

## CHAPTER 278

## OBJECTIONS AND DEFENSES TO TAXES ON REAL ESTATE.

**278.01 DEFENSE OR OBJECTION TO TAX ON LAND; SERVICE AND FILING.**

**HISTORY.** 1935 c. 300 s. 1; M. Supp. s. 2126-1.

Where the lease obligated the tenant to pay all taxes, the tenant may petition and may claim invalidity of the tax without making the landowner a party to the action. *International v State*, 200 M 242, 274 NW 217.

The statute merely emphasizes the necessity of uniformity and non-discrimination, which factors are not in any way inconsistent with a determination of value on a market value basis. The most that can be read into Laws 1935, Chapter 300, Section 1, is a mandate to the assessor and the board to give due weight to the market value of the lands which are comparable in character, quality, and location so that there will be uniformity in values. *State v Federal Reserve Bank*, 25 F. Supp. 14.

The proceedings in the instant case were brought under the provisions of sections 279.15 to 279.25. A later procedure for questioning the correctness of an assessment for tax purposes was prescribed by section 278.01. No claim having been made that the procedure set out in 278.01 is the exclusive method of obtaining a judicial determination of the question of whether real estate has been assessed and taxed at a valuation greater than its real and actual value, the question is undecided. *In re Delinquent Real Estate Taxes*, 212 M 562, 4 NW(2d) 783.

Landowners petitioning for cancelation of ditch assessments under the provisions of sections 278.01 to 278.13 who did not file their petitions prior to June 1st of the year in which the assessment became payable, failed to comply with a material condition of the statute and the finding must be adverse to the petitioners. *In re Judicial Ditch No. 77*, 213 M 70, 5 NW(2d) 64.

Payment by a taxpayer of a portion of a tax or assessment "under protest" but not as a result of duress or coercion constitutes a waiver by the taxpayer of any objection he might have to the assessment proceedings on jurisdictional grounds. *Rosso v Village of Brooklyn Center*, 214 M 364, 8 NW(2d) 219.

Where Minnesota Statutes 1941, Sections 278.01 and 429.16, afford a taxpayer an adequate remedy at law to contest assessment proceedings or the collection of the assessment, the taxpayer is not entitled to maintain a suit in equity to enjoin the collection of the assessment. *Rosso v Village of Brooklyn Center*, 214 M 364, 8 NW(2d) 219.

The power to levy an assessment for ditch repairs, being a legislative one delegated by statute to the county board, cannot be redelegated by the county board to the county auditor. *Saxhaug v County of Jackson*, 215 M 490, 10 NW(2d) 722.

The issue of undervaluation before the board of tax appeals and that of overvaluation in the district court action commenced under section 278.01 were not the same as contemplated by section 271.09. *Village of Aurora v Commissioner*, 217 M 64, 14 NW(2d) 292.

The power of taxation is inherent in sovereignty, and constitutional provisions are not a grant of, but limitation upon, this power, and, except as thus limited, it is exhaustive and embraces every conceivable subject of taxation. Proceedings to enforce real estate taxes are strictly in rem. Where the vendee under a contract takes possession of the land, his interest for the purpose of taxation is the same as any owner; and the vendee may not use his vendor's immunity to taxation to avoid meeting his tax obligations. *S. R. A. v State*, 213 M 489, 7 NW(2d) 484; 219 M 493, 517, 18 NW(2d) 445.

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Proceedings under chapter 278 do not interfere with the right of a taxpayer to apply for reduction or abatement of assessment of taxes. OAG Jan. 7, 1944 (407o).

## **278.02 PETITION MAY INCLUDE SEVERAL PARCELS.**

HISTORY. 1935 c. 300 s. 2; M. Supp. s. 2126-2.

## **278.03 PAYMENT OF PORTION OF TAX.**

HISTORY. 1935 c. 300 s. 3; 1937 c. 483 s. 1; M. Supp. s. 2126-3.

## **278.04 TREASURER MUST STAMP TAX LISTS.**

HISTORY. 1935 c. 300 s. 4; M. Supp. s. 2126-4.

## **278.05 TRIAL OF ISSUES.**

HISTORY. 1935 c. 300 s. 5; 1937 c. 483 s. 2; M. Supp. s. 2126-5.

Chapter 278 provides the method by which the right of a taxpayer to maintain an action was created. Village of Aurora v Commissioner, 217 M 77, 14 NW(2d) 292.

Neither party is entitled to a jury trial. OAG June 22, 1937 (260a-13).

## **278.06 OTHER STATUTES TO APPLY.**

HISTORY. 1935 c. 300 s. 6; M. Supp. s. 2126-6.

Laws 1919, Chapter 229, specifically exempts real estate tax proceedings in cases where the clerk of court is paid a salary, so that the clerk is entitled, in all delinquent real estate tax proceedings, to collect the fees set forth in section 279.24. OAG July 1, 1936 (144b-15).

## **278.07 JUDGMENT; AMOUNT; COSTS.**

HISTORY. 1935 c. 300 s. 7; M. Supp. s. 2126-7.

See as to the difference in practice between issues of overvaluation as compared with undervaluation. Village of Aurora v Commissioner, 217 M 77, 14 NW(2d) 292.

## **278.08 PENALTIES AND INTEREST.**

HISTORY. 1935 c. 300 s. 8; M. Supp. s. 2126-8.

## **278.09 CERTIFIED COPIES TO AUDITOR AND TREASURER.**

HISTORY. 1935 c. 300 s. 9; M. Supp. s. 2126-9.

## **278.10 TO BE ENTERED IN JUDGMENT BOOK.**

HISTORY. 1935 c. 300 s. 10; M. Supp. s. 2126-10.

## **278.11 MAY PAY FULL TAX.**

HISTORY. 1935 c. 300 s. 11; M. Supp. s. 2126-11.

## **278.12 REFUNDS OF OVER-PAYMENT.**

HISTORY. 1935 c. 300 s. 12; M. Supp. s. 2126-12.

## **278.13 JUDGMENT TO BE FINAL.**

HISTORY. 1935 c. 300 s. 13; M. Supp. s. 2126-13.