

CHAPTER 273

TAXES; LISTING AND ASSESSMENT

273.01 LISTING AND ASSESSMENT, TIME.

Under a joint-adventure contract for the purpose, among other things, of disposing of a stock of goods, paying of debts, and dividing the remainder in accordance with the contract, the personal property, moneys and credits, and capital stock taxes for which the owner became liable as of May 1, were payable by the plaintiff, the original owner of the property. Taxability of persons and property is determined as of May 1 for each year, and it makes no difference what property the taxpayer owned at any other time during the year. *Standard Clothing Co. v Wolf*, 219 M 128, 17 NW(2d) 329.

Minnesota real estate taxes operate exclusively in rem, and the statutes impose no personal obligation upon anyone to pay them. To determine the tax burden imposed upon Minnesota real estate or its owners, resort must be had to the Minnesota law; and to determine the taxpayer's right to deductions and exemptions under the internal revenue code, resort must be had to the federal law. *United States v Consolidated Elevator Co.* 141 F(2d) 791.

Where a Minnesota corporation operated a fleet of airplanes in interstate commerce from its home port in Minnesota, Minnesota might impose a personal property tax on the entire fleet the same as on any other personal property where, as in the instant case, the airplanes had not acquired a permanent location elsewhere. *Northwest Airlines v State*, 65 SC 26, 323 US 809.

Character of federal and state gasoline taxes discussed and determined. 1944 OAG 381, April 5, 1944 (421-c).

Where the owner of personal property sells it on May 24, and moves to another county, the assessor shall assess the property in the name of the original owner, obtain a judgment, docket it in the county where the judgment debtor now resides and proceed to collect thereon out of any other personal property available. OAG June 1, 1945 (421-a-14).

Taxation of real estate subject to mortgage and other incumbrances. 20 MLR 347.

Liability of leased property for ad valorem tax where lessee pays gross earnings tax in lieu of other taxes on its property. 26 MLR 413.

Power of congress to immunize federal instrumentalities from state taxation. 26 MLR 414.

273.02 OMITTED PROPERTY.

1. **Generally**
2. **Omission does not affect tax liability**
3. **Taxes assessed but not placed on delinquent list**
4. **Lands omitted from tax books altogether**
5. **Assessment as of what time**
6. **Interest and penalties**
7. **Statute of limitations**

1. Generally

Personal property omitted from tax-rolls; liability of deceased owner's estate for such taxes. 11 MLR 477.

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273.03 ASSESSMENT; MODE.

Amended by L. 1947 c. 331 s. 1.

A state may levy a tax upon a limited interest or estate in real property and, upon default, hold a tax sale of such limited estate, subject to, and without impairing, an outstanding superior lien or other estate. Re Petition of S.R.A. Inc. 219 M 494, 18 NW(2d) 442.

Compensation of town and village assessors is paid by their respective local units, except when they attend a school of instruction under the county auditor, in which instance their expenses are paid by the county. OAG Aug. 8, 1945 (12).

This section does not authorize payment to the town clerk for a per diem and mileage for attendance at a meeting at the county auditor's office. OAG May 2, 1947 (406-D).

273.04 COMPENSATION OF ASSESSORS IN HENNEPIN COUNTY.

Amended by L. 1947 c. 388 s. 1.

273.05 BOND AND OATH OF ASSESSORS.

City assessors' bond should run to the state, and be approved by and filed with the county auditor. OAG May 15, 1945 (12-a).

273.06 DEPUTY ASSESSORS.

Assessor and deputy assessor should be of legal age. OAG April 19, 1943 (12-B).

Deputy assessor must give bond and take oath. OAG April 19, 1943 (12-B).

The assessor's wife may be employed as deputy assessor. OAG Aug. 26, 1943 (12-E).

If the village assessor is physically or mentally unable to act, he may, with the approval of the county auditor, appoint a deputy. OAG Nov. 29, 1945 (12-E).

