

MINNESOTA STATUTES 1975 SUPPLEMENT

268.16 DEPARTMENT OF EMPLOYMENT SERVICES

to judgment or not, when, in his opinion, it shall be in the best interests of the state to do so. A compromise made hereunder shall be in the form the attorney general prescribes and in writing signed by the attorney general, the taxpayer or his representative, and the commissioner or his authorized representative. No compromise is authorized under this subdivision when the amount of contributions, interest, and penalties exceeds \$5,000.

[1975 c 108 s 1; 1975 c 302 s 3,4; 1975 c 336 s 22,23]

268.18 Return of benefits; offenses.

[For text of subs 1 to 3, see M.S.1974]

Subd. 4. Cancellation of benefits paid through error or fraud. When benefits paid through error or fraud are not repaid or deducted from subsequent benefit amounts as provided for in subdivisions 1 and 2 within six years after the date of the determination that benefits were paid through error or fraud, the commissioner may, in a manner he prescribes by regulation, cancel as uncollectible the benefit payments, and no administrative or legal proceedings shall be instituted under the Minnesota employment services law to enforce collection of those amounts.

[1975 c 336 s 24]

CHAPTER 270. DEPARTMENT OF REVENUE

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270.07 Power to abate.

Subdivision 1. The commissioner of revenue shall prescribe the form of all blanks and books required under this chapter. He shall hear and determine all matters of grievance relating to taxation. Except as otherwise provided by law, he shall have power to grant such reduction or abatement of assessed valuations or taxes and of any costs, penalties or interest thereon as he may deem just and equitable, and to order the refundment, in whole or in part, of any taxes, costs, penalties or interest thereon which have been erroneously or unjustly paid. Application therefor shall be submitted with a statement of facts in the case and the favorable recommendation of the county board or of the board of abatement of any city where any such board exists, and the county auditor of the county wherein such tax was levied or paid. In the case of gross earnings taxes the application may be made directly to the commissioner without the favorable action of the county board and county auditor, and the commissioner shall direct that any gross earnings taxes which may have been erroneously or unjustly paid shall be applied against unpaid taxes due from the applicant for such refundment. No reduction, abatement, or refundment of any special assessments made or levied by any municipality for local improvements shall be made unless it is also approved by the board of review or similar taxing authority of such municipality. The commissioner may refer any question that may arise in reference to the true construction of this chapter to the attorney general, and his decision thereon shall be in force and effect until annulled by the judgment of a court of competent jurisdiction. The commissioner shall forward to the county auditor a copy of the order by him made in all cases in which the approval of the county board is required. The commissioner may by written order abate, reduce, or refund any penalty or interest imposed by any law relating to taxation, if in his opinion the enforcement of such a penalty or the payment of such interest would be unjust and inequitable. Such order shall, in the case of real

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and personal property taxes, be made only on application and approval as provided in this section; in the case of all other taxes, such order shall be made on application of the taxpayer to the commissioner and, if the order is for an abatement, reduction or refund of over \$500, it shall be valid only if approved in writing by the attorney general.

An appeal may not be taken to the tax court from any order of the commissioner of revenue made in the exercise of the discretionary authority granted to him in this subdivision in response to a taxpayer's application for an abatement, reduction or refund of taxes, assessed valuations, costs, penalties or interest.

[For text of subs 2 to 4, see M.S.1974]

Subd. 5. Notwithstanding any other provision of law to the contrary, in the case of an overpayment of any tax collected by the commissioner of revenue, the commissioner may credit the amount of such overpayment against any uncontested delinquent tax liability on the part of the taxpayer who made the overpayment. An overpayment may be credited under this subdivision only if the uncontested delinquent liability has been assessed within ten years of the date on which the overpayment is credited. However, this limitation shall not be applicable if the delinquent liability has been entered into judgment or if legal action is pending for collection of the liability or for renewal of the judgment. An amount paid as tax shall constitute an overpayment even if in fact there was no tax liability with respect to which such amount was paid.

[1975 c 377 s 1,2]

270.075 Tax levy.

[For text of subd 1, see M.S.1974]

Subd. 2. As soon as practicable and not later than November 1 next following the levy of the tax, the commissioner shall give actual notice to the airline company of the assessed valuation and of the tax. The taxes imposed under sections 270.071 to 270.079 shall become due and payable on January 1 following the levy thereof. If any tax is not paid on the due date or, if an appeal is made pursuant to section 270.076, within 30 days after notice of an increased tax, a late payment penalty of ten percent of the unpaid tax shall be assessed. The unpaid tax and penalty shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid. All interest and penalties shall be added to the tax and collected as a part thereof.

