

STATE BOARD OF LAND COMMISSIONERS

October 19, 2021
Information Agenda

Subject

Potential funding solutions for the Abandoned Mine Land fund.

Background

The Abandoned Mine Land (AML) fund receives 34% of the Mine License Tax. This is a 1% net tax on mines that produce a valuable mineral as defined in Idaho Code § 47-1205. This definition specifically excludes aggregate. The AML fund is used to secure and reclaim abandoned mines throughout Idaho. The Idaho Geological Survey has estimated that up to 16,000 abandoned mines and prospects are present in Idaho. Many sites have not been investigated for hazards.

As noticed by the Governor, the AML fund is being depleted. This is due to declining revenues and increasing costs. This summary describes current revenue and expenses and explores some options to keep this fund solvent into the future.

Discussion

As shown in Figure 1, several good years between 2007 and 2012 provided over \$5.7 million in revenue. Since 2013 however, revenues have declined dramatically. High tax returns for the Mine License Tax in 2016 resulted in the fund losing over \$125,000. Total revenue since that time has only been about \$102,000.

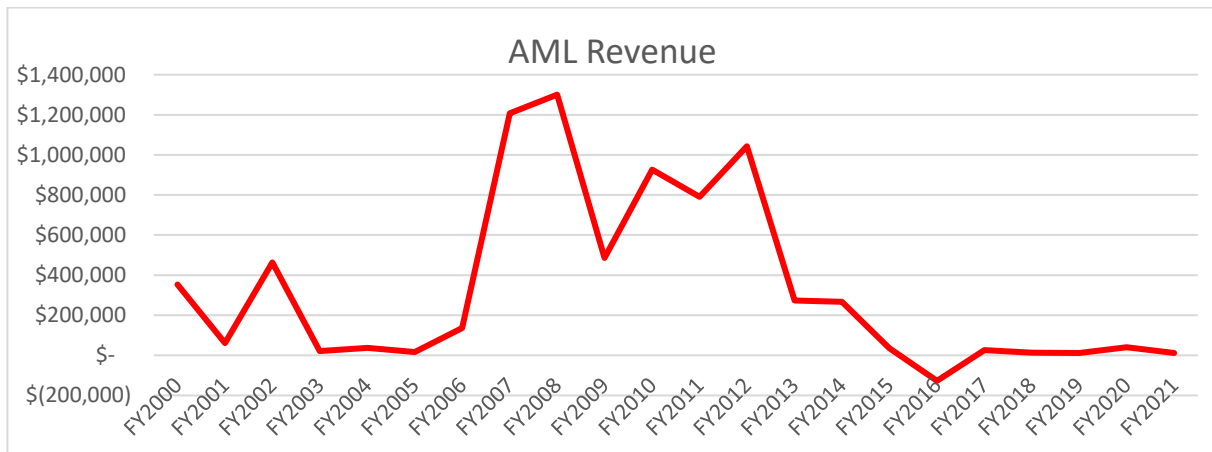


Figure 1: AML Revenue FY2000 through FY2021

Several commodity prices were compared to AML revenue to attempt correlating revenue to a commodity. Figure 2 shows the attempted correlation. The actual prices for the commodities are not shown, but the trends in their prices are shown. The 2009 recession shows a dip in most prices and revenue. Aside from that, correlation ranges from negligible (0 to 0.3) to moderate (0.5 to 0.7) as shown in Figure 3.