273.071 COUNTY SUPERVISORS OF ASSESSMENTS; COUNTY ASSESSORS.

HISTORY. 1947 c. 531 s. 1.

County commissioners are not entitled to reimbursement of expenses in attending a meeting called by the commissioner of taxation under provisions of L. 1947, c. 531. OAG June 17, 1947 (124-B).

The budgeted expense for Becker county plus the expense created by L. 1947, c. 531, exceeds the maximum allowable limit of taxation for general revenue purposes. The proper procedure is to include the deficit in the levy for 1947 or 1948 in addition to the amount provided. OAG July 18, 1947 (519-D).

273.08 ASSESSOR'S DUTIES.

1. Assessments, when and how made
2. Listing by owner
3. Compensation

1. Assessments, when and how made

Except where improvements are on land owned by corporations paying gross earnings, or by the United States, buildings on leased land are taxed as part of the real estate. 1944 OAG 387, July 22, 1944 (474-J-1); 1944 OAG 388, Oct. 27, 1944 (408); 1944 OAG 389, Aug. 24, 1944 (408).

273.11 VALUATION OF PROPERTY.

Shares of corporate stock held by a resident in a domestic corporation the property of which is assessed and taxed in this state is not taxable as credits, even

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though a portion of the property of the corporation is located outside the state; and where the legislature has not prescribed any method for assessing such shares of a resident holder, in the event of the corporation having part of its property located in this state and part outside this state, the court is not warranted in supplying the same by degree. *Holmes v Borgen*, 200 M 97, 273 NW 623.

Although taxation is basically a legislative and executive function, fixing the value of property for taxation purposes may be delegated to the courts, by way of appeal, but the burden of proof as to value is upon the person challenging the valuation. *Kalscheuer v State*, 214 M 441, 8 NW(2d) 624.

Tax statutes provide for assessment of property at sale or market value as distinguished from cost or intrinsic value; but when there is no active sales market, the opinion of experts as to sales value is admissible. An income from the property is a factor to be considered in arriving at its sales value. *Kalscheuer v State*, 214 M 441, 8 NW(2d) 624.

The value of mining property for tax purposes is the price for which it will sell at a fair voluntary sale for cash. In the absence of sufficient representative sales, values may be determined by the judgment and opinion of men "acquainted with the lands, their adaptability for use, and the circumstances of the surrounding community." Whether certain cost factors and interest rates used in calculating net future profits and the reduction of the latter to present worth by the application of the "Hoskold" tables were proper presented fact questions for the board of tax appeals, the determination of which cannot be disturbed if there is any evidence reasonably tending to sustain the board's finding. Each case of valuation for tax purposes must be determined according to the conditions existing at the time, method of computation and formula used not being invariable. *Village of Aurora v Commissioner*, 217 M 64, 14 NW(2d) 292.

273.12 ASSESSMENT OF REAL PROPERTY.

Sections 273.11 and 273.12 provide a yardstick for determining true and full value as the selling price at the time of the assessment, and property must be valued and assessed even if no recent sales of similar property. If no recent sales, value must be determined by judgment and opinion of men whose experience and knowledge qualifies them to give reliable opinions as to fair value. *Kalscheuer v State*, 214 M 444, 8 NW(2d) 624; *Village of Aurora v Commissioner*, 217 M 80, 14 NW(2d) 292.

The apportionment of taxes and assessments is a legislative function. If the question of benefits is a matter upon which reasonable men may differ, the determination by the taxing officers must be sustained. *Qvale v City of Willmar*, 223 M 51, 25 NW(2d) 699.

In determining whether an improvement does or does not benefit property within the assessment district, the land should be considered simply in its general relations and apart from its particular use. *Qvale v City of Willmar*, 223 M 51, 25 NW(2d) 699.

Taxation of real estate subject to mortgage and other encumbrances. 20 MLR 347.

273.13 CLASSIFICATION OF PROPERTY.

Amended by L. 1947 c. 537 s. 1.