[1975 c 377 s 3]

[For text of subs 3 and 4, see M.S.1974]

270.076 Appeal.

[For text of subd 1, see M.S.1974]

Subd. 2. In case of appeal from the assessment and levy of the tax, the airline company shall currently pay when due that portion of the tax which is admitted to be due. If the final determination of the litigation should result in sustaining the assessment and levy or in the finding that the amount paid by the airline company is insufficient, the difference between the amount paid and the amount which should have been paid shall be decreed delinquent taxes subject to interest, as hereinabove provided. If the final determination of the tax court or the supreme court shall result in increasing any assessment above that which was made final by the order of the commissioner from which the appeal is taken, then the taxes on such increased assessment shall be delinquent 30 days after notice of the amount of the

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increased tax shall have been given to the airline company by the commissioner.

[1975 c 377 s 4]

270.11 Powers; meetings.

[For text of subd 1, see M.S.1974]

Subd. 2. County auditor's reports of assessment filed with commissioner. The commissioner of revenue may require the auditor of each county in the state to file with him, on or before August 1, each year, complete abstracts of all real and personal property in the county, as equalized by the county board of equalization, and itemized by assessment districts, accompanied by a printed or typewritten copy of the proceedings of the county board of equalization, and it shall be the duty of the county auditor to so report to the commissioner of revenue.

The final abstract of assessments after adjustments by the state board of equalization and inclusion of any omitted property shall be submitted to the commissioner of revenue on or before January 1 of each calendar year.

[For text of subs 3 to 6, see M.S.1974]

Subd. 7. Appearances before the commissioner. A property owner may not appear before the commissioner for the purposes provided in subdivisions 5 or 6 unless a timely appearance in person, by counsel, or by written communication has been made before the county board of equalization as provided in section 274.13, to appeal the assessment of the property, or that he can establish that he did not receive notice of his market value at least five days before the local board of review meeting.

[1975 c 46 s 2; 1975 c 339 s 2]

270.12 State board of equalization; duties.

Subdivision 1. The commissioner of revenue shall constitute the state board of equalization. The board may adjourn from day to day and employ necessary clerical assistance.

Subd. 2. The board shall meet annually on August 15 at the office of the commissioner of revenue and examine and compare the returns of the assessment of the property in the several counties, and equalize the same so that all the taxable property in the state shall be assessed at its true and full value, subject to the following rules:

(1) The board shall add to the aggregate valuation of the real property of every county, which the board believes to be valued below its true and full value in money, such percent as will bring the same to its true and full value in money;

(2) The board shall deduct from the aggregate valuation of the real property of every county, which the board believes to be valued above its true and full value in money, such percent as will reduce the same to its true and full value in money;

(3) If the board believes the valuation of the real property of any town or district in any county, or the valuation of the real property of any county not in towns or cities, should be raised or reduced, without raising or reducing the other real property of such county, or without raising or reducing it in the same ratio, the board may add to, or take from, the valuation of any one or more of such towns or cities, or of the property not in towns or cities, such percent as the board believes will raise or reduce the same to its true and full value in money;

(4) The board shall add to the aggregate valuation of any class of personal property of any county, town, or city, which the board believes to be valued below the true and full value thereof, such percent as will raise the same to its true and full value in money;

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(5) The board shall take from the aggregate valuation of any class of personal property in any county, town or city, which the board believes to be valued above the true and full value thereof, such percent as will reduce the same to its true and full value in money;

(6) The board shall not reduce the aggregate valuation of all the property of the state, as returned by the several county auditors, more than one percent on the whole valuation thereof; and

(7) When it would be of assistance in equalizing values the board may require any county auditor to furnish statements showing assessments of real and personal property of any individuals, firms, or corporations within the county. The board shall consider and equalize such assessments and may increase the assessment of individuals, firms, or corporations above the amount returned by the county board of equalization when it shall appear to be undervalued, first giving notice to such persons of the intention of the board so to do, which notice shall fix a time and place of hearing. The board shall not decrease any such assessment below the valuation placed by the county board of equalization.

Subd. 3. When a taxing jurisdiction lies in two or more counties, and the sales ratio studies prepared by the department of revenue show that the average level of assessment in the several portions of the district in the different counties differs by more than ten percent, the board may order that the levy of the taxing jurisdiction be apportioned among the portions in the different counties in the same proportion as the adjusted assessed value as determined by the equalization aid review committee in each portion is to the total adjusted assessed value, as determined by the equalization aid review committee, of the taxing jurisdiction.