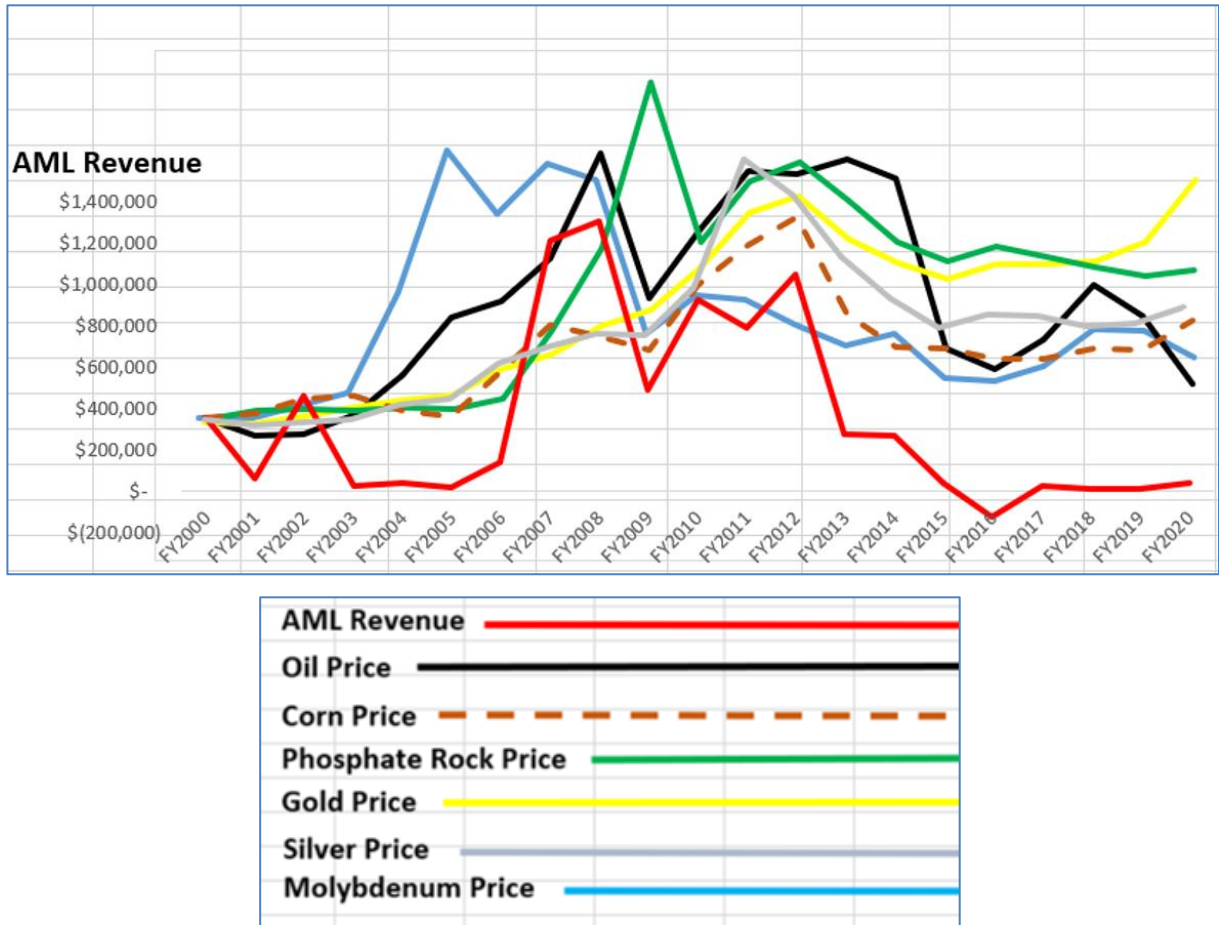


Figure 2: AML Revenue with Commodity Price Changes FY2000 through 2020

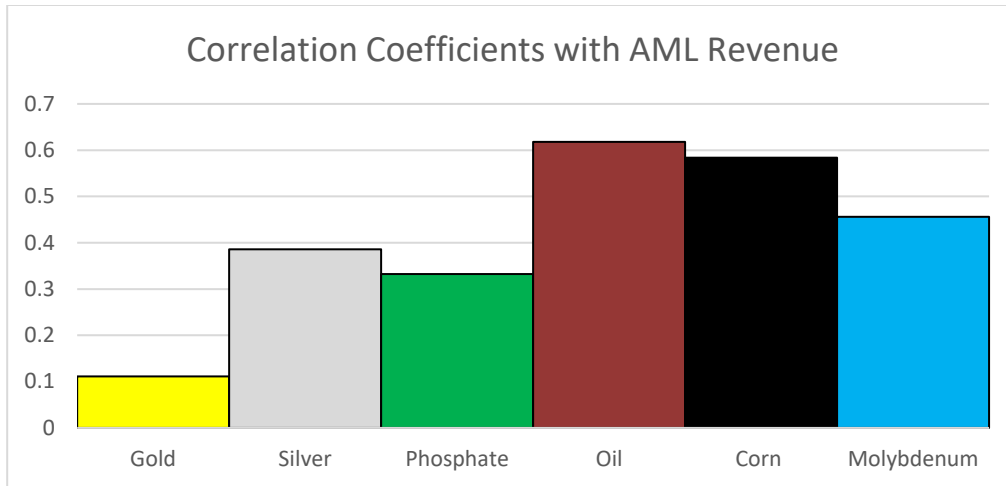


Figure 3: Commodity Correlation Coefficients with AML Revenue

The Mine License Tax is a net tax, meaning a company's annual expenses affect the amount paid. With phosphate, oil, and molybdenum prices currently depressed, this tax revenue is not expected to return soon to the levels seen in the 2006 to 2012 period.