1. Generally
2. Class 1
3. Class 2
4. Class 3
5. Class 3a
6. Class 3b
7. Class 3c
8. Class 3d

9. Class 4
10. Homestead of member of U. S. Armed Forces in class 3b or 3c
11. Assessor may require proof

1. Generally

Under the wide open tax amendment the legislature has a wide discretion in classifying property for the purposes of taxation, but the classification must be based on differences which furnish a reasonable ground for making a distinction between the different classes. If there is a reasonable ground for making a distinction, and if the classification made bears a reasonable relation to a permitted end of governmental action, classification as to the subject-matter is reasonable. *State v Minnesota Farmer's Mutual*, 145 M 231, 176 NW 756; *State v Donovan*, 218 M 606, 16 NW(2d) 897.

The basis and authority for taxation of mining properties are sections 273.11, 273.12, and 273.13. *Village of Aurora v Commissioner*, 217 M 80, 14 NW(2d) 292.

When summer resort property is or is not a homestead is a question of fact, as is also whether or not a home is still a homestead when the owner is obliged to temporarily move out due to war conditions. 1944 OAG 391, July 5, 1944 (474-J-2); 1944 OAG 392, Feb. 14, 1944 (232-D).

Where a person owns 320 acres, the 80 acres farmed by him is assessed as a homestead while the 240 acres leased to others is not. 1944 OAG 394, June 28, 1944 (232-D).

The assessor determines in the first instance whether or not property may be classified as a homestead. OAG May 9, 1945 (232-D).

The state board of investment may purchase bonds, the purpose of which is to obtain funds for the opening of town roads provided the entire bonded indebtedness of the town does not exceed 15 per cent of the assessed valuation of the taxable property and also that the amount of bonds purchased does not constitute a net debt in excess of 10 per cent of the assessed valuation of the taxable property of the town as defined by section 475.03. OAG July 13, 1945 (928-A-9).

Section 273.13 applies to limitations on indebtedness of village and in computing assessed valuation of real estate for the purpose of fixing a limitation on the bonded indebtedness of a township. OAG Oct. 15, 1945 (43-B-4); OAG Feb. 28, 1946 (476-A-3).

In computing salaries based on assessed valuation, the assessed valuation is computed in accordance with the rule established in section 273.13. OAG Sept. 19, 1946 (347-i).

Requirements for constitutionality in case of a classified ad valorem property tax. 18 MLR 751.

2. Class 1

Where a lessee covenants to pay all taxes and assessments, ordinary and extraordinary, general and specific, this includes and he must pay the mining royalty tax. *Marble v Oliver Mining Co.* 172 M 263, 215 NW 71; *Fletcher v Lorain*, 172 M 271, 215 NW 180; *Flinn v Minn. Iron Co.* 172 M 272, 215 NW 180.

The sale or market value of a mine at the time of the assessment and as a basis for assessment is the amount that could be received through a voluntary sale for cash. *Village of Aurora v Commissioner*, 217 M 64, 14 NW(2d) 292.

If there are insufficient sales to establish a market price, values may be determined by the judgment and opinion of men "acquainted with the lands, their adaptability for use, and the circumstances of the surrounding community." *Village of Aurora v Commissioner*, 217 M 80, 14 NW(2d) 292.

4. Class 3

Valuation of gasoline; when tax included in taxable value. 1944 OAG 381, July 20, 1943 (254).

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When federal floor stocks tax is to be included in the true and full value of distilled liquors. OAG Aug. 10, 1944 (421-A).

6. Class 3b

Method of determining salary of a judge of probate based on the assessed valuation of property. 1942 OAG 199, July 18, 1942 (347-I).

Assessed valuation determining the salary of a village official. 1942 OAG 216, July 18, 1941 (469-A-1).

Platting of property does not necessarily change the status of land from Class 3b to Class 3c. 1942 OAG 296, March 26, 1942 (18-D).

