

Taxation  
Supervision of Taxation

CHAPTER 270

DEPARTMENT OF TAXATION

**270.01 DEPARTMENT CREATED.**

**HISTORY.** 1907 c. 408 s. 1; 1909 c. 294; G.S. 1913 s. 2333; G.S. 1923 s. 2354; M.S. 1927 s. 2354; 1939 c. 431 art. 6 s. 1; M. Supp. s. 2362-1.

Laws 1907, Chapter 408, creating the state tax commission, and Laws 1909, Chapter 294, relating to the procedure looking to reassessments of property thereby, are valid as against constitutional objections. A reassessment of certain property made by the state tax commission is sustained as against certain objections going to the regularity and sufficiency of the proceedings culminating in the same. *State v Minnesota and Ontario Power Co.* 121 M 421, 141 NW 839.

State tax commission has the power, under section 270.11, to reduce the assessed valuation of real or personal property of any individual or corporation below that fixed by the city assessor or county board and without the approval of the city or county taxing authorities. *State v Minnesota Tax Commission*, 137 M 20, 162 NW 675.

Consideration of Laws 1939, Chapter 431, Article 6. *Village of Aurora v Commissioner of Taxation*, 217 M 73, 14 NW(2d) 300.

**270.02 COMMISSIONER; APPOINTMENT.**

**HISTORY.** 1939 c. 431 art. 6 s. 2; M. Supp. s. 2362-2.

**270.04 OFFICE AND SUPPLIES FURNISHED.**

**HISTORY.** 1907 c. 408 s. 10; G.S. 1913 s. 2342; G.S. 1923 s. 2363; M.S. 1927 s. 2363.

**270.05 MINNESOTA TAX COMMISSION ABOLISHED; POWERS AND DUTIES TRANSFERRED.**

**HISTORY.** 1939 c. 431 art. 6 s. 3; M. Supp. s. 2362-3.

Lien given by gross earnings tax law for delinquent and unpaid taxes arises, as to earnings omitted from returns of previous years, only when those earnings have been assessed and taxes thereon certified by Minnesota tax commission to state auditor. Where there has been a transfer, in connection with receivership proceedings, of ownership of railroad from whose returns the earnings were omitted, properties acquired by successor railroad are not subject to such lien. *State v C. St. P. & P. Ry. Co.* 210 M 484, 299 NW 212.

**270.06 POWERS AND DUTIES OF COMMISSIONER.**

**HISTORY.** 1907 c. 408 s. 11; G.S. 1913 s. 2343; G.S. 1923 s. 2364; M.S. 1927 s. 2364; 1943 c. 199 s. 1; 1945 c. 599 s. 1.

See annotations under section 270.01.

Duties formerly imposed on the state auditor by revised Laws 1905, Chapter 801, in the matter of grievances relating to taxation in relation to excessive valuation of property, or for other causes, were imposed upon tax commission by Laws

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1907, Chapter 408. The favorable recommendation of the county board and auditor of the county in which the property is situated is a general condition precedent to favorable action by the tax commission in application for abatement of taxes on the ground of excessive valuation. *State ex rel v Minnesota Tax Commission*, 103 M 485, 115 NW 647.

The Minnesota tax commission has power, on a proper showing, to abate an assessment of benefits levied in proceedings to construct a county ditch. Such an assessment is an assessment levied by a municipality for local improvements. Such abatement or reduction may be made after the ditch is established and the assessment confirmed. *State ex rel v Minnesota Tax Commission*, 137 M 37, 162 NW 686.

In ascertaining the value of iron ore for the purpose of determining the occupation tax imposed by Laws 1921, Chapter 223, discounts for payment before delivery are not allowable; evidence did not require the allowance of the full amount of claims for the expense of superintending shipments to Lake Erie ports; the cost of cargo analysis of ore in transit is allowable; deduction from the market price of standard ore in certain cases must be allowed; and the evidence did not require an allowance of the full amount claimed as a return on money invested in a washing plant. *State ex rel v Armson*, 166 M 243, 207 NW 732.

Determination of purely fact question by the board of tax appeals will not be examined by the court beyond ascertaining if there is any evidence supporting the finding. *Helvering v Ames*, 71 F(2d) 940.

