized directly in association with a producing mine on a parcel on which the shaft, incline, or adit is located, or a parcel contiguous or appurtenant to a parcel on which the shaft, incline, or adit is located. As used in this section, contiguity is not broken by a road, an easement, a right-of-way, or property occupied by power transmission lines or buffer zones. Mineral-producing property also includes all the following within this state:

(i) Mineral rights in mineral-producing property.

(ii) Mineral leases, options, and mining rights on or in mineral-producing property.

(iii) Mineral stockpiles and mineral inventories that are owned, leased, or controlled by a taxpayer.

(iv) Leach pads, waste rock repositories, and tailings impounds that are owned, leased, or controlled by a taxpayer.

(v) Buffer lands that are owned, leased, or controlled by a taxpayer and are appurtenant to mineral-producing property. For purposes of determining appurtenance to mineral-producing property for buffer lands owned, leased, or controlled by a taxpayer, there is a rebuttable presumption that all of the following apply:

(A) Land that is no more than 1/4 mile from nonbuffer land mineral-producing property, is held by the taxpayer for use as buffer land.

(B) Land that is more than 1/4 mile from nonbuffer land mineral-producing property and that a taxpayer is required to own, lease, or control due to requirements imposed by federal, state, or local law, is held by the taxpayer for use as buffer land.

(vi) Buildings, improvements, fixtures, and nonmobile equipment located upon, beneath, or appurtenant to a mine, including administrative and support facilities appurtenant to a mine provided that such property is located upon, beneath, or on a parcel that is a mineral-producing property.

(vii) Property owned and primarily used by the taxpayer in the transportation of minerals from a producing mine to the point where beneficiation activities begin.

(viii) Property used for beneficiation of extracted minerals if the person that owns or controls the property is a taxpayer.

(e) "Mineral-producing property" does not include real and personal property that is used for transportation of minerals between any locations, unless it is specifically described in subdivision (d). Also, mineral-producing property does not include real property owned, leased, or controlled by a taxpayer that is used as residential real property.

(f) "Minerals severance tax" or "severance tax" means the specific tax levied under section 4.

(g) "Open mine" means a mine at which a shaft, incline, or adit has been started or overburden has been stripped.

(h) "Person" means an individual, firm, limited partnership, limited liability partnership, copartnership, partnership, joint venture, corporation, association, subchapter S corporation, limited liability company, receiver, estate, trust, or any other legal entity or combination of legal entities acting as a unit.

(i) "Producing mine" means a mineral mine in this state at which a taxpayer is producing 1 or more minerals. Producing mine does not include a mine operated primarily for tourism purposes or a mine in which the minerals produced are used for artistic purposes and are incidental to the business operation of the owner.

(j) "Rural development fund" means the rural development fund created in section 5 of the rural development fund act.

(k) "Taxable mineral" means the first marketable mineral or mineral product sold or transferred by the

taxpayer that is taxable under this act. Taxable mineral also includes a mineral which has been sold or transferred by a taxpayer following beneficiation in this state and a mineral which is otherwise taxable under this act.

(l) "Taxable mineral value" means the total value received by a taxpayer for the sale or transfer of taxable minerals, whether or not in a beneficiated state, including premiums, bonuses, subsidies, or noncash consideration, with no deductions. There is a rebuttable presumption that the purchase price of a taxable mineral under a bona fide arm's-length contract of sale or transfer between unrelated persons reflects the taxable mineral value. In determining the taxable mineral value of a taxable mineral for contracts of sale or transfer between related persons, there is a rebuttable presumption that taxable mineral value for related party sales or transfers shall be based on the average daily price of the mineral as quoted on published market indices as of the date of sale or transfer. The taxable mineral value of taxable minerals sold or transferred by a taxpayer following beneficiation shall reflect the total value of the taxable mineral in its beneficiated state. For taxable minerals which are to be shipped or transported outside this state for beneficiation outside this state or otherwise removed by a taxpayer from this state and which are considered to have been sold as provided in section 4(1), the taxable mineral value shall reflect the total value of the minerals immediately prior to the shipment or removal based on the average daily price of the mineral as quoted on published market indices as determined by the department.

(m) "Taxpayer" means a person subject to a specific tax levied under this act.

(n) "Transfer" means an in-kind exchange or other disposition of an interest in minerals, whether or not beneficiated, other than through a sale.

History: 2012, Act 410, Imd. Eff. Dec. 20, 2012.