

REPUBLIC OF ARMENIA
LAW
ON AMENDMENTS AND SUPPLEMENTS TO THE LAW OF THE REPUBLIC
OF ARMENIA ON ENVIRONMENTAL AND NATURAL RESOURCES USER
FEES

Article 1. The second paragraph of Article 2 of the Law of the Republic of Armenia of December 28, 1998 on Environmental and Natural Resources User Fees HO-270 (hereinafter, the Law) shall be edited to read:

“**Natural resources user fee:** a fee paid to the State Budget of the Republic of Armenia according to this law for the efficient and inclusive use of natural resources owned by the state, as well as for the use and/or sale of natural resources in compensation for the use of these resources.”

Article 2. In Article 5 of the Law:

- 1) In clause b) after the words “solid minerals”, the words “except metallic minerals ” shall be inserted;
- 2) A new clause d) shall be inserted to read:

“d) The royalty for extracted metallic minerals sold and products resulting from processing thereof.”

Article 3. In Article 9 of the Law:

- 1) The first and third paragraphs in clause 3 shall be deleted.
- 2) The following 7-9 clauses shall be inserted in this Article:

“7. The Natural Resources User Fee for extracted non-metallic solid minerals (except salt) and colorful stone varieties specified by the Government of the Republic of Armenia shall be calculated on the basis of the quantity of reserves extracted in the reporting period, the actual sales price of the mineral in that period (excluding the value added tax) and the rate of the fee set by the Government of the Republic of Armenia for the extracted reserves of a given mineral (referred to as the rate herein), if the actual sales price of the mineral in the reporting period (excluding the value added tax) multiplied by the rate

exceeds the fixed rate set by the Government of the Republic of Armenia for extracted reserves of the given mineral (referred to as the fixed rate herein).

The Natural Resources User Fee for extracted non-metallic minerals (except salt) and colorful stone varieties specified by the Government of the Republic of Armenia shall be calculated by multiplying the fixed rate set by the Government of the Republic of Armenia by the quantities of extracted reserves of minerals in the reporting period:

- a) If the actual sales price of the mineral in the reporting period (excluding the value added tax) multiplied by the rate does not exceed the fixed rate;
- b) If extracted reserves were not sold in the reporting period. If during the reporting period part of the extracted reserves was sold, natural resource user fee for the sold part shall be calculated in accordance with the first paragraph of this clause, while the unsold part shall be taxed at fixed rates.
- c) If the object of sale was not minerals, but output obtained due to activities which were different from mining operations as defined by classification of economic activities, or if it was used for in-house needs of the extractor;
- d) During the calculation of the liability defined by law, if there is a positive difference between actual quantities of used resources established during audits carried out for the purpose of identifying the quantity amounts subject to the natural resources user fee in the manner prescribed by the Republic of Armenia Law on Organizing and Conducting Inspections and the quantities reflected in the assessment returns for the period being audited filed with the tax authorities and authorized bodies by the taxpayers.

Fixed rates set by the Government of the Republic of Armenia for varieties of minerals shall be applied in accordance with this clause to the full quantities of extracted reserves defined by law, and where the fixed rates are set according to the yields specified for mineral reserves, they shall be applied according to separate yield indicators in the plan of extraction works, reviewed by experts and approved in manner prescribed by the Republic of Armenia legislation.

8. The Natural Resources User Fee for extracted reserves of colorful stone varieties specified by the Government of the Republic of Armenia shall be calculated on the basis of the quantity of extracted reserves in the reporting period, the rate of the fee set by the Government of the Republic of Armenia for extracted reserves of the mineral and the average international price for the given stone in the reporting period taking as a basis the price announced by the Government authorized body in finance. The FX/Armenian dram settlement exchange rate announced by the Central Bank of Armenia for the 20th day of the preceding month of the reporting period shall be used for calculating the FX specified rates in Armenian drams.

9. Within the meaning of this law the sum of quantities of the solid mineral extracted and lost in the subsoil during extraction, except the unavoidable technical losses, shall be considered extracted quantity of mineral reserves."

