

CHAPTER 283

REFUNDMENT

283.01 REFUNDMENT OF MONEYS PAID AT TAX SALE OR ON ASSIGNMENT; WHEN ALLOWED.

HISTORY. Ex. 1902 c. 2 s. 58; R.L. 1905 s. 963; G.S. 1913 s. 2157; G.S. 1923 s. 2177; M.S. 1927 s. 2177.

The perpetual tax lien created by Revised Laws 1905, Section 975, (section 272.31) where for any cause the title held by a purchaser at the tax sale proves invalid, is by force of Revised Laws 1905, Section 942 (section 280.35) transferred to the tax title holder, and he may enforce the same, notwithstanding his failure to perfect his title under Laws 1905, Chapter 271. *Byers v Minnesota Commercial*, 118 M 266, 136 NW 880, distinguished. Invalidity in the instant case was not one that entitled the claimant to refundment, it not being for a cause as controlled by section 283.01. *Downing v Lucy*, 121 M 301, 141 NW 183.

The court having adjudged the tax certificates void, the judgment cannot be attacked collaterally for error or fraud, and is, as against the county, conclusive of the right to refundment. *State ex rel v Ries*, 123 M 397, 143 NW 981.

The holder of a tax certificate is entitled to a refundment of moneys paid, the assessment being void; and he is entitled to refundment of subsequent void taxes paid, tacked to his certificate without knowledge of invalidity, though such payment by an owner would be deemed voluntary. *Fry v County of Morrison*, 136 M 225, 161 NW 511.

The plaintiff paid four of the instalments before bringing suit. Held, these were voluntary and he cannot recover them and the deduction should be applied beginning with the fifth instalment. He is not entitled to an abatement because of interest paid with his four instalments. *Hunter v City of Minneapolis*, 171 M 309, 213 NW 916.

This section specifies the exclusive cases in which a purchaser at a tax sale may have refundment. In other cases where the certificates at tax sales prove to be invalid the lien of the state passes to the purchaser, who may resort to the property. *Welcome v County of Marshall*, 174 M 431, 219 NW 545.

In a tax proceeding, the owner answered alleging overvaluation. The county officials overlooked the answer and entered judgment by default. The court reduced the assessment and entered judgment accordingly. On motions both judgments were vacated, and the court properly fixed the assessment at the reduced amount and made that amount a lien on the property, and ordered judgment against the county for the excess to reimburse the respondents. *County of Hennepin v Inter City*, 188 M 90, 246 NW 537.

Following *State ex rel v Moeller*, 189 M 412, 249 NW 330, and *Blaisdell v Home*, 189 M 422, 448, 249 NW 334, 893, Laws 1933, Chapter 366, held to be constitutional. *State ex rel v Erickson*, 191 M 188, 253 NW 529.

An allotment to a mixed blood Chippewa Indian, the fee patent for which had not been delivered, the issue of the patent not having been applied for, is not subject to the taxing power of the state or its municipal subdivisions. The payment under protest was an involuntary payment and recoverable. *Warren v County of Mahnomen*, 192 M 464, 257 NW 77.

Refundment under this section cannot be had where an illegal sale was made under section 280.12. The proper remedy is a suit in equity to enforce the provisions of section 280.35. OAG June 30, 1930.

The county has no power to refund to a person who purchases at a delinquent tax sale, the purchaser believing he is the owner of the property. Application for relief should be made to the commissioner of taxation. OAG April 20, 1934 (424a-5).

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This section furnishes no relief to a purchaser of a school land certificate subsequently canceled. OAG Jan. 24, 1936 (426a-5).

Owners who repurchase tax-forfeited lands pursuant to provisions of Laws 1939, Chapter 283, reacquired them free from any mineral reservation resulting from the tax-forfeiture. 1942 OAG 318, Jan. 13, 1942 (311-F).

383.02. IN CASE OF EXEMPTION.

HISTORY. Ex. 1902 c. 2 s. 59; R.L. 1905 s. 964; 1909 c. 160 s. 1; G.S. 1913 s. 2158; G.S. 1923 s. 2178; M.S. 1927 s. 2178.

