

CHAPTER 270

DEPARTMENT OF REVENUE

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270.06 POWERS AND DUTIES.

It shall be the duty of the commissioner of revenue and he shall have power and authority:

(1) To have and exercise general supervision over the administration of the assessment and taxation laws of the state, over assessors, town, county, and city boards of review and equalization, and all other assessing officers in the performance of their duties, to the end that all assessments of property be made relatively just and equal in compliance with the laws of the state;

(2) To confer with, advise and give the necessary instructions and directions to local assessors and local boards of review throughout the state as to their duties under the laws of the state;

(3) To direct proceedings, actions, and prosecutions to be instituted to enforce the laws relating to the liability and punishment of public officers and officers and agents of corporations for failure or negligence to comply with the provisions of the laws of this state governing returns of assessment and taxation of property, and to cause complaints to be made against local assessors, members of boards of equalization, members of boards of review, or any other assessing or taxing officer, to the proper authority, for their removal from office for misconduct or negligence of duty;

(4) To require county attorneys to assist in the commencement of prosecutions in actions or proceedings for removal, forfeiture and punishment for violation of the laws of this state in respect to the assessment and taxation of property in their respective districts or counties;

(5) To require town, city, county, and other public officers to report information as to the assessment of property, collection of taxes received from licenses and other sources, and such other information as may be needful in the work of the department of revenue, in such form and upon such blanks as he may prescribe;

(6) To require individuals, copartnerships, companies, associations, and corporations to furnish information concerning their capital, funded or other debt, current assets and liabilities, earnings, operating expenses, taxes, as well as all other statements now required by law for taxation purposes;

(7) To summon witnesses to appear and give testimony, and to produce books, records, papers and documents relating to any tax matter which he may have authority to investigate or determine. Provided, that any summons which does not identify the person or persons with respect to whose tax liability the summons is issued may be served only if (a) the summons relates to the investigation of a particular person or ascertainable group or class of persons, (b) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any tax law administered by the commissioner, (c) the information sought to be obtained from the examination

of the records (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from other sources, (d) the summons is clear and specific as to the information sought to be obtained, and (e) the information sought to be obtained is limited solely to the scope of the investigation. Provided further that the party served with a summons which does not identify the person or persons with respect to whose tax liability the summons is issued shall have the right, within 20 days after service of the summons, to petition the district court for the judicial district in which lies the county in which that party is located for a determination as to whether the commissioner of revenue has complied with all the requirements in (a) to (e), and thus, whether the summons is enforceable. If no such petition is made by the party served within the time prescribed, the summons shall have the force and effect of a court order;

(8) To cause the deposition of witnesses residing within or without the state, or absent therefrom, to be taken, upon notice to the interested party, if any, in like manner that depositions of witnesses are taken in civil actions in the district court, in any matter which he may have authority to investigate or determine;

(9) To investigate the tax laws of other states and countries and to formulate and submit to the legislature such legislation as he may deem expedient to prevent evasions of assessment and taxing laws, and to secure just and equal taxation and improvement in the system of assessment and taxation in this state;

(10) To consult and confer with the governor upon the subject of taxation, the administration of the laws in regard thereto, and the progress of the work of the department of revenue, and to furnish the governor, from time to time, such assistance and information as he may require relating to tax matters;

(11) To transmit to the governor, on or before the third Monday in December of each even-numbered year, and to each member of the legislature, on or before November 15 of each even numbered year, the report of the department of revenue for the preceding years, showing all the taxable property in the state and the value of the same; in tabulated form;

(12) To inquire into the methods of assessment and taxation and ascertain whether the assessors faithfully discharge their duties, particularly as to their compliance with the laws requiring the assessment of all property not exempt from taxation;

(13) To exercise and perform such further powers and duties as may be required or imposed upon the commissioner of revenue by law;

(14) The commissioner of revenue may promulgate rules and regulations for the administration and enforcement of the property tax. Such rules and regulations shall have the force and effect of law;

(15) To execute and administer any agreement with the secretary of the treasury of the United States regarding the exchange of information and administration of the tax laws of both the United States and the state of Minnesota;

(16) To administer and enforce the provisions of sections 325.64 to 325.76, the Minnesota Unfair Cigarette Sales Act.