Expenses

The Department has expense records back to 2014. The Department started using the AML fund for personnel cost to augment holdbacks beginning in 2008. As shown in Figure 4, spending peaked in 2015 and 2016 due to Triumph and other large projects. Total yearly spending averaged about \$518,000 annually over the last five years.

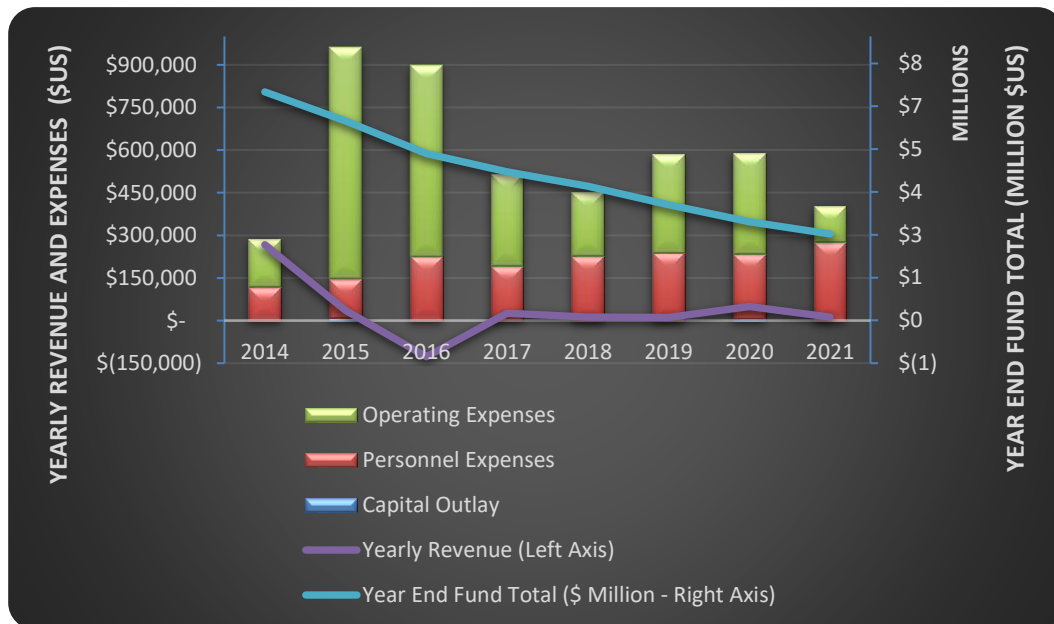


Figure 4: AML Fund – Revenue, Expenditures, and Fund Balance 2014 through 2021

Options

With no changes to the existing program, the AML Fund could be depleted by 2028. This assumes continuing annual expenses of \$518,000, and annual revenue of about \$99,000 which is the median for revenue since 2000. Given the swings in revenue with recent years, the median appeared to be a more accurate prediction for the future than the average. The average revenue since 2000 is over \$336,000, however this may be optimistic given the recent trend.

Three options were looked at to increase revenue.

Option one: Increase the percentage of the Mine License Tax that goes into the AML fund. Figure 5 shows the fund potential with the tax increase from 34% up to 100%. At 67%, the fund would not be depleted until 2030. At 100%, it would not be depleted until 2033.