Article 4. A new Chapter 2.1 shall be inserted in the Law:

"Chapter 2.1

ROYALTIES

Article 13.1. The Concept of Royalty

Royalty is a fee paid to the State Budget of the Republic of Armenia for compensating for the use of metallic minerals and for high profitability from the sale of output resulting from their processing according to this Law.

Article 13.2 Royalty payers

Organizations and natural persons from the Republic of Armenia and foreign countries that exploit mineral deposits in the Republic of Armenia and (or) produce metal concentrates in manner prescribed by law, shall be deemed royalty payers.

Article 13.3 Base for Royalty Calculation

1. Sales revenue on supplied mining output, excluding value added tax, (hereinafter, sales revenue) shall be considered the base for royalty calculation.
2. In the context of this law, mining output is deemed metal concentrate (hereinafter, concentrate).
3. Where not concentrate, but alloy or any final output resulting from processing of concentrate or alloy (hereinafter, together with concentrate, output) was sold, royalty calculation base with this article shall be determined in accordance by the estimated value of concentrate existing in the supplied output or used for its production.
4. According to this Article the procedure for calculating output sales revenue shall be established by the Government of the Republic of Armenia.

Article 13.4 Royalty Rate

There is ad valorem (percentage) rate for royalty base calculation, which is estimated by formula below:

$R = 4 + (PBT / (Revenue \times 8)) \times 100$, where:

R – royalty interest rate in percent;

PBT – profit before taxation in dram. It is determined as the ratio of the difference between the royalty calculation base and the deductions specified in the RA Profits Tax Law (excluding costs on financial operations and tax losses of the previous years);

Revenue – revenue on sale of output without VAT, in dram.

Article 13.5 Procedure for Royalty Calculation

The royalty shall be calculated for each reporting period on the basis of royalty calculation base and the rates specified in Article 13.4 herein.

Article 13.6 Reporting Period for Royalty

Reporting period for royalty is each year.

Article 13.7 Royalty Assessment Returns

1. For each reporting year royalty payers must file royalty assessment returns with the tax authority they are registered with, reflecting the royalty calculated at the rates specified in section 1 of Article 13.4 herein, through April 15 inclusive of the year following the reporting year, according to the procedure defined by the authorized body that would. In case of not operating and in the absence of the subject of royalty calculation, the payer may file a written statement considered a summary form of assessments filed with the tax authority.
2. Together with assessment returns filed for each year, taxpayers shall file copies of output supply agreements signed with output suppliers for the year following the reporting year in Armenian original, or translated into Armenian.
3. Where the agreements defined in paragraph 2 of this Article were signed after filing of the assessment return, or agreement filed to tax authorities was amended, a copy of the respective agreement shall be filed to tax authorities within 30 days after signing the agreement (amending the agreement). Where output supply agreement was annulled, information thereof shall be delivered to tax authorities as per form defined by the authorized body within 30 days after the date of annulment.
4. Where the payers themselves find errors in the assessment returns submitted for the previous reporting periods, they may file corrected assessment returns with the tax authority based on which it will recalculate the royalty liabilities for those periods.
5. Payers shall not file corrected assessment returns during audits of payers by the tax authorities or after the completion of audits for periods under audit or already audited by the tax authorities.
6. Corrections resulting from the final adjustment of the subject of royalty calculation and royalty calculation base stipulated in the product supply contracts shall be made and their results reflected in the reporting period covering the final adjustment (are reflected in the assessment returns for that reporting period).

Article 13.8 Procedure for Royalty Payment

1. Royalties calculated for each reporting period shall be paid to the state budget of the Republic of Armenia through the 25th of April of the year following the reporting year.
2. Prior to paying royalty calculated for the reporting period, taxpayers shall make royalty prepayments for each quarter through the 15th of the third month of the respective quarter, in manner prescribed by this article, equal to one fourth of royalty calculated for the previous year (including additional amount of royalty for the previous years as identified during audits performed in the current year).
3. Before calculation of the amount of royalty for the previous year (before filing the assessment-return), taxpayers shall make royalty prepayments for each quarter which shall be not less than the amount of the last prepayment made in the previous year.

While making the royalty prepayment in the next year after filing the assessment-return for the previous year, the amount paid during the respective year before filing the assessment-return shall be adjusted by the total amount accrued from the beginning of the year, based on the amount defined by paragraph 2 of this article.