It is the taxpayer's duty to deduct worthless debt from his taxable income during the year in which worthlessness thereof is ascertained; and while the duty of ascertaining whether debt is worthless rests on taxpayer, he is not held to absolute certainty in performing such duty. *Helvering v Ames*, 71 F(2d) 940.

Notwithstanding the restrictions contained in the city charter of Virginia, the city assessor, with the approval of the council, may appoint such number of "deputy assessors" as may be required to properly perform the duties of his office in order to complete the assessment of the property throughout the city in accordance with the requirements of the Minnesota tax commission as provided by law. 1934 OAG 112, May 26, 1934 (12a-1).

The Minnesota tax commission has authority to inquire into the moneys and credits owned by a deceased taxpayer during any year of his lifetime for the purpose of determining whether any such moneys and credits were omitted in the assessment for any such year, so that any such omitted moneys and credits may be assessed and taxed for the year or years omitted. 1936 OAG 380, Jan. 7, 1935 (614f).

The tax commission is not authorized to execute easements for county highway purposes or tax-forfeited lands. The county must resort to proceedings in eminent domain. OAG April 13, 1938 (700a-3).

### 270.07 ADDITIONAL POWERS.

**HISTORY.** 1878 c. 1 s. 119; G.S. 1878 c. 11 s. 119; G.S. 1894 s. 1652; R.L. 1905 s. 801; 1909 c. 96 s. 1; 1911 c. 339 s. 1; G.S. 1913 c. 1978; 1923 c. 145 s. 1; G.S. 1923 s. 1983; M.S. 1927 s. 1983; 1941 c. 454.

A taxpayer who has been assessed in each of two different counties for the same personal property can not obtain relief by making an ex parte application to the state auditor to determine in which county he should be assessed; and he can not be relieved from such double assessment by the state auditor under General Statutes 1895, Section 1652, on the recommendation of the county board alone, but the county auditor must also recommend such relief. *Clarke v Board*, 66 M 304, 69 NW 25.

In the case at bar the tax bill credit was in the form of a certificate of deposit made payable to Willard as trustee for the stockholders of the state bank; and such a credit is to be listed for taxation by such resident as trustee in the taxing district in which he resides and the amount thereof must be assessed in such district. *State v Willard*, 77 M 190, 79 NW 829.

A non-resident owning credits in this state which are retained here in the hands of an agent to close up a loaning business may be required to list the same for

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taxation. Situs of such property for taxation is the taxing locality where such agent has his office. *State v London & N. W. Mtg. Co.* 80 M 277, 83 NW 339.

The St. Paul board of abatement acted favorably upon the application by certain owners for an abatement of their taxation the valuation of which it was alleged had been increased unjustly. Application to abate state taxes was made to the state tax commission upon the recommendation of the board of abatement but without the approval of the county auditor. Inasmuch as the county auditor did not join in the application the relators are entitled to no relief. *State v Minnesota Tax Commission*, 103 M 485, 150 NW 647.

The commission is an administrative body. *State v Minnesota and Ontario*, 121 M 421, 141 NW 839.

Rules outlined relative to the power of the tax commission to abate or refund taxes. *State ex rel v Minnesota Tax Commission*, 137 M 20, 162 NW 675.

The commission has power on proper showing to abate a special assessment. *State ex rel v Minnesota Tax Commission*, 137 M 37, 162 NW 686.

A state may in good faith tax a property engaged in interstate commerce. It may not tax the commerce itself. The statute of this state imposing a gross earnings tax of eight per cent on transportation companies is a good faith exercise of the taxing power. The Minnesota tax commission has no power to abate any part of the percentage of gross earnings tax fixed by statute. *State v Wells Fargo*, 146 M 444, 179 NW 221.

Where the application for refundment of taxes, under the provisions of this section, sets forth all the circumstances of the case and is accompanied by the approval of the county board and the auditor of the county wherein the taxes were levied, and has not been considered and acted upon by the tax commission, the supreme court will not, upon certiorari, interfere with the findings and order of the commission, except to correct a manifest abuse of the discretion vested in the board, or a plain error in law or fact. *In re Application of Peoples Ind. Tel. Co.*, 156 M 87, 197 NW 317.

On the allegations of the complaint and answer and the tax list and application for a refund, the trial court did not abuse its discretion in granting the temporary injunction restraining the county board and county auditor from recommending to the state tax commission a refundment of taxes on part of the personal property owned by *Butler Bros.* *School District v Lindhe*, 195 M 14, 261 NW 486.

