

CHAPTER 276

COLLECTION, ACCOUNTING, AND DISTRIBUTION

276.01 LISTS TO TREASURER.

HISTORY. 1860 c. 1 s. 43; G.S. 1866 c. 11 s. 55; 1874 c. 1 s. 87; 1878 c. 1 s. 53; G.S. 1878 c. 11 s. 53; 1885 c. 2 s. 4; G.S. 1894 s. 1562; R.L. 1905 s. 878; G.S. 1913 s. 2062; G.S. 1923 s. 2074; M.S. 1927 s. 2074; 1945 c. 278 s. 1.

Based upon General Statutes 1866, Chapter 11, Section 75, a county treasurer, upon the delinquent list of personal taxes being delivered to him, may collect them in the same manner by distress or otherwise as upon duplicate. *Piper v Branham*, 14 M 548 (418).

Based upon Laws 1874 Chapter 1, Section 86, (General Statutes 1878, Chapter 11, Section 52) lists without the statutory certificate attached are sufficient authority for the treasurer to collect the taxes hereon. In *re Jefferson*, 35 M 215, 28 NW 256.

The lists in the hands of the treasurer are presumed to be as placed and filed by the auditor. *Scott County v Hinds*, 50 M 204, 52 NW 523.

The statute requires the auditor to deliver the tax lists to the treasurer on or before the first Monday in January of each year; and the treasurer has no authority to receive or collect taxes until the tax lists are so delivered to him. Taxes do not become due until such delivery. *Nelson v Becker*, 63 M 61, 65 NW 119; *State v Sage*, 75 M 448, 78 NW 14; *Hoyt v Chapin*, 85 M 524, 89 NW 850.

The facts show a failure by the county auditor to perform his duty; and a public officer is liable for neglect to perform a duty imposed upon him by statute. *Howley v Scott*, 123 M 159, 143 NW 257.

A county treasurer in failing to write or stamp the words "sold for taxes" on a tax receipt is not guilty of a breach of his statutory duty unless the tax list furnished him by the county auditor shows that the land has been "sold for taxes". *Howley v Scott*, 126 M 271, 148 NW 116.

Taxes on realty are assessed for the calendar year as of May 1st, upon which date they attach as a lien. Subsequent steps in the assessment and levy of taxes relate back to and take effect as of May 1st. *Merle-Smith v Minnesota Iron Co.* 195 M 313, 262 NW 865.

One who enters into a collusive agreement with a life tenant for the purpose of defeating the interests of the remaindermen can not enforce a lien on the property for the amount paid to acquire title thereto at a tax sale. *Turner v Edwards*, 207 M 455, 292 NW 257.

The lien for real estate taxes effective in favor of the state as of May 1st does not take effect as between grantor and grantee until the first Monday in January of the succeeding year. Where taxes for 1936 are paid during 1937 by an owner who acquired title in 1936 the payment is deductible in the computation of his income tax for 1937. It is not a capital expenditure. *Spaeth v Hallam*, 211 M 156, 300 NW 600.

The auditor and the treasurer may be compelled by mandamus to pay over to a town the amount of current taxes collected for it even though they have been otherwise advised by the state public examiner and though the town may be indebted to the county for its proportionate share of losses caused by the insolvency of certain banks. *State ex rel v County*, 211 M 569, 2 NW(2d) 41.

No building can be removed from a tract of land until the taxes, including the current tax, are paid. 1934 OAG 832, July 16, 1934 (412a-24).

If the dog license tax is not paid within the time prescribed by statute a penalty of eight per cent will attach. 1936 OAG 280, May 22, 1936 (146d-2).

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Where a person during his lifetime failed to list and pay tax on money and credits, an assessment may be made and taxed for the years omitted and the claim need not be filed in the probate court. 1936 OAG 381, April 16, 1936 (614f).

Date of accrual of Minnesota real estate taxes for the purpose of income tax deductions. 26 MLR 567.

Exemption of educational corporations under social security act. 26 MLR 763.