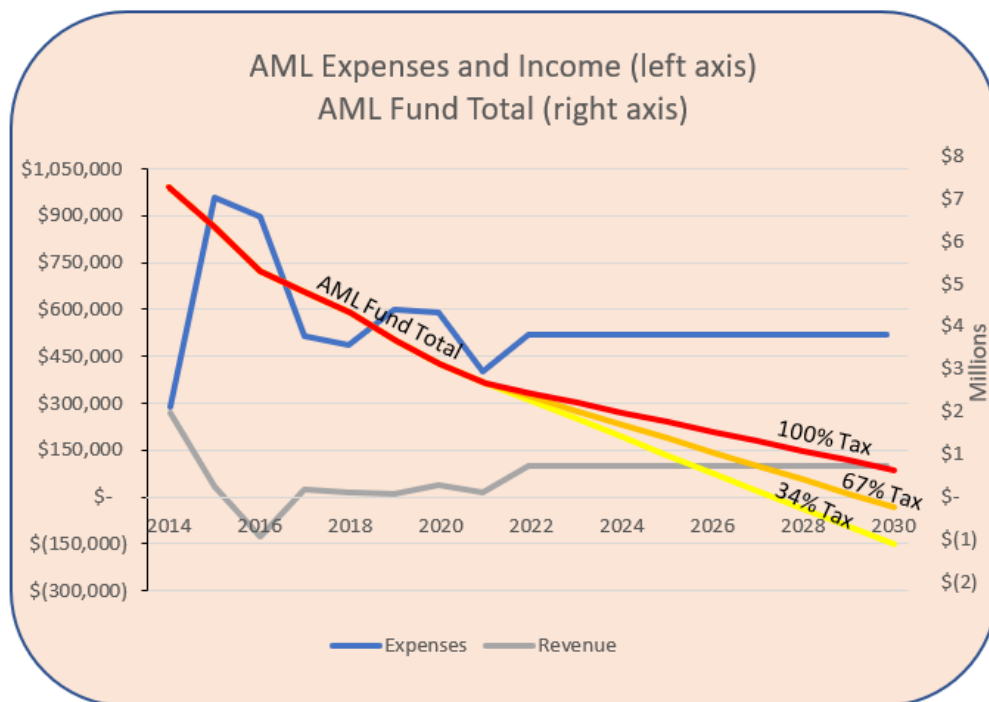


Figure 5: AML Fund Total – Changes due to increased percentage of existing Mine License Tax

Option two: Institute a \$10 charge per federal mining claim in Idaho effective FY2023. This has been done in the state of Nevada. The money is collected by the county recorders when claims are recorded. With almost 40,000 mining claims in Idaho this would generate \$400,000 a year. Figure 6 shows that a combination of a \$10 fee and an increased percentage of the Mine License Tax would sustain the AML with the current projections. At the current 34% of Mine License Tax, the AML Fund would become depleted in over 100 years. At 67% and 100% of the Mine License Tax, revenue outpaces the estimated expenses.