The order does not abate such assessments and consequently the commission did not disregard the prohibitions contained in this section when it made the order without first procuring the approval of the standing committee on taxes in the city where the property was located. Jurisdiction was not affected by its failure to give notice to the municipal officials. *Calhoun Beach v Minnesota Tax Commission*, 205 M 582, 287 NW 317.

Where it was ascertained after ditch assessments on particular lands had been paid that the land received no benefit, such assessments are subject to refund. 1934 OAG 192, Feb. 8, 1934 (125a-22).

In assessing a deposit in a closed bank it is suggested that both the amount that would be ultimately paid and the time when it would be paid be estimated by the assessor upon the best information then available, and that tax be computed from such assessment made on such information. 1934 OAG 197, April 12, 1933 (614r).

The county board has no authority to reduce or settle a personal property tax form. The tax commission might have such power were the matter properly brought before it. 1934 OAG 232, March 16, 1934 (421a).

The county board has no authority to reduce personal property taxes, and those seeking relief must apply to the tax commission as outlined in section 270.07. 1934 OAG 771, April 5, 1933 (407e).

The tax commission has power to grant application for abatement of taxes paid on personal property assessed in the wrong school district provided the board and county auditor favorably recommended and granted such application. 1934 OAG 780, May 23, 1934 (407g).

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An application for reduction of taxes can not be made to the tax commission except by the owners of the property or by someone having an interest therein. 1934 OAG 831, Sept. 18, 1934 (421a-15).

Land having been acquired by the city for public purposes, it is the duty of the registrar of titles to file said deeds without endorsement thereon of the certificates showing payment of taxes, but before presenting such deeds to the registrar the city should secure an order from the tax commission canceling and abating all taxes against such land. 1936 OAG 130, Aug. 21, 1935 (373b-9e).

The discovery by the county auditor of errors or oversight in certain assessments does not give him authority to change the assessed valuation of the property improperly assessed. Application must be made to the commission upon the recommendation of the county board and county auditor. 1936 OAG 349, June 19, 1935 (408d).

A bank assisting a depositor in making a loan voluntarily paid the ditch tax. The loan was afterwards rejected. The tax commission has no power to refund the tax money so paid. 1938 OAG 443, Dec. 13, 1937 (424a-9).

The power granted to the commissioner of taxation under section 270.07 is exceedingly broad and he had power to grant abatements under circumstances he may deem just and equitable as abatement being determined from the facts in that particular case, and in the instant case the reduction of taxes on the church property is not an abuse of the commissioner's discretion. 1940 OAG 291, Dec. 12, 1939 (414d-6).

The commissioner of taxation has power to grant an abatement or reduction of assessments made in the course of proceedings to construct a judicial ditch. 1940 OAG 292, Aug. 15, 1939 (470d).

The power vested in the tax commission to abate taxes is intended primarily to reach those taxes where a taxpayer has no defense in the proceedings of law to enforce the collection. The taxpayer may make application under section 270.07 for an abatement not only of the tax but for any penalty or interest which the appellant may have paid or which may have accrued. 1940 OAG 323, March 9, 1940 (505j).

Relief accorded taxpayer as to taxes illegally assessed or collected. 15 MLR 692.

Recovery by taxpayer of portion of special assessment levied to discharge judgment liability upon subsequent receipt by municipality of contribution by one jointly liable. 24 MLR 701.

### 270.071 DEFINITIONS.

HISTORY. 1945 c. 418 s. 1.

### 270.072 TAXATION AND ASSESSMENT OF FLIGHT PROPERTY.

HISTORY. 1945 c. 418 ss. 2, 3, 7, 10.

### 270.073 EXAMINATIONS AND INVESTIGATIONS.

HISTORY. 1945 c. 418 s. 4.

### 270.074 DETERMINATION OF VALUE; RATIO OF TAX.

HISTORY. 1945 c. 418 s. 5.

### 270.075 TAX LEVY.

HISTORY. 1945 c. 418 s. 6.

### 270.076 APPEAL.

HISTORY. 1945 c. 418 s. 8.

### 270.077 STATE AIRPORTS FUND CREATED.

HISTORY. 1945 c. 418 s. 9.

