

## CHAPTER 274

## REVIEW, CORRECTION, AND EQUALIZATION OF ASSESSMENTS

**274.01 BOARD OF REVIEW.**

**HISTORY.** 1878 c. 1 ss. 39, 40; G.S. 1878 c. 11 ss. 39, 40; 1881 c. 10 s. 7; G.S. 1894 ss. 1547, 1548; R.L. 1905 s. 847; G.S. 1913 s. 2026; G.S. 1923 s. 2034; M.S. 1927 s. 2034; 1941 c. 402 s. 1; 1945 c. 402 s. 1.

The assessor should complete his work before the meeting of the board and submit it for review. If he omits property, the board may list and assess it. *State v Archibald*, 43 M 328, 45 NW 606.

Before an assessment is raised the owner of the property should receive notice. The board may act after the time prescribed in the statute. The taxpayer, having listed his property under a certain classification, cannot raise the objection that the property has been improperly classified. *Faribault v County*, 44 M 12, 46 NW 143.

The action of taxing officers in assessing certain personal property to the owner for the purpose of taxation at the place of his residence is not void for want of jurisdiction although such property is properly assessable in another county by reason of its relation to certain business carried on by the owner in the latter county. *Clarke v County*, 47 M 552, 50 NW 615.

Any taxpayer has a right to appear before the board not only for the purpose of correcting errors in the assessment of his own property but also relating to the omission or valuations of the property of others. *State v Lakeside*, 71 M 283, 73 NW 970.

The town or village board of review has no jurisdiction to determine a controversy as to the proper place in which to list the property for taxation. That is strictly the duty of the county board of equalization. *State v Hynes*, 82 M 34, 84 NW 636.

A writ of certiorari will not lie to review the action of a town board of review in refusing an application for the abatement of a personal property assessment where the essence of the controversy is not in which of two towns in the same county the property should legally be listed for taxation. *State ex rel v Town of Twin Lakes*, 84 M 374, 87 NW 925.

Neither "assessed value" nor "assessed valuation", used in defining net bonded indebtedness, means "true and full value." They are phrases of contrast and not identity. *PHELPS v City of Minneapolis*, 174 M 509, 219 NW 872.

The dwelling and lot when assessed on May 1, 1934, was not a homestead. On March 1, 1935, the petitioner purchased the property which has since remained his homestead. As non-homestead property it was assessed under class 4 at 40 per cent of its full and true value. The relator by a proper and timely demand upon the assessor, the local board of review, or the county board of equalization might have had the property reclassified as a homestead, but not having acted he cannot by mandamus compel the county auditor to reclassify the property. *State v Strom*, 198 M 173, 269 NW 371.

Classification of homestead for the purpose of taxation, 1934 OAG 796, Feb. 10, 1934 (232a).

The village assessor, clerk, and president of a village council are not entitled to extra compensation for serving on the board of review. 1936 OAG 43, July 5, 1935 (470b); OAG July 5, 1939 (469b-7).

Relief accorded taxpayers as to taxes legally assessed or collected. 15 MLR 692.

**274.02 BOARD OF REVIEW IN CITIES.**

**HISTORY.** 1899 c. 116; R.L. 1905 s. 848; G.S. 1913 s. 2027; G.S. 1923 s. 2035; M.S. 1927 s. 2035.

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## 274.03 REVIEW OF ASSESSMENTS

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The compensation of the board of review of South St. Paul is fixed by its charter, and section 274.02 is not applicable. OAG Feb. 23, 1933.

### 274.03 NOTICE OF MEETING.

HISTORY. 1878 c. 1 s. 40; G.S. 1878 c. 11 s. 40; 1881 c. 10 s. 7; G.S. 1894 s. 1548 R.L. 1905 s. 849; G.S. 1913 s. 2028; G.S. 1923 s. 2036; M.S. 1927 s. 2036; 1941 c. 402 s. 2.

If the property owner appears before the board of review in response to a notice the board acquires jurisdiction and the property owner cannot subsequently object to the sufficiency of the notice. *Faribault v County*, 44 M 12, 46 NW 143.

### 274.04 ASSESSOR'S RETURN TO AUDITOR.

HISTORY. 1878 c. 1 s. 41; G.S. 1878 c. 11 s. 41; G.S. 1894 s. 1549; R.L. 1905 s. 850; G.S. 1913 s. 2029; G.S. 1923 s. 2037; M.S. 1927 s. 2037; 1935 c. 118 s. 2.

When the assessor has filed his return and lists with the county auditor his authority to make corrections has ceased, and he can make no corrections except under the direction of the county auditor. *State v Archibald*, 43 M 328, 45 NW 606; *Faribault v County*, 44 M 12, 46 NW 143.