276.02 TREASURER TO BE COLLECTOR.

HISTORY. 1860 c. 1 s. 9; 1874 c. 1 s. 87; 1878 c. 1 s. 54; G.S. 1878 c. 11 s. 54; G.S. 1894 s. 1563; R.L. 1905 s. 879; G.S. 1913 s. 2063; G.S. 1923 s. 2075; M.S. 1927 s. 2075.

Under the statute the county treasurer is the receiver and collector of all taxes levied by state, county, city, village, town, or school district. *Morgan v Smith*, 4 M 104 (64); *Board v Clapp*, 83 M 512, 86 NW 775.

As receiver and collector of taxes the county treasurer acts as agent of the state and of the municipalities within his county. *City of St. Paul v Colter*, 12 M 41 (16); *St. Paul & Sioux City v Robinson*, 40 M 360, 42 NW 79; *State v Lakeside*, 71 M 283, 73 NW 970; *State ex rel v Minor*, 79 M 201, 81 NW 912; *Board v Clapp*, 83 M 512, 86 NW 775.

It is the treasurer's duty to collect the amount due from the levy of special assessments as well as general taxes. *City v Board*, 88 M 346, 93 NW 126.

Where there is a loss of money through failure of a depository the state's proportion of the claim is entitled to a preference over the bank assets but the state is entitled to no preference to moneys collected from collaterals or sureties upon the depository's bond and the county has a right to be reimbursed to the extent of the money paid by it in connection with the state treasurer's draft. 1934 OAG 779, March 18, 1933 (450d).

Home owners loan bonds can not be used in the payment of taxes on assessments. OAG Nov. 22, 1933.

After a weed lien has been entered on the tax book it is a part of the taxes and can not be paid separately from the general taxes to accommodate an owner who wishes to contest the lien. OAG June 3, 1939 (322a-2).

276.03 TREASURER TO COLLECT LOCAL ASSESSMENTS.

HISTORY. 1860 c. 1 s. 9; G.S. 1866 c. 11 s. 87; 1874 c. 1 s. 88; 1879 c. 1 s. 54; G.S. 1878 c. 11 s. 54; G.S. 1894 s. 1563; R.L. 1905 s. 879; 1911 c. 266 s. 1; G.S. 1913 s. 2064; G.S. 1923 s. 2076; M.S. 1927 s. 2076.

276.04 NOTICE OF RATES.

HISTORY. 1860 c. 1 s. 9; 1861 c. 3 s. 3; 1862 c. 10 s. 1; 1863 c. 2 s. 21; G.S. 1866 c. 11 s. 88; 1874 c. 1 ss. 89, 90; 1875 c. 5 s. 20; 1878 c. 1 s. 55; G.S. 1878 c. 11 s. 55; G.S. 1894 s. 1564; R.L. 1905 s. 880; 1913 c. 551 s. 1; G.S. 1913 s. 2066; G.S. 1923 s. 2077; M.S. 1927 s. 2077; 1945 c. 278 s. 2.

276.05 POST-OFFICE ADDRESSES OF PAYER TO BE GIVEN ON TAX RECEIPTS.

HISTORY. 1860 c. 1 s. 9; 1861 c. 3 s. 3; 1862 c. 10 s. 1; 1863 c. 2 s. 21; G.S. 1866 c. 11 s. 88; 1874 c. 1 s. 91; 1878 c. 1 s. 56; G.S. 1878 c. 11 s. 56; 1887 c. 60 s. 1; 1889 c. 197 s. 1; G.S. 1894 s. 1565; 1902 c. 2 s. 87; R.L. 1905 s. 881; G.S. 1913 s. 2067; 1917 c. 18; G.S. 1923 s. 2078; M.S. 1927 s. 2078.

276.06 TAX RECEIPTS TO STATE APPORTIONMENT OF TAXES.

HISTORY. 1915 c. 319 s. 1; G.S. 1923 s. 2079; M.S. 1927 s. 2079.

