

Mining Information Sheet

Prepared by:
Department of Natural Resources
Box 7921
Madison, WI 53707
Revised: April, 1997

Wisconsin's Net Proceeds Tax on Metallic Mining and Distribution of Funds to Municipalities

Introduction

When the mining laws were revised in 1977, the legislature recognized that mining development could result in social and economic changes to local communities. To help communities address mining-related changes, the legislature established a mining tax, called the Net Proceeds Tax. At the same time, it created the Mining Investment and Local Impact Fund to receive the mining tax revenues and a Board to distribute the money. The following discussion describes the mining tax and summarizes the types of payments made by the Board to communities impacted by metallic mineral mining.

Intent of the Law

The Legislature stated the intent of the Net Proceeds Tax in s. 70.37 (2), Wis. Stats.:

"The tax is established in order that the state may derive a benefit from the extraction of irreplaceable metalliferous minerals and in order to compensate the state and municipalities for costs, past, present, and future, incurred or to be incurred as a result of the loss of valuable irreplaceable metallic mineral resources."

Additionally, the Legislature stated in s. 70.37 (1), Wis. Stats.:

"Municipalities incur long-term economic costs as a result of metalliferous mineral mining after the mining operation shuts down. An impact fund, in which is deposited a portion of the tax revenues, should assure that money will be available to such municipalities for long- and short-term costs associated with social, educational, environmental, and economic impacts of metalliferous mineral mining."

The net proceeds tax applies to mining operations in Wisconsin on a "stand alone" basis, that is, without regard to other mining gains or losses in other states or countries. Therefore, corporate losses in another state cannot be used to offset profits in Wisconsin in calculating the tax due.

The Mining Tax

The net proceeds tax is a mining profits tax on companies conducting metallic mineral mining in Wisconsin, and is in addition to other corporate taxes. Before mining occurs, the ore body may be taxed under the property tax, but after mining begins the net proceeds tax becomes operative. The tax is graduated, and ranges from 3% to 15%, depending on the amount of the annual profits of a mining company. The maximum marginal tax rate of 15% is levied on net proceeds exceeding \$33 million. (Note: The tax bracket amounts are indexed each year to keep pace with inflation.)

Mining profits are determined by subtracting all Wisconsin mining-related costs from the company's gross mining income. Mining-related costs include expenses for such activities as extracting, milling, transporting, and smelting ore, administration and labor, supplies, repair and maintenance, depreciation, royalties and reclamation.

When a mining company pays its net proceeds tax, a formula is used to determine the amount of the tax payment to be deposited in the Mining Investment and Local Impact Fund. The remainder of the net proceeds tax, if any, is deposited in the Badger Fund. Interest generated by the Badger Fund is used for educational and recreational purposes in the state.

Mining Investment and Local Impact Fund

This fund, also known as the Mining Impact Fund, receives all or a portion of the annual net proceeds taxes. The Mining Investment and Local Impact Fund Board, known as the Mining Impact Board, in the Department of Revenue, administers the Mining Impact Fund and makes distributions to local municipalities impacted by mining. Municipalities that may be eligible to receive payments include towns, villages, cities, counties, and tribal governments.

The Mining Impact Board makes five types of payments to municipalities to mitigate the negative impacts of mining: payments to municipalities to help offset the cost of negotiating local agreements, a construction period payment, "first dollar" payments, additional payments to counties and discretionary payments based on need. These payments are described in the following sections.

Payments to Municipalities for Negotiating Local Agreements

When mining company files its Notification of Intent document with the Department, it must pay \$50,000 into the Mining Impact Fund. If this money is subsequently distributed to municipalities and exhausted, the mining applicant must make up to two additional \$50,000 to this fund. These funds are designated for the support of negotiations between municipalities and the mining company.

Construction Period Payment

After a mining company has received the necessary local, state, and federal approvals and permits, and mine construction has started, the mining company must make the construction period payment to the Mining Impact Fund within 30 days. The amount of the payment by the company to the Mining Impact Fund is \$100,000 (an amount not indexed to inflation) for each eligible municipality. The Mining Impact Board then pays each Native American community, county, city, town, or village that contains at least 15% of the ore body a construction period payment.

The construction period payment is a one-time payment to municipalities to offset the fiscal impacts of mining construction. Costs to municipalities during the mining construction period could vary considerably depending on the construction duration. A mining company may deduct the construction period payment amount from subsequent net proceeds tax liabilities. Thus, the construction period payment is a tax prepayment by the company.

First Dollar Payments

After a mine begins operation and throughout its operation, the Mining Impact Board makes annual first dollar payments to each city, village, town, or county which contains 15% of the ore body. Any Native American community with tribal lands within those municipalities also is eligible to receive a first dollar payment. Annual first dollar payments are \$100,000, adjusted by an economic measurement called the gross national product deflator, to keep pace with inflation.

During some years the amount of net proceeds tax paid by the mining company could be insufficient to cover the entire amount of the required first dollar payments. In that case, the first dollar payments become the actual amounts available to each municipality from the mining company's tax payment. Simply stated, the amount of annual first dollar payments depend on company profitability, and therefore, could range from zero to the maximum of \$100,000 (indexed) in any given year.