The assessor is required to make his return to the county auditor on or before the first Monday in July. When he makes his return the property on his lists is assessed, although the taxes are not laid. *Eide v Clarke*, 57 M 397, 59 NW 484; *State v Northern Trust Co.* 73 M 70, 75 NW 754; *Walker v Martin*, 87 M 489, 92 NW 336.

The return made by the assessor is his official valuation of the property listed and an official record that can only be changed by authority of law; and is prima facie evidence of the validity of the assessment and there is a presumption that the return is correct. *St. Peter's v Board*, 12 M 395 (280); *McCormick v Fitch*, 14 M 252 (185); *Thompson v Tinkcom*, 15 M 295 (226).

Statutory provisions concerning the various official acts resulting in the production of a tax are directory and not mandatory and mere official errors or omissions appearing in an assessor's list of taxable property do not invalidate the list. *Corbet v Town*, 94 M 397, 103 NW 11.

Land is assessed on the day the assessor certifies and returns to the auditor the assessment books wherein the assessor has valued the land for purposes of taxation, and the person named in the assessor's book as owner is the person assessed. *Trask v Skoog*, 138 M 229, 164 NW 914.

The Board of review of South St. Paul must finish its work prior to the time the assessor's books must be returned to the auditor. OAG Feb. 23, 1933.

The assessor has until the first Monday in July in which to perform his duties and file his lists with the auditor except in those municipalities affected by Laws 1935, Chapter 118, when the assessor has until the last Monday in July to perform his duties. 1940 OAG 298, July 5, 1940 (12b).

### 274.05 AUDITOR'S CERTIFICATE; ASSESSOR TO FILE SAME WITH TOWN CLERK; PENALTY.

HISTORY. 1907 c. 87 ss. 1, 2; G.S. 1913 ss. 2030, 2031; G.S. 1923 ss. 2038, 2039; M.S. 1927 ss. 2038, 2039.

A defective pleading, clearly amendable in the discretion of the trial court, cannot be objected to on an appeal by a party who had an opportunity to raise the objection in the trial court but neglected to do so. *Getty v Village*, 115 M 500, 133 NW 159.

Classification of homesteads for taxation. 1934 OAG 796, Feb. 10, 1934 (232a).

### 274.06 BOROUGH BOARD OF EQUALIZATION.

HISTORY. 1907 c. 248 s. 1; G.S. 1913 s. 2032; G.S. 1923 s. 2040; M.S. 1927 s. 2040.

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## 274.07 LIST BY PERSON SICK OR ABSENT.

HISTORY. 1878 c. 1 s. 42; G.S. 1878 c. 11 s. 42; G.S. 1894 s. 1550; R.L. 1905 s. 851; G.S. 1913 s. 2033; G.S. 1923 s. 2041; M.S. 1927 s. 2041.

## 274.08 CORRECTION OF BOOKS.

HISTORY. 1902 c. 2 s. 81; R.L. 1905 s. 852; G.S. 1913 s. 2034; G.S. 1923 s. 2042; M.S. 1927 s. 2042.

It is presumed that the auditor has discharged his duties under this section. *St. Peter's v Board*, 12 M 395 (280).

Where the assessor and the auditor each made an assessment of the same land under different descriptions, and the owner paid the tax under the assessment of the assessor, that was a good defense against enforcement of the tax based on the assessment of the auditor. *Meller v Hodsdon*, 33 M 366, 23 NW 543.

Section 274.08 refers only to omitted property. *State v Archibald*, 43 M 328, 45 NW 606; *State v Willard*, 77 M 190, 79 NW 829.

Under section 274.02 any taxpayer may compel the auditor to enter upon the assessment books for taxation, property which has been omitted and auditor has authority under certain conditions to raise or lower the assessor's assessment. *State ex rel v Cooley*, 62 M 183, 64 NW 379; *State v Lakeside*, 71 M 283, 73 NW 970.

Merely placing the omitted property on the tax list is insufficient. The auditor must enter it in the assessment book in his office with its value and the name of the owner. *Walker v Martin*, 87 M 489, 92 NW 336.

Where a town has levied its tax for local purposes and listed and assessed the personal property therein taxable on the first of May in any year, a city thereafter organized so as to include part of such town may not levy a tax for city purposes on any of the personal property so assessed and taxed by the town for the same year. *State v Republic Steel*, 199 M 107, 270 NW 119.

## 274.09 CORRECTING FALSE LISTS AND RETURNS.

HISTORY. 1878 c. 1 s. 112; G.S. 1878 c. 11 s. 112; G.S. 1894 s. 1630; R.L. 1905 s. 853; G.S. 1913 s. 2035; G.S. 1923 s. 2043; M.S. 1927 s. 2043.