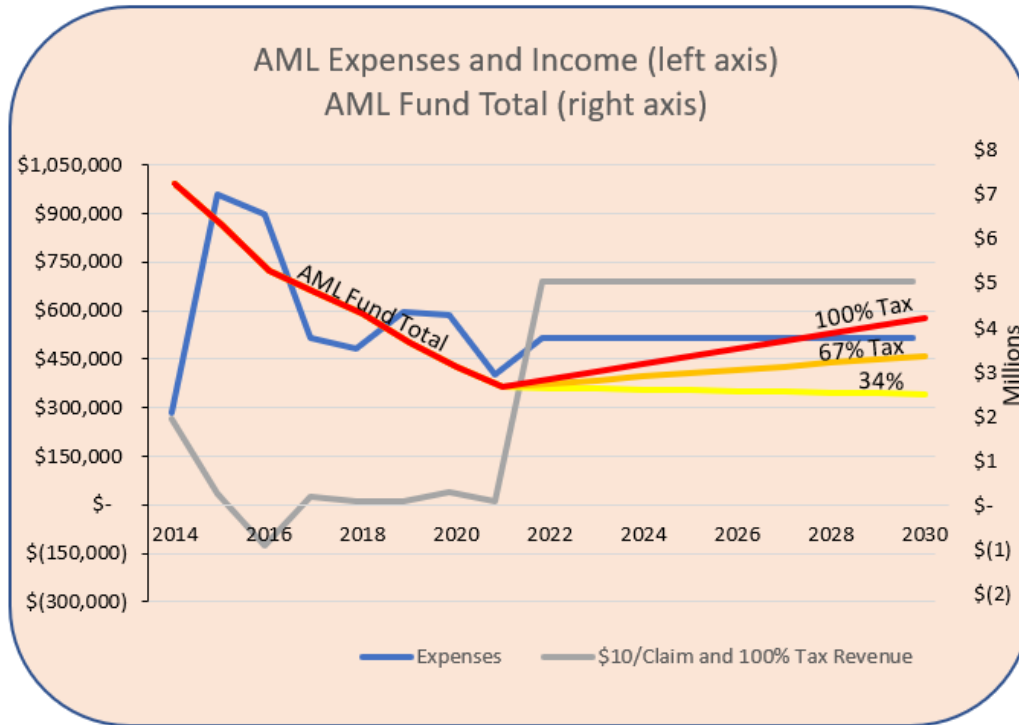


Figure 6: AML Fund Total – Changes due to charge of \$10 per federal mining claim and increased percentage of existing Mine License Tax

Option three: Develop a General Fund request for FY2024 to address the fund depletion. Estimated request would be \$400,000 or more.

Some combination of the above three recommendations could also be evaluated.

Attachments

1. Title 47 Chapter 17 Idaho Abandoned Mine Reclamation Act
2. Title 47 Chapter 12 Mine License Tax

TITLE 47
MINES AND MINING

CHAPTER 17
IDAHO ABANDONED MINE RECLAMATION ACT

47-1701. PURPOSE OF ACT. It is the purpose of this act to provide for the reclamation of abandoned mines on state and federal lands and on certain private lands, thereby protecting human health, safety and welfare, conserving natural resources, aiding in the protection of wildlife, aquatic resources, domestic animals, and reducing soil erosion.

[47-1701, added 1994, ch. 220, sec. 1, p. 703; am. 1999, ch. 44, sec. 3, p. 105.]

47-1702. SHORT TITLE. This act may be known and cited as the "Idaho Abandoned Mine Reclamation Act."

[47-1702, added 1994, ch. 220, sec. 1, p. 703; am. 1999, ch. 44, sec. 4, p. 105.]

47-1703. FUNDING. This chapter shall govern the use of state and federal moneys specifically appropriated for abandoned mine reclamation. This chapter shall not require the state to expend or appropriate state moneys. The board may receive federal funds, state funds, and any other funds, and, within the limits imposed by a specific grant, expend them as directed by this chapter. All grants, funds, fees, fines, penalties and other uncleared money which has been or will be paid to the state for abandoned mine reclamation shall be placed in the state treasury and credited to the abandoned mine reclamation fund, which is hereby created. This fund shall be available to the board, by legislative appropriation, and shall be expended for the reclamation of lands affected by eligible mining operations.

[47-1703, added 1994, ch. 220, sec. 1, p. 703; am. 1999, ch. 44, sec. 5, p. 106; am. 2006, ch. 37, sec. 2, p. 104.]

47-1704. DEFINITIONS. (1) "Abandoned mine" means a mine deserted by the operator, having no regular maintenance, and not covered by a valid mining claim.

(2) "Affected land" means the land adjacent to an eligible mine that is, or may be, adversely affected by past mining operations.

(3) "Board" means the state board of land commissioners or such department, commission, or agency as may lawfully succeed to the powers and duties of such board.

(4) "Director" means the head of the department of lands or such officer as may lawfully succeed to the powers and duties of said director.

(5) "Eligible mine" means an abandoned mine located on land owned by the state or federal government or an abandoned mine located on private land when the owner of the private land has requested, and the board has granted, designation as an eligible mine.

(6) "Mine" means an area where valuable minerals were extracted from the earth and includes all associated development areas including, but not limited to, milling and processing areas, overburden disposal areas, stock-

piles, roads, tailings ponds and other areas disturbed at the mining operation site.

(7) "Operator" means any person or persons, any partnership, limited partnership, or corporation, or any association of persons, either natural or artificial including, but not limited to, every public or governmental agency engaged in mining or mineral exploration operations, whether individually, jointly, or through subsidiaries, agents, employees, or contractors and shall mean every governmental agency owning or controlling the use of any mine when the mineral extracted is to be used by or for the benefit of such agency. It shall not include any governmental agency with respect to those mining or mineral exploration operations as to which it grants mineral leases or prospecting permits or similar contracts, but nothing herein shall relieve the operator acting pursuant to a mineral lease, prospecting permit or similar contract from the terms of this chapter.