10. Homestead of member of U. S. Armed Forces in class 3b or 3c

If a soldier complies with requirements of L. 1941, c. 438, subd. 2, he may claim his homestead exemption when away from home and not occupying it. 1942 OAG 307, May 23, 1942 (232-d).

It is a question of fact whether the premises are occupied for homestead purposes under section 273.13, as amended by L. 1943, c. 172. 1944 OAG 392, Feb. 14, 1944 (232-D).

273.18 LISTING, VALUATION, AND ASSESSMENT OF EXEMPT PROPERTY BY COUNTY AUDITOR.

The county auditor when listing real estate for tax purposes is not concerned with controversies between private claimants to the title of the land, and he performs his statutory duty if in preparing the list he shows the names of owners of land if known to him, and if not known to him, he should so state. OAG Aug. 6, 1943 (21-F).

273.19 LESSEES AND EQUITABLE OWNERS.

Proceedings to enforce the payment of real estate taxes are strictly in rem and not in personam, and where the vendee under a conditional sales contract has taken possession of the land his interest for the purpose of taxation is the same as that of any other owner and is taxable. Petition of S.R.A. 213 M 488, 7 NW(2d) 484.

273.26 PERSONALTY; WHERE LISTED.

For purposes of taxation, intangibles have a situs at taxpayer's commercial domicile; and dividends received by a corporation having a commercial domicile within the state from stocks of its subsidiaries not employed in its, but in their, business are assignable to the State of Minnesota under section 23(b) of the state income tax law. *Cargill v Spaeth*, 215 M 540, 10 NW(2d) 728.

A state may not impose a tax on a foreign corporation domiciled within its jurisdiction, when such tax is based upon or measured by income from intangibles of such corporation which have not acquired a business situs there and which are unrelated in every respect to the local business of said corporation within said state. Such tax is invalid under the due process clause of United States Constitution, Amendment XIV. *Marshall-Wells v Commissioner*, 220 M 458, 20 NW(2d) 93.

273.29 MERCHANTS AND MANUFACTURERS.

An article of interstate commerce may be exempt from taxation, and pulpwood cut in the state and afloat in a boundary river on May 1, on its way to Lake Superior to await transportation to another state, was an article of interstate commerce on the taxing date. *Hughes v State of Minnesota*, 47 SC 170, 272 US 469.

273.33 EXPRESS, STAGE AND TRANSPORTATION COMPANIES.

The unit rule in taxation of instrumentalities of interstate commerce; track mileage as a basis of assessment. 3 MLR 421.

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273.38 PERCENTAGE OF ASSESSMENTS; EXCEPTIONS.

Gas and electricity in interstate commerce. 18 MLR 611.

273.41 AMOUNT OF TAX.

NOTE: In view of the low rate of taxation granted to these rural electrification cooperatives, see rate accorded to their competitors under section 273.38.

273.51 LISTINGS AND STATEMENTS BY CORPORATIONS, COMPANIES, AND ASSOCIATIONS; EXCEPTIONS.

Valuation of capital stock and franchise of a corporation; indebtedness as a factor in taxation. 6 MLR 401, 421.

273.53 ASSESSMENT OF BANK AND MORTGAGE LOAN COMPANY STOCKS; PLACE OF; LISTS AND STATEMENTS; BASIS OF VALUATION; PERCENTAGE OF VALUATION.

The question whether L. 1925, c. 304, permits a discriminatory rate of taxation in favor of moneyed capital and capital investments within the state as represented by credits or intangibles and against money invested in shares of banking corporations presents issues of both fact and of law; and in the instant case the facts do not show any basis for determining that the tax imposed against shares of stock in banks is at a higher rate than moneyed capital coming into competition therewith, and L. 1925, c. 304, is valid. The limitation of power to tax shares in national banks does not deprive the state of its power to tax corporations created under its own laws. *Cherokee State Bank v Wallace*, 202 M 582, 278 NW 410.

State taxation of shares of national bank. 10 MLR 241, 271.