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## **270.078 NOT TO CONFLICT WITH FEDERAL LAW.**

HISTORY. 1945 c. 418 s. 11.

## **270.079 RECIPROCAL ARRANGEMENT WITH OTHER STATES.**

HISTORY. 1945 c. 418 s. 12.

## **270.08 SUPERVISE INHERITANCE AND GIFT TAXES.**

HISTORY. 1905 c. 288; 1911 c. 209 s. 9; G.S. 1913 s. 2293; G.S. 1923 s. 2314; M.S. 1927 s. 2314; 1939 c. 431 art. 6 s. 6; M. Supp. s. 2362-6.

By Laws 1931, Chapter 211, the attorney general has power to employ such assistance whether lay, legal, or expert as he may deem necessary for proper conduct of the state's legal business; and the so-called soldier's preference acts are not controlling in respect to the appointment of persons as inheritance tax examiners. *State ex rel v Peterson*, 194 M 60, 259 NW 696.

The powers of the attorney general to supervise the inheritance tax having been transferred to the department of taxation, applications to the attorney general for gift tax administration should be transferred to the department of taxation. OAG July 18, 1939 (640a).

## **270.083 GROSS EARNINGS FOR TAXATION.**

HISTORY. 1878 c. 83 s. 4; G.S. 1878 c. 6 s. 92; G.S. 1894 s. 413; 1902 c. 5; R.L. 1905 s. 1585; 1909 c. 449 s. 1; 1909 c. 504 ss. 2, 5; 1913 c. 487 s. 8; 1913 c. 555 s. 9; G.S. 1913 s. 3235; G.S. 1923 s. 3282; M.S. 1927 s. 3282; 1945 c. 348 s. 1.

On a former appeal the supreme court approved the Burlington Formula for computing credit balances from the interchange of freight cars and remitted the case with leave to the defendant to prove that a better formula existed and also for leave to argue constitutional objections to that formula in case defendant failed to prove a better. Defendant failed to prove a better formula, and since the Burlington Formula furnishes the most accurate computation of credit balances and since credit balances are properly gross earnings, there can be no constitutional objection to the use of the Burlington Formula. *State v Illinois Central*, 200 M 583, 275 NW 854; *State v Illinois Central*, 205 M 1, 284 NW 360.

## **270.084 TRANSFERS.**

HISTORY. 1945 c. 348 ss. 2, 3.

## **270.09 OPINION OF ATTORNEY GENERAL; EFFECT.**

HISTORY. 1939 c. 431 art. 6 s. 8; M. Supp. s. 2362-8.

## **270.10 ORDERS, DECISIONS, REPORTS.**

HISTORY. 1939 c. 431 art. 6 s. 9; M. Supp. s. 2362-9; 1943 c. 174 ss. 1, 2; 1943 c. 652 s. 1.

Where the amount of the tax is increased or decreased in a sum in excess of \$100.00 or where there is a change in assessed valuation which will have the effect of making a like increase or decrease, the change must be approved by the commissioner or his deputy. Where the amount of the reduction or abatement is less than \$100.00 notice need not be given to the attorney general. OAG Aug. 10, 1939 (130B).

## **270.11 POWERS; MEETINGS.**

HISTORY. 1878 c. 1 s. 46; G.S. 1878 c. 11 s. 46; 1881 c. 10 s. 8; G.S. 1894 s. 1555; 1897 c. 134; R.L. 1905 s. 863; 1907 c. 408 s. 12; 1909 c. 294 ss. 1, 5; G.S. 1913 s. 2344; G.S. 1923 s. 2365; M.S. 1927 s. 2365.

The county board and the county auditor must make a favorable recommendation as a condition precedent to favorable action by the commission on application

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for abatement of taxes on the ground of excessive valuation. *State ex rel v Minnesota Tax Commission*, 103 M 485, 115 NW 647; *State v Minnesota and Ontario*, 121 M 421, 141 NW 839; *State ex rel v Minnesota Tax Commission*, 137 M 20, 162 NW 675.

The Minnesota tax commission has no power to abate any part of the percentage of gross earnings tax fixed by statute. *State v Wells Fargo*, 146 M 444, 179 NW 221.

