

**CALCULATION OF MINING SEVERANCE TAX
ON BERYLLIUM**

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Richard W. Wheeler

Senate Sponsor: Thomas V. Hatch

LONG TITLE

General Description:

This bill amends the Mining Severance Tax part relating to the taxation of beryllium.

Highlighted Provisions:

This bill:

- ▶ modifies the calculation of taxable value for purposes of imposing the mining severance tax on beryllium; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation to January 1, 2005.

Utah Code Sections Affected:

AMENDS:

59-5-203, as last amended by Chapter 295, Laws of Utah 1990

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-5-203** is amended to read:

59-5-203. Determining taxable value.

(1) [~~The~~] Except as provided in Subsection (3), the basis for computing the gross proceeds, prior to those deductions or adjustments specified in this chapter, in determining the taxable value of the metals or metalliferous minerals sold or otherwise disposed of, in the order

of priority, is as follows:

(a) If the metals or metalliferous mineral products are actually sold, the value of those metals or metalliferous mineral products shall be the gross amount the producer receives from that sale, provided that the metals or metalliferous mineral products are sold under a bona fide contract of sale between unaffiliated parties. In the case of a sale of uranium concentrates, gross proceeds shall be the gross amount the producer receives from the sale of processed uranium concentrate or "yellowcake," provided that the uranium concentrate is sold under a bona fide contract of sale between unaffiliated parties.

(b) If the metals or metalliferous mineral products are not actually sold but are shipped, transported, or delivered out of state, the gross proceeds shall be the multiple of the recoverable units of finished metals, or of the finished metals contained in the metalliferous minerals shipped, and the average daily price per unit of contained metals as quoted by an established authority for market prices of metals for the period during which the tax imposed by this chapter is due. The established authority or authorities shall be designated by the commission by rule adopted in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(c) In the case of metals or metalliferous minerals not sold, but otherwise disposed of, for which there is no established authority for market prices of metals for the period during which the tax imposed by this chapter is due, gross proceeds is determined by allocating to the state the same proportion of the producer's total sales of metals or metalliferous minerals sold or otherwise disposed of as the producer's total Utah costs bear to the total costs associated with sale or disposal of the metal or metalliferous mineral.

(d) In the event of a sale of metals or metalliferous minerals between affiliated companies which is not a bona fide sale because the value received is not proportionate to the fair market value of the metals or metalliferous minerals or in the event that Subsection (1)(a), (b), or (c) are not applicable, the commission shall determine the value of such metals or metalliferous minerals in an equitable manner by reference to an objective standard as specified in a rule adopted in accordance with the provisions of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(2) For all metals except beryllium, the taxable value of the metalliferous mineral sold or otherwise disposed of is 30% of the gross proceeds received for the metals sold or otherwise disposed of by the producer of the metal.

(3) ~~[For]~~ (a) Beginning on January 1, 1990, through December 31, 2004, for beryllium sold or otherwise disposed of, the taxable value is 20% of the gross proceeds received for the beryllium sold or otherwise disposed of by the producer.

(b) (i) Notwithstanding Subsection (1) or (4) and subject to Subsection (3)(b)(ii), beginning on January 1, 2005, the taxable value of beryllium sold or otherwise disposed of by the producer of the beryllium is equal to 125% of the direct mining costs incurred in mining the beryllium.

(ii) For an action or proceeding filed on or after January 1, 2005, if the taxable value of beryllium is calculated under Subsection (3)(a) for purposes of imposing a tax on beryllium under this part, the taxable value of beryllium calculated under Subsection (3)(a) may not exceed the taxable value of beryllium calculated under Subsection (3)(b)(i).

(4) ~~[If]~~ Except as provided in Subsection (3), if the metalliferous mineral sold or otherwise disposed of is sold or shipped out of state in the form of ore, then the taxable value is 80% of the gross proceeds.

Section 2. Retrospective operation.

This bill has retrospective operation to January 1, 2005.