In order that a tax on property conform to the statute requiring its assessment at its full value in money, the tax laws of the state contemplate an original assessment by the assessor, its correction by the auditor, and its equalization by various boards. While the law aims at equality in taxation, approximation to equality in the actual result of its operation is all that can be had. *State v Cudahy*, 103 M 419, 115 NW 645, 1069.

## 274.10 PROPERTY OMITTED OR UNDERVALUED.

HISTORY. 1893 c. 151 ss. 1, 4 to 6; G.S. 1894 ss. 1632, 1635 to 1637; R.L. 1905 ss. 854 to 856; G.S. 1913 ss. 2036 to 2038; G.S. 1923 ss. 2044 to 2046; M.S. 1927 ss. 2044 to 2046.

Laws 1893, Chapter 151, providing for the taxation of property undervalued or unlawfully omitted from the assessment and for a reassessment where there has been a gross undervaluation, is constitutional. *State v Weyerhaeuser*, 68 M 353, 71 NW 265; *State v Weyerhaeuser*, 72 M 519, 75 NW 718, 176 US 550, 20 SC 485.

The legislature may by statute provide for the appointment of a special assessor whose report must be reviewed by the commissioner of taxation. Laws 1909, Chapter 294, is constitutional. *State v Minnesota & Ontario*, 121 M 421, 141 NW 839.

## 274.11 TAXES TO BE LIEN UPON PROPERTY IN EXAMINER'S LIST.

HISTORY. 1893 c. 151 s. 3; G.S. 1894 s. 1634; R.L. 1905 s. 857; G.S. 1913 s. 2039; G.S. 1923 s. 2047; M.S. 1927 s. 2047.

**274.12 DUTIES OF AUDITOR AND ASSESSORS; VIOLATION; PENALTY.**

**HISTORY.** 1860 c. 1 s. 81; G.S. 1866 c. 11 s. 82; 1893 c. 151 ss. 2, 7; G.S. 1894 ss. 1633, 1638; R.L. 1905 s. 858; G.S. 1913 s. 2040; G.S. 1923 s. 2048; M.S. 1927 s. 2048.

**NOTE:** See annotations under section 274.10.

**274.13 COUNTY BOARD OF EQUALIZATION.**

**HISTORY.** 1860 c. 1 ss. 75, 82; 1864 c. 7 s. 1; G.S. 1866 c. 11 ss. 76, 81; 1878 c. 1 s. 44; G.S. 1878 c. 11 s. 44; 1885 c. 2 s. 2; 1885 c. 119; G.S. 1894 s. 1552; 1901 c. 298; R.L. 1905 s. 859; G.S. 1913 s. 2041; G.S. 1923 s. 2049; M.S. 1927 s. 2049; 1945 c. 401 s. 2.

1. Generally
2. Real property, raised
3. Real property, reduced
4. Personal property, raised
5. Personal property, reduced
6. Aggregate not to be reduced

**1. Generally**

The county board of equalization possesses no authority to make an original assessment nor place omitted property on the tax list. Its duties are confined to the equalization of assessments made by the assessors and the performance of such other acts as are specially stated in the statute. *State v Crookston Lumber*, 85 M 405, 89 NW 173.

The county board has no authority to abate or cancel taxes or to strike property from the tax books. *Grundysen v Polk County*, 57 M 212, 58 NW 864.

A taxpayer who has been assessed in each of two different counties for the same personal property cannot obtain relief by making an ex parte application to the state auditor asking a determination in which county he should be assessed, but he may apply to the auditor promptly on notice to the proper authorities of each county so that the auditor may arrange a hearing. He cannot be relieved of double assessment unless he exhausts his statutory remedies. The recommendation of the county board alone is not sufficient; the auditor must also recommend relief. *Clarke v Board*, 66 M 304, 69 NW 25.

County board cannot make an original assessment on listing of property for taxation. OAG Aug. 24, 1944 (408).

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

**2. Real property, raised**

The board may increase an assessment on its own knowledge without the introduction of evidence or an examination of the property. *State v Duluth Street Ry.* 76 M 96, 78 NW 1032.

Under the statute of 1856 the omission of the county board to equalize and correct the assessment rolls rendered the assessment void. *Board v Parker*, 7 M 267 (207).

Under the provisions of General Statutes 1878, Chapter 11, Section 79, [modifying the holding in *Board v Parker*, 7 M 267 (207)] an omission to have an assessment of real property revised and equalized by the county board will not affect or invalidate the taxes upon such property in the absence of any claim by the owner that the omission has resulted to his prejudice. *Scott County v Hinds*, 50 M 204, 52 NW 523.

A taxpayer may appear before the board regarding his own property and also regarding the correction of omissions or under-valuations of the property of others. *State v Lakeside*, 71 M 283, 73 NW 970.

Rules for the classification of homesteads for purposes of taxation. 1934 OAG 796, Feb. 10, 1934 (232a).