The tax commission has authority to raise the valuation as assessed upon real property within a village independently of the fact that it is not a separate assessment district from the town within which it is located, such raise being made upon either the improvements or the lands containing unmined ore, and upon one of those classes and not on the other. *State v Erskine*, 169 M 381, 211 NW 329.

The Minnesota tax commission may be called upon to pass upon the questions of classification under section 273.13. 1934 OAG 796, Feb. 10, 1934 (232a).

An appeal by a city complaining that the valuation is too low may not be stayed because the taxpayer has brought an action in the district court claiming too high a valuation. Appeal to the board of tax appeals is the exclusive remedy for review of the commissioner acting in equalization proceedings. *Re City of Virginia*, Minnesota Board of Tax Appeals, Jan. 13, 1944 (147).

## 270.12 STATE BOARD OF EQUALIZATION; DUTIES.

**HISTORY.** 1878 c. 1 s. 46; G.S. 1878 c. 11 s. 46; 1881 c. 10 s. 8; G.S. 1894 s. 1155; 1897 c. 134; R.L. 1905 s. 863; 1907 c. 408 s. 12; 1909 c. 294 ss. 1, 5; G.S. 1913 s. 2045; G.S. 1923 s. 2366; M.S. 1927 s. 2366.

Prior to the enactment of Laws 1897, Chapter 134, six rules were laid down for the government of the board of equalization when examining and comparing the assessment returns and equalizing the assessment. The first and second of these rules authorized the board to add to or deduct from the aggregate valuation of real property in every county, in case the members believe the aggregate valuation is below or above the true value. The third rule empowers the board to add to or take from the valuation of real property in any town or district in any county, or the real property in any county not in villages, towns, or cities without reducing or raising any other real property in the county. The fourth and fifth rules apply to personal property only, while the sixth prohibits a reduction of more than one per cent of the whole valuation as returned by the county auditors. Laws 1897, Chapter 134, adds a seventh rule, but the board has no power except under rule seven to distinguish between different kinds or classes of real property in a district, or to add to or deduct from the aggregate valuation of one kind or class without raising or reducing of another. Platted and unplatted land can not be treated differently. *State v Empanger*, 73 M 337, 76 NW 53.

The alleged illegality of the tax in this case grew out of the fact that the state board of equalization increased the valuation of acre property in the village of St. Louis Park without making any increase in valuation of lands of the village which had been platted into lots. The tax having been paid was a voluntary payment and no action will lie to recover the illegal part of the taxes. *Falvey v Board*, 76 M 257, 79 NW 302; *Gould v Board*, 76 M 379, 79 NW 303; *Hofflin v Board*, 80 M 190, 83 NW 29.

Real property is required to be assessed on even-numbered years only, the assessment for the second year being based upon the valuation for the first year. In this case during the first year and prior to May 1, of the following year, a large part of the timber was cut and removed, thereby greatly reducing the value of the land. The original assessment being fair, any facts showing the reduction in its value must be presented to the board of equalization who would have power and whose duty it would be to hear and act upon such application, and no application or hearing having been made the tax must stand. *State v Atwood*, 96 M 392, 105 NW 276.

The evidence sustains the order of the commission reducing the assessed valuation of the mine property and stock piles within the rules governing the supreme court in reviewing on certiorari the action of the commission. *State ex rel v Minnesota Tax Commission*, 137 M 20, 162 NW 675.

The tax commission has authority to raise the valuations assessed upon real property with a village independently of the fact that it is not a separate assess-

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ment district from the town within which it is located, such raise being upon either the improvement, or the platted lands, or the unplatted lands, or the lands containing unmined ore, and upon one of those classes and not on the other. *State v Erskine*, 169 M 381, 211 NW 329.

## **270.13 RECORD OF PROCEEDINGS CHANGING ASSESSED VALUATION; DUTY OF COUNTY AUDITOR.**

**HISTORY.** 1907 c. 408 s. 13; G.S. 1913 s. 2345; G.S. 1923 s. 2367; M.S. 1927 s. 2367.

## **270.14 COUNTY AUDITOR TO CALCULATE TAX RATE.**

**HISTORY.** 1878 c. 1 s. 47; G.S. 1878 c. 11 s. 47; 1881 c. 10 s. 9; G.S. 1894 s. 1556; 1897 c. 134; R.L. 1905 s. 864; 1907 c. 408 s. 14; G.S. 1913 s. 2346; G.S. 1923 s. 2368; M.S. 1927 s. 2368.

