

## Opinion No. 14-1264

July 1, 1914

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Mr. E. A. Julian, Consulting Engineer, Reno, Nevada.

### **MINES.**

As to taxation of metal mines and output thereof.

### **OPINION**

{\*124} I have your letter of the 27th ultimo asking me to advise you as to the basis of metal mines taxation in New Mexico, that is, whether mines are assessed on gross output, net yield or on the property valuation or by a bullion tax.

Our statutes on the subject of taxation of mines are somewhat meager and unsatisfactory. By the general revenue law, which is to be found in the Compiled Laws of 1897 beginning with Section 4051, it is provided that all property not exempt by law shall be subject to taxation and that the term "real estate" includes all lands "to which title or right to title has been acquired, all mines, minerals and quarries, in and under the land, and all rights and privileges appertaining thereto, and improvements." This, in a general way, makes mines and minerals subject to taxation, but by Chapter 60 of the Laws of 1899 it was provided that no tax should be levied upon any mining claim until after patent therefor might be issued by the United States, with a limitation that this exemption from taxation should not extend to the improvements upon a mining claim other than the shafts and other workings, nor to the net product of any such mining claim. An earlier exemption, which is to be found in Section 1756 of said Compiled Laws, was for a period of ten years from the date of location of mining claims, but that also was limited so as not to exempt the net product and surface improvements.

With the statutes in this condition nearly all the taxation we have had has been upon patented mining claims at an acreage valuation. There has been no statute distinctly providing for any assessment of the products of mines, but the two exemption statutes, by implication, seem to provide for taxation of the net product of mines.

{\*125} As far as I am informed the only case of an assessment of this kind upon which any official action has been taken was upon the output of the mines in the Chino Copper Company which was brought before the State Board of Equalization by appeal last year. I do not remember the amount of the assessment, but I believe it was something over two million dollars, and upon representations that the greater part of that output had gone back into the development and operation of the mine, the State Board fixed the assessment at \$ 470,904.00, that being the difference between the gross output and the amount which had been put back into the property.

All improvements upon mining property, such as buildings, mills, machinery, etc., have been assessed the same as other similar items on other real estate.

You will see from what I have written that our law on this subject is in an unsatisfactory condition, but it is hoped and expected that our next legislature may take definite and adequate action.