For the purposes of this section, the average level of assessment in a taxing jurisdiction or portion thereof shall be the aggregate assessment sales ratio. Assessed values as determined by the equalization aid review committee shall be the values as determined for the year preceding the year in which the levy to be apportioned is levied.

Actions pursuant to this subdivision shall be commenced subsequent to the annual meeting on August 15 of the state board of equalization, but notice of the action shall be given to the affected jurisdiction and the appropriate county auditors by the following September 15.

Apportionment of a levy pursuant to this subdivision shall be considered as a remedy to be taken after equalization pursuant to subdivision 2, and when equalization within the jurisdiction would disturb equalization within other jurisdictions of which the several portions of the jurisdiction in question are a part.

[1975 c 295 s 1]

270.16 Property omitted or undervalued; reassessment.

Subdivision 1. When it shall be made to appear to the commissioner of revenue, by complaint or by the finding of a court or of the legislature, or either body of the legislature, or any committee of the legislature, or any city council or county board, that any considerable amount of property has been improperly omitted from the tax list or assessment roll of any district or county for any year, or, if assessed, that the same has been undervalued or overvalued, as compared with like property in the same county or in the state so that the assessment for such year in such district or county is grossly unfair and inequitable, whether or not the same has been equalized by the county board of equalization or the commissioner of revenue, the commissioner of revenue shall examine into the facts in the matter and, if satisfied therefrom that it would be for the best interests of the state that a reassessment of such property be made, he shall appoint a special assessor and such deputy assessors as may be necessary and cause a reassessment to be made of all or any of the real and personal property, or either, in any such district or county as he may deem best, to the end that all property in such district or county shall be assessed equitably as compared with like property in such district or county.

Subd. 2. When an assessor has failed to appraise or has improperly appraised at least one quarter of the parcels of property in a district or county for two consecutive years, the commissioner of revenue shall appoint a special assessor and

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deputy assessor as necessary and cause a reappraisal to be made of the property due for reassessment pursuant to that section.

[1975 c 437 art 8 s 1]

270.41 Board of assessors.

A board of assessors is hereby created. The board shall be for the purpose of establishing, conducting, reviewing, supervising, coordinating or approving courses in assessment practices, and establishing criteria for determining assessor's qualifications. The board shall also have authority and responsibility to consider other matters relating to assessment administration brought before it by the commissioner of revenue. The board shall consist of nine members, who shall be appointed by the governor, in the manner provided herein.

1. Two from the department of revenue,
2. Two county assessors,
3. Two assessors who are not county assessors, one of whom shall be a township assessor, and
4. One from the private appraisal field holding a professional appraisal designation,
5. Two public members as defined by section 214.02.

The appointment provided in 1, 2 and 3, may be made from a list of not less than three names submitted to the governor by the commissioner of revenue containing recommendations for appointees described in 1, the Minnesota Association of Assessing Officers or its successor organization containing recommendations for the appointment of appointees described in 2, and the Minnesota Association of Assessors, Inc. or its successor organization containing recommendations for the appointees described in 3, 30 days before the commencement of the term. In the case of a vacancy, a new list shall be furnished to the governor by the respective organization immediately. In the event any member of the board shall no longer be engaged in the capacity listed above, he shall automatically be disqualified from membership in the board.

The board shall designate one of the appointees from the department of revenue to be the secretary of the board.

[1975 c 136 s 52]

270.42 Membership.

Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09.

[1975 c 136 s 53]

270.45 Disposition of fees.

All fees so established and collected shall be paid to the state treasurer for deposit in the general fund. The expenses of carrying out the provisions of sections 270.41 to 270.53 shall be paid from appropriations made to the board of assessors.

[1975 c 136 s 54]

270.48 Certification of qualified persons.

The board shall certify persons as possessing the necessary qualifications of an assessing official. Different levels of certification may be established as to classes of property which assessors may be certified to assess at the discretion of the board. Every person, except a local or county assessor, regularly employed by the assessor to assist in making decisions regarding valuing and classifying property for assessment purposes shall be required to become certified within three years of his date of employment or June 1, 1975, whichever is later. Certification shall be required for local and county assessors as otherwise provided in sections 270.41 to 270.53.

[1975 c 339 s 3]

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270.66 Right of setoff.

