

## CHAPTER 276

## COLLECTION, ACCOUNTING, AND DISTRIBUTION

**276.01 LISTS TO TREASURER.**

Except certain provisions allowing payment of one-half of the real estate taxes prior to June 1 and of the remaining one-half prior to November, there is no statutory provision for making partial payment of such taxes without a court order designating manner of payment nor is there any statutory provision for paying real estate taxes under protest. OAG April 19, 1945 (450-F-1).

Injunction against collection of illegally assessed taxes; multiplicity of suits not favored. 19 MLR 133.

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

**276.02 TREASURER TO BE COLLECTOR.**

"The taxing power, when acting within its legitimate sphere, is one which knows no stopping-place until it has accomplished the purpose for which it exists, viz., the actual enforcement and collection from object of taxation of its proportionate share of the public burden; and, if delayed or prevented by obstacles, it may return again and again until, the way being clear, the tax is collected." County of Redwood v Winona & St. Peter, 40 M 512, 517, 41 NW 465, 42 NW 475; Nicol v Ames, 19 SC 525, 173 US 509; In re Petition of S.R.A. 213 M 492, 7 NW(2d) 484.

The auditor and treasurer of a county, acting under recommendation of the state public examiner, may not refuse in violation of law to pay over to a town the amount of current taxes collected for it upon the ground that the town is liable to the county for its proportionate share in prior losses caused by the insolvency of certain county depositories. Mandamus is the proper remedy to compel them to perform their statutory duties. State ex rel v County of Pennington, 211 M 569, 2 NW(2d) 41.

Where an action to recover from Cook County money paid as taxes on lands lying within the boundaries of Canada was in the form of an "action for money had and received," since the money received by the county was collected and received without authority the taxpayers were not bound to resort to statutory administrative proceedings. Pettibone v Cook County, 31 F. Supp. 881; 120 F(2d) 850.

Prior to June 1 the treasurer may not accept payments smaller in amount than the one-half of the real estate taxes. OAG April 19, 1945 (450-F-1).

Burden of intrastate sellers to account for their collection. 26 MLR 416.

While no action can be maintained to enforce the penal laws of a foreign state, a tax statute is not penal, and a state will not exclude a suit brought by a sister state to enforce its revenue laws. Comity should encourage such practice. 31 MLR 93.

**276.06 TAX RECEIPTS TO STATE APPORTIONMENT OF TAXES.**

Amended by L. 1947 c. 423 s. 1.

**276.09 SETTLEMENT BETWEEN AUDITOR AND TREASURER.**

Under the procedure prevailing in this state, taxes voted by a town board must be certified to the county auditor (section 275.07), who is required to calculate the rate, keeping it within legal bounds (section 275.08), and thereafter to extend it

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upon the tax list (section 275.28), for ultimate collection by the county treasurer (section 276.01). The county treasurer shall be the receiver and collector of all taxes extended upon the tax lists of the county, whether levied for state, county, city or town, or other purpose (section 276.02). On the last day of February, May, and October of each year, the county treasurer shall make full settlement with the county auditor of his receipts and collections for all purposes, from date of the last settlement, making complete returns of his collections on the current tax list, showing the amount collected on account of the several funds (section 276.09). As to distribution, see sections 276.10 and 276.11. State ex rel v Pennington County, 211 M 570, 2 NW(2d) 41.