A certain mineral is added to bodies of fresh water to prevent the spread of freshwater parasites. The presence of those parasites threatens the health of the organisms living in rivers and streams throughout the country and imperils the freshwater commercial fishing industry. This mineral is currently mined only in State A.

In order to raise needed revenue, Congress recently enacted a statute providing for the imposition of a $100 tax on each ton of the mineral mined in the United States. Because it will raise the cost of the mineral, this tax is likely to reduce the amount added to freshwater rivers and streams and, therefore, is likely to have an adverse effect on the interstate freshwater commercial fishing industry.

The mineral producers in State A have filed a lawsuit in federal court challenging this tax solely on constitutional grounds.

Is this tax constitutional?

A. No, because it is likely to have an adverse effect on the freshwater commercial fishing industry and Congress has a responsibility under the commerce clause to protect, foster, and advance such interstate industries.

B. No, because only producers in State A will pay the tax and, therefore, it is not uniform among the states and denies the mineral producers equal protection of the laws.

C. Yes, because the power of Congress to impose taxes is plenary, this tax does not contain any provisions extraneous to tax needs or purposes, and it is not barred by any prohibitory language in the Constitution.

D. Yes, because the tax is a necessary and proper means of exercising federal authority over the navigable waters of the United States.

Explanation:

Congressional taxing power

Type of tax	Definition	Constitutional requirements
Direct	• Taxes on persons or their property • Payment cannot be avoided	Allowed if: • apportioned proportionately among states • reasonably related to revenue production
Indirect	• Taxes on goods/transactions • Payment can be avoided or shifted to another (eg, consumer)	Allowed if: • identical taxation in every state • reasonably related to revenue production
Export	• Taxes on goods/services leaving the country	Not allowed

The **taxing and spending clause** gives Congress plenary (ie, exclusive) power to raise federal revenue by imposing taxes. But Congress can only impose an **indirect federal tax** if it is:

- **imposed identically** in every state where the taxed goods are found (ie, geographically uniform) *and*
- **reasonably related** to **revenue production** (ie, no provisions extraneous to tax purposes).

Here, Congress imposed a $100 indirect tax on a mineral mined in the U.S. The tax is imposed uniformly in every state where the mineral is or may be found and does not contain provisions unrelated to the need for revenue production. Therefore, it complies with the taxing and spending clause. And though the tax only impacts the mineral producers in State A, there is no evidence of intentional discrimination that would raise equal protection concerns—or any other constitutional prohibition **(Choice B)**. Therefore, the tax is constitutional.

(Choice A) The commerce clause vests Congress with broad authority to regulate interstate commerce. But it does not obligate Congress to protect, foster, or advance interstate industries like freshwater commercial fishing.

(Choice D) The necessary and proper clause allows Congress to enact legislation reasonably necessary to carry out its enumerated powers (eg, taxation). But Congress can only use its taxing power to raise revenue—not to exercise authority over navigable waters.

Educational objective:

Indirect federal taxes comply with the taxing and spending clause so long as they are (1) identical in every state where the taxed goods are located and (2) reasonably related to revenue production.