(8) "Valuable mineral" shall have the same meaning as "valuable mineral" defined in section [47-1205](#), Idaho Code.

[47-1704, added 1994, ch. 220, sec. 1, p. 703; am. 1999, ch. 44, sec. 6, p. 106.]

47-1705. RESPONSIBILITY OF STATE BOARD OF LAND COMMISSIONERS. The state board of land commissioners is charged with the responsibility of administering this act in accordance with the purpose of the act and the intent of the legislature. The director of the department of lands shall, upon authorization of the board, exercise the powers and discharge the duties vested in the board by this act.

[47-1705, added 1994, ch. 220, sec. 1, p. 704.]

47-1706. DUTIES AND POWERS OF BOARD. In addition to the other duties and powers of the board prescribed by law, the board is granted and shall be entitled to exercise the following authority and powers and perform the following duties:

(1) To reclaim any eligible mine and affected lands. Reclamation on federal lands shall be completed only upon consent of the federal agency responsible for the administration of those lands. Reclamation activities may include:

- (a) The reclamation and restoration of abandoned surface mined areas;
- (b) The reclamation of abandoned milling and processing areas;
- (c) The sealing, filling, and grading of abandoned deep mine entries;
- (d) The planting of land adversely affected by past mining to prevent erosion and sedimentation;
- (e) The prevention, abatement, treatment, and control of water pollution created by abandoned mine drainage;
- (f) The control of surface subsidence due to abandoned deep mines; and
- (g) Such other reclamation activities as may be necessary to accomplish the purposes of this act.

(2) To administer and enforce the provisions of this act and the rules and orders promulgated thereunder as provided in this act.

(3) To conduct and promote the coordination and acceleration of research, studies, surveys, experiments, demonstrations and training in carrying out the provisions of this act. In carrying out the activities authorized in this section, the board may enter into contracts with and make

grants to institutions, agencies, organizations and individuals, and shall collect and make available any information obtained therefrom.

(4) To adopt and promulgate reasonable rules respecting the administration of this act and such rules as may be necessary to carry out the intent and purposes of this act. All such rules shall be adopted in accordance with and subject to the provisions of [chapter 52, title 67](#), Idaho Code.

(5) To enter upon eligible mines and affected lands at reasonable times, for inspection purposes and to determine whether the provisions of this act are being complied with. Inspections on private lands shall be conducted in the presence of the landowner or his duly authorized employees or representatives, or with written permission of the landowner.

[47-1706, added 1994, ch. 220, sec. 1, p. 704.]

47-1707. PRIORITIES. Expenditure of funds from the abandoned mine reclamation account shall reflect the following priorities in the order stated:

(1) The protection of public health, safety, and general welfare from the adverse effects of past mining practices.

(2) The restoration of land and water resources previously degraded by the adverse effects of past mining practices.

[47-1707, added 1994, ch. 220, sec. 1, p. 705; am. 1999, ch. 44, sec. 7, p. 107.]

47-1708. INTERAGENCY COORDINATION. The board shall recognize other governmental, educational, and private organizations or agencies which have expertise and information regarding abandoned mines and affected lands. The board shall characterize, prioritize, and complete reclamation of eligible mines and affected lands in coordination with these agencies. In addition, the board may reasonably compensate them from the abandoned mine reclamation account for services that the board requests they provide.

[47-1708, added 1994, ch. 220, sec. 1, p. 705; am. 1999, ch. 44, sec. 8, p. 107.]

TITLE 47
MINES AND MINING

CHAPTER 12
LICENSE TAX FOR PRIVILEGE OF MINING AND EXTRACTING ORES

47-1201. LICENSE TAX TO BE MEASURED BY ONE PERCENT OF THE NET VALUE OF ORES MINED -- DEFINITION OF ROYALTY. (a) Tax on mining or on receiving royalties. For the privilege of mining in this state, both placer and rock in place, every person, copartnership, company, joint stock company, trust, corporation or association, however and for whatever purpose organized, engaged in mining, upon or receiving royalties from any quartz vein or lode, or placer or rock in place mining claim, in this state containing gold, silver, copper, lead, zinc, coal, phosphate, limestone, or other precious and valuable metals or minerals, or metal or mineral deposits, shall pay to the state of Idaho, in addition to all other taxes provided by law, a license tax equal in amount to one percent (1%) of the net value of the royalties received or the ores mined or extracted as determined under section [47-1202](#), Idaho Code, said tax to accrue during the taxable year that the product is sold or used and shall on the last day of such taxable year become a lien on property in this state of such person, copartnership, company, joint stock company, trust, corporation, or association, said tax to be due and payable on or before the fifteenth day of the fourth month following the close of the taxable year.

