

CHAPTER 278

OBJECTIONS AND DEFENSES TO TAXES ON REAL ESTATE

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

A new procedure for questioning the correctness of an assessment for tax purposes was prescribed by L. 1935, c. 300, s. 1. The question not having been raised, no decision is made in the instant case as to whether or not the remedy prescribed in chapter 300 is an exclusive remedy, the court properly assumed jurisdiction and decided the case on its merits. *Re delinquent Real Estate Taxes*, 212 M 563, 4 NW(2d) 783.

Landowners petitioning for cancellation of certain ditch assessments under L. 1935, c. 300 (section 278.01 et seq.), who did not file their petitions prior to June 1 of the year in which the assessments became payable, failed to comply with a material condition of the act; and the trial court properly dismissed the petitions. *Petition for cancellation of ditch assessments*, 213 M 70, 5 NW(2d) 64.

Where statutes, such as sections 278.01 or 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*, 214 M 364, 8 NW(2d) 219.

When a valid ditch assessment has not been levied the county auditor is without power to spread an assessment for ditch repairs against property. The power to levy an assessment for ditch repairs, being a legislative function, cannot be delegated by the county board. *Saxhaug v Co. 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 commenced under section 278.01 were not the same as contemplated by section 271.09 so as to permit a stay of proceedings before the board. The right of a municipality to appeal to the board of tax appeals from an order of the commissioner of taxation is governed by L. 1939, c. 431, art. 6, s. 15. *Village of Aurora v Commissioner*, 217 M 64, 14 NW(2d) 292.

Petitioner's application to county board of Martin county to have the land in question declared exempt from taxation and said board's denial thereof, pursuant to section 270.07, did not constitute a judgment and determination barring present proceedings taken pursuant to sections 278.01 to 278.13. Under section 278.01 a petition which alleged that certain described real estate "has been unlawfully assessed for taxation, and that the whole tax levied against the same is illegal" is sufficient in view of sections 278.02 and 278.05, and the liberal construction of section 278.01 contemplated by the legislature, to permit evidence that said real estate constituted a public hospital and as such was exempt under Minnesota Constitution, Article 9, Section 1, and section 272.02. *Fairmont Association v State*, 221 M 107, 21 NW(2d) 245.

The government sold a piece of surplus property located in St. Paul. It put the vendee in possession but retained the legal title, with right of re-entry, as security for portion of the purchase price. The state levied a tax and obtained a tax judgment. The petitioner, by certiorari, asks for determination of its claim that the property was tax exempt and asks a review of the judgments. Petitioner is the owner of the beneficial interest and in possession, and the fact that the legal title still rests in the United States does not put his private property in the exempt class. *S. R. A. v State*, 66 SCR 752.

An appeal from reassessment by the commission under section 270.17 does not exclude the parties from raising objections to the assessments under the provisions of section 278.01 et seq. 1944 OAG 397, April 20, 1944 (408-B).

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The statutes permit the payment of real estate taxes one-half prior to June 1 and the other half prior to November 1, but otherwise, except under court order, taxes cannot be paid under protest, nor will a partial payment be accepted. OAG April 10, 1945 (450-F-1).

278.02 PETITION MAY INCLUDE SEVERAL PARCELS.

Proceedings must be to the end to obtain substantial justice, and the trial must be on the merits of the case, disregarding technicalities. Strict rules of pleading do not apply. *Fairmont Hospital v State*, 221 M 107, 21 NW(2d) 251.

278.04 TREASURER MUST STAMP TAX LISTS.

The same defenses may be asserted by petition under section 278.01 as were asserted formerly by answer under section 279.15; the chief difference being that the taxpayer is required under section 278.01 to assert illegality and to pay part of the taxes before they become delinquent. In re *Slaughter*, 213 M 70, 5 NW(2d) 64; *Saxhaug v Co. of Jackson*, 215 M 495, 10 NW(2d) 722.

278.05 TRIAL OF ISSUES.

The statute requires the court to disregard matters of form and technicalities not affecting substantial merits; and in the instant case the question of exemption from taxation of the property of a community hospital association must be decided upon the evidence and issues presented. *Fairmont Assn. v State*, 221 M 107, 21 NW(2d) 245.

The issue before the board of tax appeals raised the question of undervaluation whereas the action in the district court was a question as to whether or not the commissioner's assessment should be sustained or lowered. The issues being different, the motion to stay proceedings before the board of tax appeals was properly denied. *Village of Aurora v Commissioner*, 217 M 64, 14 NW(2d) 292.

Public purpose doctrine; validity of an appropriation to a private corporation. 25 MLR 119.

278.07 JUDGMENT; AMOUNT; COSTS.

Where the petitioner in proceedings under Revised Statutes 1945, Chapter 278, is awarded judgment that a purported tax against his property is illegal, he is entitled under section 278.07 to his costs and disbursements. *Saxhaug v Co. of Jackson*, 215 M 490, 10 NW(2d) 722.

278.10 TO BE ENTERED IN JUDGMENT BOOK.

Amended by L. 1947 c. 163 s. 1.