**3. Real property, reduced**

The county commissioners have no authority to reduce an assessment except when sitting as a board of equalization and have no powers after adjournment. *Clarke v Board*, 66 M 304, 69 NW 25.

Property having been taxed on an even-numbered year to render available as a defense in proceedings to obtain judgment for the taxes for the succeeding year where the claim that the valuation of the property was unfair, because subsequent to the original assessment and prior to May 1st of the next year the timber standing on the land had been removed, it must appear that the facts showing the reduction in its value were presented to the board of equalization and application made for readjustment. *State v Atwood*, 96 M 392, 104 NW 276; *State v Strom*, 198 M 173, 269 NW 371.

The county board of equalization has power to raise or reduce the valuations of real property. 1936 OAG 355, Dec. 12, 1936 (406b).

**4. Personal property, raised**

Matters pertaining to the duties of and proper to come before the county board of equalization may be brought on for hearing before such board without notice to interested parties. *State ex rel Hynes*, 82 M 34, 84 NW 636.

The action of the city and state boards of equalization is designed to secure a just demand on part of the city which may be collected by proceedings, judicial in their nature. The provisions with reference thereto and especially with reference to giving notice of meetings are directory and not mandatory, and the board has power to amend the assessment roll by adding taxable property not included in the assessor's list. *State v Cudahy*, 103 M 419, 115 NW 645, 1039.

The county board of equalization may raise the valuation of the assessor on the improvements on lands in a village without changing the valuation of the lands on which they are situated. *State ex rel v Erskine*, 169 M 381, 211 NW 329.

**5. Personal property, reduced**

The board of equalization acts independently and is governed in the performance of its duties by the provisions of the statute relating to the subject, and is in no measure affected or controlled by the statutes prescribing the duties of county commissioners. They are two distinct boards with differing powers, duties, and functions. *State v Hynes*, 82 M 34, 84 NW 636.

**274.14 LENGTH OF SESSION; RECORD.**

**HISTORY.** 1874 c. 1 s. 69; 1878 c. 1 s. 44; G.S. 1878 c. 11 s. 44; 1885 c. 2 s. 2; 1885 c. 119; G.S. 1894 s. 1552; R.L. 1905 s. 860; G.S. 1913 s. 2042; G.S. 1923 s. 2050; M.S. 1927 s. 2050.

The record need not show that the commissioners were sworn, and after final adjournment there can be no alteration of the records. Under Laws 1874, Chapter 1, Section 69, the board could not adjourn from time to time. *Board v Nettleton*, 22 M 356.

Under Laws 1878, Chapter 1, Section 44, (modifying *Board v Nettleton*) the board may adjourn from time to time. *State ex rel v Archibald*, 43 M 328, 45 NW 606.

The proceedings of the board are proved by the official record kept by the county auditor and cannot in collateral proceedings be impeached or contradicted by parol evidence nor where silent with reference to any order made or proceeding had to be supplied by extrinsic evidence. *State v Crookston Lumber*, 85 M 405, 89 NW 173.

The proceedings of the board of equalization must be published as are those of the county commissioners. *Bloomquist v County*, 152 M 126, 188 NW 64.

**274.15 COMPENSATION OF BOARD.**

**HISTORY.** 1881 c. 113 s. 1; G.S. 1878 Vol. 2 (1888 Supp.) c. 11 s. 44a; G.S. 1894 s. 1553; R.L. 1905 s. 861; G.S. 1913 s. 2043; G.S. 1923 s. 2051; M.S. 1927 s. 2051.

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## 274.16 REVIEW OF ASSESSMENTS

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Members of the county welfare board, under Laws 1939, Chapter 99, Section 16, may receive 7 cents per mile for use of their automobile in performance of their duties as members of the board. 1942 OAG 218, Sept. 29, 1941 (125A-64).

### **274.16 CORRECTED LISTS; ABSTRACT TO STATE AUDITOR.**

HISTORY. 1878 c. 1 s. 45; G.S. 1878 c. 11 s. 45; G.S. 1894 s. 1554; R.L. 1905 s. 862; G.S. 1913 s. 2044; G.S. 1923 s. 2052; M.S. 1927 s. 2052.

### **274.17 RECORD; ABSTRACT TO COUNTY AUDITORS.**

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; G.S. 1913 s. 2046; G.S. 1923 s. 2053; M.S. 1927 s. 2053.

### **274.18 ABSTRACT OF REALTY ASSESSMENT ROLL TO TOWN CLERKS.**

HISTORY. 1868 c. 37 s. 1; G.S. 1878 c. 11 s. 126; G.S. 1894 s. 1666; 1895 c. 12; R.L. 1905 s. 865; G.S. 1913 s. 2047; G.S. 1923 s. 2054; M.S. 1927 s. 2054.