

The Percentage Depletion Allowance (PDA): A Double Giveaway for Hardrock Mining Companies



For decades, hardrock mining companies have benefited from generous tax breaks at the expense of taxpayers, all the while extracting minerals from federal lands for free and purchasing federal land for no more than \$5 an acre. Part of this massive giveaway is the deduction known as the percentage depletion allowance (PDA) tax credit.

What is the Percentage Depletion Allowance?

Meant to encourage mining, the PDA allows companies to recoup the costs of investment by offering a tax credit for as long as the site generates income.¹ The PDA permits a company to deduct a fixed percentage from gross income according to the mineral extracted, ranging from 22% for uranium to 15% for silver and other hardrock minerals.² Often dubbed a “reverse royalty,” **PDA deductions typically exceed capital investment, which means the federal government essentially pays hardrock companies to mine on public lands.**³ Taxpayers do not need to subsidize the production of an industry that was recently dubbed one of the “best-performing” industries in the U.S.⁴ The industry’s record-setting earnings numbers already provide ample incentive to mine.⁵

Hardrock Industry Already Receives Subsidies

Under the General Mining Law of 1872, the hardrock industry already receives egregious payouts from taxpayers. The industry pays *no royalties* for the \$1 billion worth of minerals it extracts annually from federal lands.⁶ In contrast, the oil, gas, and surface coal industries pay royalty rates of 12.5% or more.⁷ This results in a double giveaway because mining companies not only extract profitable minerals from federal lands royalty-free, but receive a tax break for doing so.



The 1872 law also allows federal lands to be sold for no more than \$5 per acre, permitting companies to purchase taxpayer assets well below market value.⁸ Furthermore, inadequate financial assurances⁹ from hardrock mining companies burden taxpayers with much of the estimated \$20 to \$54 billion in cleanup costs for the more than 100,000 abandoned mine sites on public lands.^{10,11}

Support Repeal of PDA

Senators Feingold (D-WI), Cantwell (D-WA), Sanders (I-VT) and Feinstein (D-CA) have introduced legislation—S. 1570: the Elimination of Double Subsidies for the Hardrock Mining Industry Act of 2009—that would prohibit the use of the PDA tax break for hardrock mines and return hundreds of millions of dollars to taxpayers. The bill would create \$250 million in taxpayer savings over the next five years,¹² and deposit 50% into a new fund to restore and reclaim almost 100,000 abandoned mines on public lands.

**Support the repeal of the PDA, it's time to protect taxpayer assets
and end this unjustifiable federal giveaway.**

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¹ “Depletion Allowance” Free Legal Encyclopedia, <http://law.jrank.org/pages/6069/Depletion-Allowance.html>. Accessed November 2009.

² 26 USC Sec. 613, “Percentage Depletion,” online at http://taxalmanac.com/index.php/Internal_Revenue_Code:Sec._613._Percentage_depletion, accessed July 15, 2009.

³ Congressional Research Service, “CRS Issue Brief for Congress: IB89130: Mining on Federal Lands,” online at <http://www.cnire.org/nle/crsreports/mining/mine-1.cfm>, May 2001.

⁴ Sageworks, “Sageworks Ranking of the 10 most profitable industries over the last 12 months,” online at <http://www.sageworksinc.com/industrytrends/index.php/tag/private-companies>, January 2009.

⁵ Adjusted EBITDA (Earnings before Interest, Taxes, Depreciation, and Amortization; adjusted to exclude impairment costs), “a measure that is close to the underlying cash earning stream of the company before servicing the capital base.” PricewaterhouseCoopers, “Mine: When the Going Gets Tough...Review of Global Trends in the Mining Industry—2009,” online at <http://www.pwc.com/gx/eng/mining/pdf/mine-review-global-trends-mining-2009.pdf>, January 2009.

⁶ Congressional Budget Office, “Congressional Budget Office Cost Estimate: H.R. 2262Hardrock and Mining Reclamation Act of 2007,” online at <http://cbo.gov/ftpdocs/87xx/doc8772/hr2262.pdf>, October 2007.

⁷ Subsurface coal pays an 8% royalty rate. Deborah Gibbs Tschudy, Deputy Associate Director, Minerals Revenue Management, Minerals Management Service, U.S. Department of the Interior before the Senate Committee on Energy and Natural Resources,” online at <http://www.mms.gov/ooc/testimony/FinalOMBApprovedMMSHardrockTestimony1-24-08.pdf>, January 2008.

⁸ See endnote 3.

⁹ U.S. Government Accountability Office, “Hardrock Mining: BLM Needs to Better Manage Financial Assurances to Guarantee Coverage of Reclamation Costs,” GAO-05-377, online at <http://www.gao.gov/htext/d05377.html>, June 2005.

¹⁰ U.S. Environmental Protection Agency, “Cleaning up the Nation’s Waste Sites: Markets and Technology Trends,” Table 11-3, Estimated Remediation Costs for U.S. Hardrock Mines, p 11-13 online at <http://www.epa.gov/tio/download/market/2004market.pdf>, September 2004.

¹¹ Government Accountability Office, testimony of Robin Nazzaro before the Committee of Energy and National Resources, United States Senate. July 14, 2009. Retrieved October 5, 2009, from <http://www.gao.gov/new.items/d09854t.pdf>.

¹² Press Release, “Feingold, Cantwell, Feinstein Work to End Outdated Tax Breaks for Mining on Public Land” August 4, 2009. <http://feingold.senate.gov/record.cfm?id=316730>

Image source: http://www.blm.gov/wo/st/en/prog/more/Abandoned_Mine_Lands.html