See annotations under section 276.01.

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276.07 UNDIVIDED INTEREST; PAYMENT AND RECEIPT.

HISTORY. 1913 c. 505 s. 1; G.S. 1913 s. 2068; G.S. 1923 s. 2080; M.S. 1927 s. 2080.

Where the owner of an undivided $\frac{3}{5}$ interest in real estate paid his taxes while another party owning $\frac{2}{5}$ interest did not, the person who paid has a good title to that undivided interest regardless of whether or not the owner of the other $\frac{2}{5}$ interest ever pays. 1938 OAG 434, Aug. 26, 1938 (419-9).

Procedure in various cases relating to the county auditor's determination of right of heirs or representatives of deceased persons to repurchase. (Sections 282.24 to 282.32). 1942 OAG 321, Oct. 2, 1941 (425C-13).

276.08 ORDERS RECEIVED FOR TAXES.

HISTORY. 1860 c. 1 s. 9; 1861 c. 3 s. 3; 1862 c. 10 s. 1; 1863 c. 2 s. 21; G.S. 1866 c. 11 s. 88; 1874 c. 1 s. 92; 1875 c. 5 s. 21; 1878 c. 1 s. 57; G.S. 1878 c. 11 s. 57; G.S. 1894 s. 1566; R.L. 1905 s. 882; G.S. 1913 s. 2069; G.S. 1923 s. 2081; M.S. 1927 s. 2081.

The county treasurer is chargeable as with money to the amount of taxes paid to him although he may receive payment in certain orders. All payments are presumed prima facie to have been received in money. Orders on county funds are within the statute. State v Ring, 29 M 78, 11 NW 233; Board v Clapp, 83 M 512, 86 NW 775.

276.09 SETTLEMENT BETWEEN AUDITOR AND TREASURER.

HISTORY. 1860 c. 1 s. 84; G.S. 1866 c. 11 s. 102; 1871 c. 14; 1874 c. 1 s. 106; 1875 c. 5 s. 22; 1877 c. 6 s. 17; 1878 c. 1 s. 66; G.S. 1878 c. 11 s. 66; 1885 c. 2 s. 13; G.S. 1894 s. 1575; R.L. 1905 s. 883; 1911 c. 225 s. 1; G.S. 1913 s. 2070; G.S. 1923 s. 2082; M.S. 1927 s. 2082.

276.10 APPORTIONMENT AND DISTRIBUTION OF FUNDS.

HISTORY. 1902 c. 2 s. 75; R.L. 1905 s. 884; G.S. 1913 s. 2071; G.S. 1923 s. 2083; M.S. 1927 s. 2083.

The auditor and treasurer of a county acting under recommendation of the state public examiner may not refuse to pay over to a town the amount of current taxes collected even though the town may be liable to the county for its share in losses caused by the insolvency of certain banks, and the officers may be compelled by mandamus to perform their statutory duties. State ex rel v County, 211 M 569, 2 NW(2d) 41.

Where there has been a tax settlement or apportionment of taxes collected whereby the amount due each taxing district for taxes levied by it is determined, each taxing district is entitled to its full share, and acceptance of a less amount over a period of years does not operate as a waiver to claim the balance. Town v County, 205 M 451, 286 NW 881.

Loss of tax funds through failure of banks is to be prorated and deducted from current settlement. OAG May 4, 1937 (168c).

276.11 WHEN TREASURER SHALL PAY FUNDS.

HISTORY. 1860 c. 1 s. 12; 1861 c. 3 s. 2; G.S. 1866 c. 11 s. 103; 1874 c. 1 s. 109; 1875 c. 5 s. 23; 1878 c. 1 s. 68; G.S. 1878 c. 11 s. 68; 1881 c. 10 s. 10; 1885 c. 2 s. 14; G.S. 1894 s. 1577; 1897 c. 100; R.L. 1905 s. 885; G.S. 1913 s. 2072; G.S. 1923 s. 2084; M.S. 1927 s. 2084.

