

MINNESOTA STATUTES 1953 ANNOTATIONS

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COLLECTION, ACCOUNTING, DISTRIBUTION 276.10

The legislature, by enacting section 275.44, at a session later than the one enacting section 215.24 did not manifestly intend to repeal section 215.24 but effect must be given to both sections, and the special provision in section 215.24 must be considered as an exception to the general provisions of section 275.44 so that an examination being made by the public examiner, the cost thereof may be spread as a special levy over and above the \$50 per capita limitation. OAG May 12, 1948 (353-A-3).

CHAPTER 276

COLLECTION, ACCOUNTING, DISTRIBUTION

276.01 LISTS TO TREASURER

The tonnage tax paid on the watercraft in 1952 is in lieu of a personal property tax on such craft levied in 1952 for the year 1952 and payable on and after the first Monday in January, 1953. OAG May 7, 1952 (421-C-4).

The 1939 tax did not accrue on May 1, 1939, when it was levied, but it did accrue on the first Monday of January, 1940, when it became payable. The French and Latin origins of the word "accrue" and its derivatives justify the idea that anything "accrues" when it attaches itself to something else. In that sense, "accrual" is synonymous with "accretion." OAG Oct. 7, 1949 (425-C-17).

Current taxes are not payable until after the first Monday of January next following the assessment. OAG Jan. 14, 1953 (817-F).

276.02 TREASURER TO BE COLLECTOR

Taxes on real estate do not constitute a personal obligation of the land owner, and one voluntarily paying taxes on land owned by another cannot recover from the owner the amount so paid, and in condemnation proceedings where the state sought to have deducted from the verdict in favor of the property owner certain tax payments made by the University of Minnesota, the decision must be adverse to the state's claim with respect thereto. State ex rel v Barrett & Zimmerman, 228 M 96, 36 NW(2d) 590.

276.03 TREASURER TO COLLECT LOCAL ASSESSMENTS

A county treasurer may not accept payment of a general tax without it being accompanied by payment of a special assessment certified to him for payment against the same parcel of land. OAG March 23, 1950 (450-F-7).

276.04 NOTICE OF RATES

Unless expense is incurred in the preparation of duplicate tax lists, no payment is authorized. This may be paid to any person including a part-time employee of the county treasurer's office, but if the county treasurer does the work himself he is not entitled to compensation. OAG Dec. 28, 1951 (450-C-5).

276.10 APPORTIONMENT AND DISTRIBUTION OF FUNDS

Under the municipal housing authority act disbursement of tax proceeds is by the county treasurer. OAG Nov. 23, 1948 (430).

In the township of Rose, when the village of Roseville was incorporated, no village existed in the township. Thereafter, the voters determined to form a separate election and assessment district effective June 1, 1948. Under court proceedings, it was determined that the village of Roseville could be paid the taxes on personal property assessed on May 1, 1948, within the village of Roseville. On May 21, 1949, the village of Lauderdale was formed out of a part of the remaining Rose township

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and on March 7, 1949, Lauderdale became a separate election and assessment district. On March 29, 1949, an election was held to determine whether the remaining territory in the township of Rose should be incorporated as the village of Falcon Heights. No election has been held on the question of separation of election and assessing districts. All town taxes previously levied upon property within the present village of Lauderdale and not yet collected must, when collected, be credited and paid to the village of Lauderdale. All town taxes previously levied upon property within the present village of Falcon Heights and not yet collected must, when collected, be credited and paid to the village of Falcon Heights. The duty of distribution begins when the money from the taxes is collected. When and as collected, the collecting officer must credit the town taxes previously levied to the village, and, when remittance is made, it must be made to the treasurer of the village. As to Falcon Heights, the incorporation of the village embraced all the remaining area of the town of Rose and the village of Falcon Heights succeeds to the town funds. The effect of the incorporation of the village of Falcon Heights was to terminate the function of the town government and the former officers of the town are without authority except to perform the necessary duties incident to the closing of the affairs of their respective offices. The town treasurer is not entitled to receive the county auditor's warrant prescribed by section 276.10, nor is he now a treasurer of a municipal corporation within section 276.11. OAG May 13, 1949 (484-E-4).

276.13 DISTRIBUTION OF INTEREST, PENALTIES, AND COSTS

The commodity credit corporation is subject to the payment of penalties for delinquent taxes. OAG Oct. 13, 1951 (505-I).

276.15 ADDITIONAL APPROPRIATION BY STATE TO CERTAIN CITIES AND VILLAGES

HISTORY. Amended, 1949 c 647 s 1.

276.18 LIMITATION

HISTORY. Amended, 1949 c 647 s 2.

Whether or not a town can be bonded for the purpose of improving the roads is controlled by the limitation set forth in section 475.53, subdivision 2, wherein the indebtedness undertaken cannot exceed 40 percent of the assessed valuation. OAG June 20, 1952 (43-B-4).

CHAPTER 277

DELINQUENT PERSONAL PROPERTY TAXES, DEFENSES

277.02 DELINQUENT LIST FILED IN COURT; ANSWER; TRIAL

As to real estate taxes, where relief is available under Laws 1935, Chapter 300, establishing a method whereby taxpayers can have their rights determined with reference to such taxes without incurring a penalty and without running the risk of having the payment considered voluntary, proceedings under the Declaratory Judgments Act (M.S.A., Chapter 555) are not permitted. As to personal property taxes illegally levied, where the remedy provided by section 277.02 is unsatisfactory because payment before delinquency may be considered voluntary, while payment after delinquency may involve penalties, and where no method of obtaining relief comparable to that in the case of real estate taxes has been provided by the legislature, it is held, under the circumstances, that at the present time relief from illegally levied personal property taxes may be had under the Declaratory Judgments Act.

Demurrer to complaint is sustained where allegations showed that dairy company, which was in possession of the personal property assessed, was a private