## **270.15 WITNESSES, HOW SWORN; FAILURE TO TESTIFY OR PRODUCE.**

**HISTORY.** 1907 c. 408 s. 15; G.S. 1913 s. 2347; G.S. 1923 s. 2369; M.S. 1927 s. 2369.

## **270.16 PROPERTY OMITTED OR UNDERVALUED; REASSESSMENT.**

**HISTORY.** 1907 c. 408 s. 16; 1909 c. 159 s. 3; 1909 c. 294 s. 2; G.S. 1913 s. 2348; G.S. 1923 s. 2370; M.S. 1927 s. 2370.

A real assessment of certain property made by the state tax commission pursuant to Laws 1909, Chapter 294, is sustained as against certain objections as to the legality and sufficiency of the proceedings. *State v Minnesota and Ontario*, 121 M 421, 141 NW 839; *State ex rel v Minnesota Tax Commission*, 137 M 20, 162 NW 675.

Since the application granted by the commission was not one for the reduction of assessed valuation of property, the jurisdiction of the commission was not affected by its failure to give notice to the officials of the municipality in which the property is located. *Calhoun Beach v Minnesota Tax Commission*, 205 M 582, 287 NW 317.

Unless a considerable amount of property is involved the tax commission does not have power to order a reassessment. OAG April 28, 1933.

## **270.17 QUALIFICATION OF ASSESSORS; REASSESSMENT, HOW MADE.**

**HISTORY.** 1909 c. 294 s. 3; G.S. 1913 s. 2349; G.S. 1923 s. 2371; M.S. 1927 s. 2371.

Review of an assessment under the provisions of section 270.17 may be by petition to the district court. See section 178.01 as to procedure. OAG April 20, 1944 (408b).

## **270.18 COMPENSATION OF SPECIAL ASSESSORS.**

**HISTORY.** 1909 c. 294 s. 4; G.S. 1913 s. 2350; G.S. 1923 s. 2372; M.S. 1927 s. 2372.

## **270.19 MUNICIPALITIES TO BE PARTY TO TAX HEARINGS.**

**HISTORY.** 1931 c. 304 s. 1; M. Supp. s. 2372-1.

The right of a municipality to appeal to the board of tax appeals from the order of the commissioner of taxation is governed by Laws 1939, Chapter 431, Article 6, Section 15. *Village of Aurora v Commissioner of Taxation*, 217 M 65, 14 NW(2d) 292.

Decision of the board of tax appeals will not be reversed if it has a reasonable legal basis. *Village of Hibbing v Commissioner*, 217 M 528, 14 NW(2d) 923.

## **270.20 HEARINGS, REQUEST FOR, NOTICE OF, PREPARATION FOR.**

**HISTORY.** 1931 c. 304 s. 2; M. Supp. s. 2372-2.

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A municipality appearing in equalization proceedings pursuant to notice as required by section 270.19 need not make a new request under section 270.20 in order to appeal to the board of tax appeals. Village of Aurora v Commissioner, 217 M 66, 14 NW(2d) 292.

### 270.21 WITNESSES SUMMONED.

HISTORY. 1931 c. 304 s. 3; M. Supp. s. 2372-3.

### 270.22 FINDINGS OF FACTS.

HISTORY. 1931 c. 304 s. 4; M. Supp. s. 2372-4.

### 270.23 NOTICE OF APPEAL.

HISTORY. 1931 c. 304 ss. 5, 6; M. Supp. ss. 2372-5, 2372-6.

The phrase "except as otherwise provided by law" found in section 271.06 did not affect the right of a municipality to appeal to the board of tax appeals from an order of the commissioner reducing valuation of mining property on application of a taxpayer. Village of Aurora v Commissioner, 217 M 73, 14 NW(2d) 292.

### 270.24 APPEAL NOT TO STAY COLLECTION.

HISTORY. 1931 c. 304 s. 7; M. Supp. s. 2372-7.

### 270.25 SHALL BE EXTENDED AS ADDITIONAL TAXES.

HISTORY. 1931 c. 304 s. 8; M. Supp. s. 2372-8.

### 270.26 PROCEEDINGS TO DETERMINE ASSESSED VALUATION.

HISTORY. 1931 c. 304 s. 9; M. Supp. s. 2372-9.