283.03 ON JUDGMENT; COUNTY TO BE PARTY.

HISTORY. Ex. 1902 c. 2 s. 60; 1903 c. 231; R.L. 1905 s. 965; G.S. 1913 s. 2159; G.S. 1923 s. 2179; M.S. 1927 s. 2179.

Where a tax judgment had been adjudged void, failure to make the county a party in mandamus to compel the auditor to deliver warrants for payment of the amount of the tax certificates was fatal. State ex rel v Whitney, 101 M 539, 111 NW 1134.

Right of refundment controlled by the law in force at the time of sale. State ex rel v Krahmer, 112 M 372, 128 NW 288.

In registration of title, the tax certificate holder and the county being parties, the judgment is conclusive of the right to refundment, where the certificates are declared void. State ex rel v Ries, 123 M 397, 143 NW 981.

See, County of Hennepin v Inter City, 188 M 90, 246 NW 537, and State ex rel v Erickson, 191 M 188, 253 NW 529.

Application under laws prior to Ex. Laws 1902, Chapter 2. Allen v County of Ramsey, 98 M 341, 108 NW 301; Comstock v Devlin, 99 M 68, 108 NW 888; Minn. Debenture v United Real Estate, 99 M 287, 109 NW 251; State ex rel v County of Chisago, 115 M 6, 131 NW 792; Byers v Minn. Commercial, 118 M 266, 136 NW 880.

283.04 LIMITATION ON RIGHT.

HISTORY. Ex. 1902 c. 2 s. 61; R.L. 1905 s. 966; G.S. 1913 s. 2160; G.S. 1923 s. 2180; M.S. 1927 s. 2180.

The opportunity afforded by General Statutes 1894, to apply for and receive refundments, does not establish a bar by limitation against claims which might be, but are not in fact, made thereunder. Section 283.04 refers to refundments provided for in section 283.01, and does not purport to place a limitation on the time after a tax sale within which a refundment may be had under the law providing for refundment after a tax sale is held void because of irregularity in the sale. State ex rel v County of Chisago, 115 M 6, 131 NW 792.

283.05 VOID TAXES PAID BY MORTGAGE.

HISTORY. 1885 c. 261 ss. 1 to 3; G.S. 1878 Vol. 2 (1888 Supp.) c. 11 ss. 104a, 104b, 104c; G.S. 1894 ss. 1620 to 1622; R.L. 1905 s. 967; G.S. 1913 s. 2161; G.S. 1923 s. 2181; M.S. 1927 s. 2181.

Laws 1885, Chapter 261, which provides for the reimbursement of taxes paid by mortgagees in certain classes of cases when such taxes have been adjudged void, is by its terms retroactive, and is constitutional. Coles v County of Washington, 35 M 124, 27 NW 497.

283.06 TAXES PAID TWICE.

HISTORY. Ex. 1902 c. 2 ss. 59, 77; 1903 c. 116; R.L. 1905 s. 968; G.S. 1913 s. 2162; G.S. 1923 s. 2182; M.S. 1927 s. 2182.

On application and proper proof to the auditor, he may make proper refundment in cases where the same tax on the same parcel is paid twice. OAG May 11, 1939 (424a-9).

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283.07 TAXES PAID BY MISTAKE ON RAILROAD LANDS.

HISTORY. 1905 c. 308 s. 1; G.S. 1913 s. 2163; G.S. 1923 s. 2183; M.S. 1927 s. 2183.

283.08 EXCESS TAXES UNDER LAWS 1889, CHAPTER 322.

HISTORY. 1911 c. 338 s. 1; G.S. 1913 s. 2164; G.S. 1923 s. 2184; M.S. 1927 s. 2184.

283.09 REFUNDMENTS TO TAX SALE PURCHASERS WHERE LAND ERRONEOUSLY RETURNED AS IMPROVED.

HISTORY. 1937 c. 443 s. 1; M. Supp. s. 2184-1.

283.10 APPLICATION MUST BE MADE WITHIN TWO YEARS.

HISTORY. 1937 c. 443 s. 2; M. Supp. s. 2184-2.

283.11 CANCELLED TAX REINSTATED.

HISTORY. 1937 c. 443 s. 3; M. Supp. s. 2184-3.