Upon certification by the commissioner of revenue to the commissioner of finance that a taxpayer has an uncontested delinquent tax liability owed to the commissioner of revenue, and notice that the state has purchased personal services, supplies, contract service, or purchased property from said taxpayer, the commissioner of finance shall apply to such delinquent tax liability funds sufficient to satisfy such unpaid tax liability from funds appropriated for payment of said obligation of the state or any of its agencies that are due and owing the taxpayer, provided however, that such credit shall not be made against any funds exempt under section 550.37 or owed the taxpayer under the provisions of chapter 256 or 256B.

All funds, whether general or dedicated, shall be subject to setoff in the manner herein provided. Transfer of funds as herein provided is payment of the obligation of the state or any of its agencies to such taxpayer and any actions for said funds, if any, shall be had against the department of revenue on the issue of such tax liability. Nothing in this section shall be construed to limit the previously existing right of the state or any of its agencies to setoff.

[1975 c 377 s 5]

270.70 Levy and distraint.

Subdivision 1. Authority of commissioner. If any tax payable to the commissioner of revenue or to the department of revenue is not paid when due, such tax may be collected by the commissioner of revenue by a levy upon all property and rights to property of the person liable for such tax, except that which is exempt from execution pursuant to section 550.37. For this purpose, the term "tax" shall include any penalty, interest and costs properly payable. The term "levy" includes the power of distraint and seizure by any means.

Subd. 2. Jeopardy collection. Before a levy is made, notice and demand for payment of the amount due shall be given to the person liable for the tax at least ten days prior to the levy. If the commissioner has reason to believe that collection of the tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the commissioner. If the tax is not paid, the commissioner may proceed to collect by levy without regard to the ten day period provided herein.

Subd. 3. Manner of execution and sale. In making the execution of the levy and in collecting the taxes due, the commissioner shall have all of the powers provided in chapter 550 and in any other law for purposes of effecting an execution against property in this state. The sale of property levied upon, and the time and manner of redemption therefrom, shall be as provided in chapter 550. The seal of the court, subscribed by the clerk, as provided in section 550.04, shall not be required. The levy for collection of taxes may be made whether or not the commissioner has commenced a legal action for collection of such taxes.

Subd. 4. Stay of sale. (a) Where a jeopardy assessment or any other assessment has been made by the commissioner, the property seized for collection of the tax shall not be sold until the time has expired for filing an appeal of the assessment with the tax court pursuant to chapter 271. If an appeal has been filed, no sale shall be made unless the taxes remain unpaid for a period of more than 30 days after final determination of the appeal by the tax court or by the appropriate judicial forum.

(b) Notwithstanding clause (a), seized property may be sold if

(i) the taxpayer consents in writing to the sale, or

(ii) the commissioner determines that the property is perishable or may become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense.

Subd. 5. Probate court jurisdiction. Where a levy has been made to collect taxes pursuant to subdivision 1 and the property seized is properly included in a formal proceeding commenced under sections 524.3-401 to 524.3-505 and maintained under full supervision of the court, such property shall not be sold until the probate pro-

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ceedings are completed or until the court so orders.

Subd. 6. Bond or security to release seizure. The property seized shall be returned by the commissioner if the owner gives a surety bond equal to the appraised value of his interest in the property, as determined by the commissioner, or deposits with the commissioner security in such form and amount as he deems necessary to insure payment of the liability, but not more than twice the liability.

Subd. 7. Injunction. Notwithstanding any other provision to the contrary, if a levy or sale pursuant to this section would irreparably injure rights in property which the court determines to be superior to rights of the state in such property, the district court may grant an injunction to prohibit the enforcement of such levy or to prohibit such sale.

Subd. 8. Surrender of property subject to levy. Any person who fails or refuses to surrender without reasonable cause any property or rights to property subject to levy, upon demand by the commissioner, shall be liable in his own person to the state of Minnesota in an amount equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made. Any amount recovered under this subdivision shall be credited against the tax liability for the collection of which such levy was made.

Subd. 9. Penalty. In addition to the personal liability imposed by subdivision 8, if any person required to surrender property or rights to property fails or refuses to surrender the property or rights to property without reasonable cause, such person shall be liable for a penalty equal to 25 percent of the amount recoverable under subdivision 8. No part of such penalty shall be credited against the tax liability for the collection of which such levy was made.