Where a purchaser at a void sale is entitled to reimbursement the provision requiring the whole amount to be refunded out of the county treasury is valid. State ex rel v Cronkhite, 28 M 197, 9 NW 681.

The levy, certification, and collection of the tax in the instant case does not depend upon the provisions of special legislation, the general statutory provisions being ample for that purpose. State ex rel v Minor, 79 M 201, 81 NW 912.

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The sum realized by the county, as a result of legal proceedings, from delinquent property taxes, less the amount of expenses and fees, belongs in the proportion provided by law to the county, state, school districts, and other governmental divisions. Board v Clapp, 83 M 512, 86 NW 775.

In an action by a city against the county to recover taxes, the city is entitled to recover interest and penalties accruing and collected upon special assessments, as well as interest and penalties upon general taxes. City v Board, 88 M 346, 93 NW 126.

In the instant case the complaint stated a cause of action based upon the treasurer's failure to account for and pay over the full amount of taxes collected and with respect to the treasurers' failure to collect delinquent taxes on land, but the complaint did not state a cause of action based upon the failure of the treasurer to collect interest on county funds from the bank designated as a depository. Board v Miller, 101 M 294, 112 NW 276.

276.12 AUDITOR TO KEEP ACCOUNTS.

HISTORY. 1860 c. 1 s. 22; 1861 c. 3 s. 5; G.S. 1866 c. 11 s. 57; 1878 c. 1 s. 67; G.S. 1878 c. 11 s. 67; G.S. 1894 s. 1576; 1902 c. 2 s. 76; R.L. 1905 s. 886; G.S. 1913 s. 2073; G.S. 1923 s. 2085; M.S. 1927 s. 2085.

276.13 DISTRIBUTION OF INTEREST, PENALTIES, AND COSTS.

HISTORY. 1902 c. 2 s. 51; 1903 c. 324; R.L. 1905 s. 887; 1905 c. 239; G.S. 1913 s. 2074; G.S. 1923 s. 2086; M.S. 1927 s. 2086.

276.14 COLLECTED COSTS TO BE CREDITED TO COUNTY REVENUE FUND.

HISTORY. 1902 c. 2 s. 51; 1903 c. 324 s. 1; 1905 c. 239 s. 1; G.S. 1913 s. 2075; 1915 c. 159 s. 1; G.S. 1923 s. 2087; M.S. 1927 s. 2087.

The statutes do not specifically provide for the apportionment of penalties and interest collected on account of the moneys and credits tax. The general rule as to apportionment should be followed. 1936 OAG 386, Aug. 14, 1936 (505).

The county is not liable for penalties and interest on special assessments collected by its treasurer, but the treasurer is liable to municipalities within the county and must account within the six year limitation. OAG April 18, 1938 (408c).

276.15 ADDITIONAL APPROPRIATION BY STATE TO CERTAIN CITIES AND VILLAGES WHERE PROPERTY EXEMPT BECAUSE SUBJECT TO GROSS EARNINGS TAX EQUALS OR IS GREATER THAN TAXABLE VALUE OF OTHER PROPERTY.

HISTORY. 1923 c. 259 s. 1; M.S. 1927 s. 2087-1; 1943 c. 22 s. 1; 1945 c. 103 s. 1.

Valuation of property and computation of allowance to be made as of May 1 in taxable year, relating to the allowance by the state for property subject to gross earnings taxes. 1942 OAG 332, Oct. 21, 1941 (454-E).

276.16 APPLICATION FOR APPROPRIATION MADE TO STATE AUDITOR.

HISTORY. 1923 c. 259 s. 2; M.S. 1927 s. 2087-2; 1945 c. 103 s. 2.

276.17 WARRANTS DRAWN BY STATE AUDITOR.

HISTORY. 1923 c. 259 s. 3; M.S. 1927 s. 2087-3.

276.18 LIMITATION.

HISTORY. 1923 c. 259 s. 4; M.S. 1927 s. 2087-4.