4. Where the average international market price on concentrate supplied during the first two months of each quarter is at least by 20 percent lower than the average international market price on concentrate in the previous year, before the royalty deadline of the respective quarter falls due, taxpayers may furnish tax authorities with declaration, as per form defined by the tax authorities, and subsequently make lower royalty prepayment for the respective quarter, adjusting the prepayment amount by the coefficient on concentrate price decrease.

Where the average international market price on concentrate supplied during the first two months of each quarter is at least by 20 percent higher than the average international market price on concentrate in the previous year,

taxpayers shall increase the amount of royalty prepayment adjusting it by the coefficient on concentrate price growth.

For the purpose of application of this paragraph, the average international market price is determined based on the price declared by the Republic of Armenia authorized financial body.

5. The positive difference between the royalty calculated on the basis of annual royalty assessment-returns and the advance payment of royalty during the year shall be paid to the state budget by April 25 following a given year.
6. The amount of the advance royalty payment paid in excess of the royalty amount (extra part) calculated on the annual royalty assessment return shall be offset or refunded according to the procedure defined by this Article.
7. Amounts paid in excess of the royalty amounts calculated according to the procedure defined herein, including the part of advance payments made during the year in excess of the royalty liability reflected in the assessment return, shall, according to the payer's application, offset the upcoming payment of the payer or be refunded within 30 days of receiving the application in the manner defined by the authorized body of the Government of the Republic of Armenia.

Article 13.9 Supervision over Royalty Calculation and Payment

Supervision over calculation and payment of royalties shall be carried out by the tax authorities of the Republic of Armenia.

Article 5. In Article 18 of the Law:

- 1) In second paragraph in clause 2 the words “ actual volumes” shall be replaced by the words “or royalty calculation base”;
- 2) Add new paragraph in clause 2, as follows:

“If tax audits identify that sales revenue of royalty payers in each month of the reporting year was at least 10 percent lower than the sales revenue estimated based on the international market prices on concentrate, tax authorities shall make a new calculation of the amount of sales revenue by applying 90 percent the

international market prices on concentrate for the respective month, in accordance with the price declared by the Republic of Armenia authorized body in the financial sector based on London metal stock exchange data for the month of supply.”

- 3) In clause 3 after the word “payments” the words “(including making royalty prepayments) shall be inserted.

Article 6.

This law shall come into force on January 1, 2012.

Royalty payers, according to the legislation in force until January 1, 2012, shall make quarterly prepayments of royalty during 2012, in the amount of one third of the total nature user fee on metal mining and royalties estimated for 2011.

Quarterly advance payments of royalty for 2013 and subsequent years shall be made under the general procedure established by this law.

Where nature user fee has been calculated on actual extraction of metal minerals in 2011 and the preceding years, royalty defined by this law on sale of such metal minerals and the output obtained from their processing shall not be calculated.

Pursuant to provisions of Article 17.3 of the law, copies of output supply agreements for 2012 shall be filed to tax authorities through April 15, 2012 inclusive.

JUSTIFICATION

ON DRAFT REPUBLIC OF ARMENIA LAW “ON AMENDMENTS AND SUPPLEMENTS TO THE LAW OF THE REPUBLIC OF ARMENIA ON ENVIRONMENTAL AND NATURAL RESOURCES USER FEES”

The draft RA law “On Amendments and Supplements to the Law of the Republic of Armenia on Environmental and Natural Resources Users Fees” was approved by the RA National Assembly on June 23, 2011 in the first reading.

In the meantime, before submission of the draft for second reading, a number of discussions was carried out, as a result of which the draft was revised.

Under the new draft, it is proposed to calculate royalty by estimated base and fixed at valorem rate, which should be calculated based on fixed minimal rate of royalty, profit before taxation, revenue on sale of output and special coefficient.

The new draft defines that royalty returns shall be filed to tax authorities on annual basis and shall be paid to the RA state budget through April 15 of the year following the reporting year. At the same time, it is planned that taxpayers should make royalty prepayments for each quarter in the amount of one fourth of the royalty calculated for the previous year, but not less than the amount of the last prepayment made in the previous year.