First dollar payments to counties must be used for mining-related purposes, although other municipalities have no such requirement. Counties also may invest up to 10% of their annual first dollar payments for later use to alleviate impacts associated with mine closure. In addition, a maximum of \$25,000 annually may be distributed by a county to other municipalities where mining is occurring.

Additional Payments to Counties

In addition to the construction period payment and annual first dollar payments, counties in which metalliferous minerals are extracted are eligible for mandatory additional annual payments from the Mining Impact Fund. Up to \$250,000 (adjusted by the gross national product deflator), or 20% of the tax collected, whichever is less, can be paid to a county. The funds must be used for mining-related purposes. Similar to the first dollar amounts, payment of the additional funds to counties is not guaranteed, but depends on the availability of net proceeds taxes from the mining company.

Discretionary Payments to Municipalities

The Mining Impact Board may distribute available funds on a discretionary basis to municipalities to mitigate the impacts of ongoing or past metallic mineral mining. Highest priority is given to municipalities where mining is occurring or where a mining permit has been issued. Municipalities must use such funds for the following mining-related purposes:

- Protective services such as police and fire protection
- Highway construction or repair
- Monitoring the environmental effects of mining
- Legal counsel and technical consultants
- Expenses associated with construction, operations or mine closure
- Community plans for minimizing mining impacts
- Educational services
- Retraining or job placement services

Table 1. Types of Payments to Municipalities

Payment Type	Recipient	Frequency	Fund Source	Dollar Amount
Cost of Local Agreement Negotiations	Municipalities negotiating local agreements	By grant, during negotiations	Mining company, with Notification of Intent	Up to \$150,000 in aggregate
Construction	Municipalities containing ore body; Tribes	One payment	Mining company	\$100,000 (not indexed)
First Dollar	Same as above	Annually during operations	Net proceeds tax	\$100,000 (indexed)
Additional Payments	Counties	Annually during operations	Net proceeds tax	up to \$250,000 (indexed)
Discretionary Payments	Municipalities	Based on need	Net proceeds tax	Various

Local Impact Committees and School Districts

Local mining impact committees may be established by municipalities for assistance in evaluating the impacts of a proposed mine, reviewing mining and reclamation plans and developing solutions to mining-related growth problems. Mining impact committees are eligible for funding from the Mining Impact Fund.

Similarly, school districts that have higher costs due to increased enrollment resulting from a nearby mine may apply to the Mining Impact Board for payments from the fund.

Discussion of Net Proceeds Taxes

A mining company's Wisconsin net proceeds tax liability depends on project profitability, which in turn depends on the rate of mineral extraction, ore content and richness, and mining costs. These variables can be forecast relatively easily and accurately by a mining company. However, mine profitability also is directly and more closely related to the prices of minerals, which are more difficult to accurately predict. For this reason, predicting the availability and sufficiency of net proceeds taxes is subject to considerable uncertainty. The longer the proposed mining project, the greater the difficulty in predicting metals prices and the greater the uncertainty in predicting net proceeds tax collections.

Net proceeds tax collections are expected to vary somewhat during a mining project. For example, a company starting a new project typically would have large capital costs and therefore, more depreciation early in a project's life. As a result, greater deductions could reduce company

profitability early in a project at a time when there could be the greatest need in the community to mitigate the negative impacts of mining. Whether there actually would be such a timing mismatch in net proceeds tax availability depends on the actual circumstances for each mining project.

Another factor could affect the availability of funding and the ability of local municipalities to mitigate the effects of mining development. That is whether the mining company would guarantee some portion of the various payments in an agreement with the municipalities. Under such an agreement, the uncertainty of municipality revenues from the Mining Impact Fund to mitigate negative impacts could be reduced or eliminated.

For More Information

If you would like additional information or want to discuss mining-related tax issues, please contact:

Department of Revenue
Mining Investment
and Local Impact Fund Board
125 South Webster St.
Madison, WI 53708
(608) 266-8133

Mr. David Kunelius
Department of Natural Resources
107 Sutliff Ave.
Rhineland, WI 54501
(715) 365-8924

This mining information sheet is one in a series prepared by the Department of Natural Resources to explain how metallic mining in Wisconsin is regulated and to explore other aspects of mining. Copies of the following mining information sheets are available from Department offices in Madison and Rhineland, and the Internet:

- *The Permitting Process for a Metallic Mineral Mine*
- *How the Department of Natural Resources Regulates Metallic Mining*
- *Protecting Groundwater at Metallic Mining Sites*
- *Reclamation and Long-Term Care Requirements for Metallic Mining Sites in Wisconsin*
- *Local Decisions in Metallic Mining Projects*
- *Addressing Public Concerns With Wisconsin's Laws Governing Metallic Mining*
- *Wisconsin's Net Proceeds Tax on Metallic Mining and Distribution of Funds to Municipalities*
- *Cumulative Impacts of Metallic Mining Development in Northern Wisconsin*
- *Potential Metallic Mining Development in Northern Wisconsin*

The Mining Regulations (Administrative Code) can be viewed at the Department's Mining Web site:
<http://www.dnr.state.wi.us/org/aw/wm/mining/metallc/index.htm>