(b) Definition of royalties. For the purpose of paragraph (a) of this section and chapter, the word "royalties" shall be construed to mean the amount in money or value of property received based upon the quantity or value of minerals extracted by any person, copartnership, company, joint stock company, trust, corporation, or association, having any right, title or interest in or to any tract of land, or any economic interest in minerals as defined by section 613 of the Internal Revenue Code, in this state for which permission has been given to another to explore, mine, take out and remove ore therefrom.

(c) Definition of taxable year. The term "taxable year" with respect to any taxpayer means the taxable year elected for income tax purposes under the provisions of section [63-3010](#), Idaho Code.

[47-1201, added 1935 (1st E.S.), ch. 65, sec. 1, p. 182; am. 1941, ch. 106, sec. 1, p. 188; am. 1972, ch. 99, sec. 1, p. 209; am. 1977, ch. 93, sec. 1, p. 189; am. 2001, ch. 207, sec. 1, p. 703.]

47-1202. NET VALUE OF ORE TO BE USED AS MEASURE OF TAX -- HOW DETERMINED. For the purpose of measuring and determining the amount of tax to be paid under the provisions of section [47-1201](#), Idaho Code, the royalties as defined in subsection (b) of section [47-1201](#), Idaho Code, or the net value of ore mined shall be computed under one (1) of the following methods at the election of the taxpayer. Such election, once made, shall be binding for all succeeding years unless the taxpayer secures permission from the state tax commission to change to another method:

(a) Ores mined within the state shall be valued by deducting from the gross value of the ore, all costs of mining and processing such ore, using the formula prescribed in section 613 of the Internal Revenue Code and Treasury Regulation 1.613-5 for computation of the net income from mining for deple-

tion purposes, less the deduction of depletion as computed under section 613 of the Internal Revenue Code and Treasury Regulation 1.613-5; or

(b) Ores mined within the state shall be valued using the gross value determined by the U.S. Department of the Interior for computation of the value of minerals on public lands for federal royalty purposes, less the following deductions:

(1) all costs of mining and transporting such ore to the point at which the value for federal royalty purposes is determined by measurement of the quantity of ore mined; these costs to include only those directly incurred in and attributable to the actual mining and transportation operation in the state of Idaho, and

(2) the applicable portion of the federal deduction for depletion, allocated on the ratio of the gross value of the ore used for this computation, to the gross value of the ore used in the federal depletion computation.

[47-1202, added 1935 (1st E.S.), ch. 65, sec. 2, p. 182; am. 1941, ch. 106, sec. 2, p. 188; am. 1972, ch. 99, sec. 2, p. 209; am. 1973, ch. 43, sec. 1, p. 78; am. 1977, ch. 93, sec. 2, p. 190; am. 1996, ch. 381, sec. 1, p. 1294.]

47-1203. STATEMENT OF NET PROCEEDS FROM MINING OR EXTRACTING ORES -- OR FROM ROYALTY. (a) Every person, copartnership, company, joint stock company, trust, corporation, or association mining or receiving royalties from any quartz vein or lode, or placer or rock in place mining claim, containing gold, silver, copper, lead, zinc, coal, phosphate, limestone, or other precious or valuable minerals or metals, or mineral or metal deposits, must, on or before the fifteenth day of the fourth month following the close of the taxable year make a tax return to the state tax commission, stating specifically the items of income and the deductions allowed by this act. For the purpose of enforcing this act, the income tax returns filed in accordance with the provisions of the Idaho Income Tax Act shall be open to inspection by the officer designated to enforce this act.

(b) In the event the taxpayer is entitled to an automatic extension of time to file the income tax return under section [63-3033](#), Idaho Code, an automatic six (6) month extension is granted to file the return required under this act. In all cases of an extension of time in which to file any return, interest shall be paid on any tax due from due date to date of payment at the rate provided in section [63-3045](#), Idaho Code.