Subd. 10. Person defined. The term "person" as used in subdivision 8 includes an officer or employee of a corporation or a member or employee of a partnership who, as such officer, employee or member is under a duty to surrender the property or rights to property or to discharge the obligation.

Subd. 11. Optional remedy. Any action taken by the commissioner pursuant to this section shall not constitute an election by the state to pursue a remedy to the exclusion of any other remedy.

Subd. 12. Equitable relief. After the commissioner has seized the property of any person, that person may, upon giving 48 hours notice to the commissioner and to the court, bring a claim for equitable relief before the district court for the release of the property to the taxpayer upon such terms and conditions as the court may deem equitable.

[1975 c 377 s 6]

270.75 Interest payable to commissioner.

Subdivision 1. If any tax payable to the commissioner of revenue or to the department of revenue is not paid within the time specified by law for payment, the unpaid tax shall bear interest at the rate of eight percent per annum from the date such tax should have been paid until the date that the tax was paid, unless otherwise provided by law. Unpaid taxes collected under section 290.92 or under chapter 297A shall bear interest at the rate of ten percent per annum from the date such tax should have been paid until the date that the tax was paid.

Subd. 2. When an extension of time has been granted by the commissioner, interest shall be paid at the rate of eight percent per annum from the date such payment should have been made, if no extension had been granted, until the date of payment of such tax. Unpaid taxes collected under section 290.92 or under chapter 297A shall bear interest at the rate of ten percent per annum from the date such payment should have been made, if no extension had been granted, until the date of payment of such tax.

Subd. 3. If any penalty payable to the commissioner of revenue shall by law bear interest, such penalty shall bear interest at the rate of eight percent per annum from the date the penalty was assessable until the date that such penalty was paid, unless a different rate of interest is otherwise provided by law. Any penalty collected under section 290.92 or under chapter 297A shall bear interest at the rate

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of ten percent per annum from the date the penalty was assessable until the date that such penalty was paid.

Subd. 4. There shall be added to the amount of any underpayment of estimated income tax, computed pursuant to chapter 290, an amount in lieu of interest determined at the rate of eight percent per annum.

[1975 c 377 s 7]

CHAPTER 272. TAXATION, GENERAL PROVISIONS

Sec.
272.02 Exempt property.

Sec.
272.025 Filing requirement. [New]

272.02 Exempt property.

Subdivision 1. Except as provided in other subdivisions of this section or in section 272.025, all property described in this section to the extent herein limited shall be exempt from taxation:

- (1) All public burying grounds;
- (2) All public schoolhouses;
- (3) All public hospitals;
- (4) All academies, colleges, and universities, and all seminaries of learning;
- (5) All churches, church property, and houses of worship;
- (6) Institutions of purely public charity;
- (7) All public property exclusively used for any public purpose;
- (8) All natural cheese held in storage for aging by the original Minnesota manufacturer;

(9) (a) Class 2 property of every household of the value of \$100, maintained in the principal place of residence of the owner thereof. The county auditor shall deduct such exemption from the total valuation of such property as equalized by the revenue commissioner assessed to such household, and extend the levy of taxes upon the remainder only. The term "household" as used in this section is defined to be a domestic establishment maintained either (1) by two or more persons living together within the same house or place of abode, subsisting in common and constituting a domestic or family relationship, or (2) by one person.

(b) During the period of his active service and for six months after his discharge therefrom, no member of the armed forces of the United States shall lose status of a householder under paragraph (a) which he had immediately prior to becoming a member of the armed forces.

In case there is an assessment against more than one member of a household the \$100 exemption shall be divided among the members assessed in the proportion that the assessed value of the Class 2 property of each bears to the total assessed value of the Class 2 property of all the members assessed. The Class 2 property of each household claimed to be exempt shall be limited to property in one taxing district, except in those cases where a single domestic establishment is maintained in two or more adjoining districts.

Bonds and certificates of indebtedness hereafter issued by the state of Minnesota, or by any county or city of the state, or any town, or any common or independent school district of the state, or any governmental board of the state, or any county or city thereof, shall hereafter be exempt from taxation; provided, that nothing herein contained shall be construed as exempting such bonds from the payment of a tax thereon, as provided for by section 291.01, when any of such bonds constitute, in whole or in part, any inheritance or bequest, taken or received by any person or corporation.

(10) Farm machinery manufactured prior to 1930, which is used only for display purposes as a collectors item;

(11) The taxpayer shall be exempted with respect to, all agricultural products, inventories, stocks of merchandise of all sorts, all materials, parts and supplies, fur-