[47-1203, added 1935 (1st E.S.), ch. 65, sec. 3, p. 182; am. 1941, ch. 106, sec. 3, p. 188; am. 1972, ch. 99, sec. 3, p. 209; am. 1977, ch. 93, sec. 3, p. 191; am. 1982, ch. 179, sec. 1, p. 467; am. 2000, ch. 26, sec. 1, p. 45.]

47-1204. STATEMENT AS TO ENTIRE GROUP. Where the same person or persons are operating or leasing to another two (2) or more mines or mining claims under one (1) general system of mining or development, a duplicate copy of the statement herein provided, and the tax herein levied, shall be made as to such entire group and need not be made as to each particular mining claim constituting said group, as provided by section [63-2804](#).

[47-1204, added 1935 (1st E.S.), ch. 65, sec. 4, p. 182; am. 1972, ch. 99, sec. 4, p. 209.]

47-1205. DEFINITION OF VALUABLE MINERAL. The term "valuable mineral" for purposes of this act, shall be deemed to include not only gold, silver, copper, lead, zinc, coal, phosphate and limestone, but also any other substance not gaseous or liquid in its natural state, which makes real property more valuable by reason of its presence thereon or thereunder and upon which depletion is allowable pursuant to section 613 of the Internal Revenue Code, provided, however, that sand and gravel are not included in this definition.

[47-1205, added 1977, ch. 93, sec. 4, p. 192.]

47-1206. PAYMENT OF MINE LICENSE TAX. (1) Except as provided in subsection (2), the license tax imposed by this chapter shall be paid to the state tax commission on or before the due date of the return and the commission shall remit the sums to the state treasurer, who shall place sixty-six percent (66%) to the credit of the general fund of the state and thirty-four percent (34%) to the credit of the abandoned mine reclamation fund created by the provisions of section [47-1703](#), Idaho Code.

(2) The license tax imposed by this chapter only on mining operations that include a cyanidation facility, as defined by section [47-1503](#), Idaho Code, shall be paid to the state tax commission on or before the due date of the return and the commission shall remit the sums to the state treasurer who shall place thirty-three percent (33%) to the credit of the general fund of the state, thirty-three percent (33%) to the credit of the cyanidation facility closure fund created by the provisions of section [47-1513](#), Idaho Code, and thirty-four percent (34%) to the credit of the abandoned mine reclamation fund created by the provisions of section [47-1703](#), Idaho Code.

[47-1206, added 1935 (1st E.S.), ch. 65, sec. 6, p. 182; am. 1939, ch. 173, sec. 8, p. 320; am. 1969, ch. 311, sec. 1, p. 966; am. 1977, ch. 93, sec. 5, p. 192; am. 1999, ch. 44, sec. 1, p. 105; am. 2005, ch. 341, sec. 1, p. 1066.]

47-1208. TAX DEFICIENCY COLLECTION AND ENFORCEMENT PROCEDURES. The deficiency in tax and notice of deficiency as well as the collection and enforcement procedures provided by the Idaho income tax act, sections [63-3030A](#), [63-3033](#), [63-3038](#), [63-3039](#), [63-3040](#), [63-3042](#) through [63-3065A](#), [63-3068](#), [63-3069](#), [63-3071](#), [63-3072](#), [63-3073](#) and [63-3075](#) through [63-3078](#), Idaho Code, shall apply and be available to the state tax commission for enforcement of the provisions of this act and the assessment and collection of any amounts due. Said sections shall for this purpose be considered a part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings they shall, when applied in enforcement or collection under this act, be described as a license tax for the privilege of mining lien or proceeding.

The state tax commission may be made a party defendant in an action at law or in equity by any person aggrieved by the unlawful seizure or sale of his property, or in any suit for refund or to recover an overpayment, but only the state of Idaho shall be responsible for any final judgment secured against the state tax commission, and said judgment shall be paid or satisfied out of the state refund account created by section [63-3067](#), Idaho Code.

[47-1208, added 1969, ch. 311, sec. 2, p. 966; am. 1977, ch. 93, sec. 6, p. 192; am. 1979, ch. 48, sec. 2, p. 138; am. 1982, ch. 179, sec. 2, p. 467; am. 1986, ch. 73, sec. 6, p. 207; am. 1986, ch. 92, sec. 1, p. 269.]