History: 1983 c 180 s 1

270.067 TAX EXPENDITURE BUDGET.

Subdivision 1. **Statement of purpose.** State governmental policy objectives are sought to be achieved both by direct expenditure of governmental funds and by the granting of special and selective tax relief or tax expenditures. Both direct expenditures of governmental funds and tax expenditures have an effect on the

ability of the state and local governments to lower tax rates or to increase expenditures. As a result, tax expenditures should receive a regular and comprehensive review by the legislature as to (a) their total cost, (b) their effectiveness in achieving their objectives, (c) their effect on the fairness and equity of the distribution of the tax burden, and (d) the public and private cost of administering tax expenditure financed programs. This section is intended to facilitate a regular review of the state and local tax expenditure budget by the legislature by providing for the preparation of a regular biennial tax expenditure budget.

Subd. 2. Preparation; submission. The commissioner of revenue shall prepare a tax expenditure budget for the state. The tax expenditure budget report shall be submitted to the legislature as a supplement to the governor's budget and at the same time as provided for submission of the budget pursuant to section 16A.11, subdivision 1.

Subd. 3. Period covered. The report shall include estimates of annual tax expenditures for, at a minimum, a three-year period including the two-year period covered in the governor's budget submitted in the preceding January pursuant to section 16A.11.

Subd. 4. Contents. The report shall detail for each tax expenditure item the amount of tax revenue foregone, a citation of the statutory or other legal authority for the expenditure, and the year in which it was enacted or the tax year in which it became effective. The report may contain additional information which the commissioner considers relevant to the legislature's consideration and review of individual tax expenditure items. This may include, but is not limited to, statements of the intended purpose of the tax expenditure, analysis of whether the expenditure is achieving that objective, and the effect of the expenditure device on the distribution of the tax burden and administration of the tax system.

Subd. 5. Revenue estimates; legislative bills. Upon reasonable notice from the chairman of the house or senate tax committee that a bill is scheduled for hearing, the commissioner of revenue shall prepare an estimate of the effect on the state's tax revenues which would result from the passage of a legislative bill establishing, extending, or restricting a tax expenditure. These revenue estimates shall contain the same information as provided in subdivision 4 for expenditure items contained in the tax expenditure budget, as appropriate.

Subd. 6. Definitions. For purposes of this section, the following terms have the meanings given:

(1) "Tax expenditure" means a tax provision which provides a gross income definition, deduction, exemption, credit, or rate for certain persons, types of income, transactions, or property that results in reduced tax revenue.

(2) "Tax" means any tax of statewide application or any tax authorized by state law to be levied by local governments generally. It does not include a special local tax levied pursuant to special law or to a special local tax levied pursuant to general authority that is no longer applicable to local governments generally.

History: 1983 c 301 s 176

270.10 ORDERS, DECISIONS, REPORTS.

Subdivision 1. In writing; approval by attorney general. All orders and decisions of the commissioner of revenue, or any of his subordinates, respecting any tax, assessment, or other obligation, shall be in writing, filed in the offices of the department. No order or decision issued after June 30, 1983, increasing or decreasing any tax, assessment, or other obligation by a sum exceeding \$1,000 on

real or personal property, or the assessed valuation thereof, or other obligation relating thereto, the result of which is to increase or decrease the total amount payable including penalties and interest, by a sum exceeding \$1,000, and no order or decision increasing or decreasing any other tax by a sum exceeding \$1,000 exclusive of penalties and interest, shall be made without the written signature or facsimile signature of the commissioner, a deputy commissioner, assistant commissioner, division director, or acting division director in each case. Written notice of every order granting a reduction, abatement, or refundment exceeding \$5,000 of any tax exclusive of penalties and interest, shall be given within five days to the attorney general. The attorney general shall forthwith examine such order, and if he deems the same proper and legal he shall approve the same in writing, and may waive the right of appeal therefrom in behalf of the state; otherwise he shall take an appeal from the order in behalf of the state as herein provided; but written approval of the commissioner or his deputy and written notice to the attorney general, shall not be required with respect to the following orders: (1) orders reducing assessed valuation of property by reason of its classification as a homestead; (2) orders not involving refunds which have the effect only of correcting income and franchise tax assessments to conform to the amounts shown on final returns filed as provided by section 290.42, clause (6); (3) original orders for the refundment of gasoline and special fuel taxes.

[For text of subd 2, see M.S.1982]

Subd. 3. Reductions, abatements, refundments; statement. The commissioner shall maintain as a public record in the department a statement of all abatements, reductions, and refundments of assessments, taxes, or other obligations granted by the department during the biennium, which require the written approval of the commissioner or his deputy, and of which written notice to the attorney general is required, under the provisions of subdivision 1; and, all reductions of assessed valuation of more than \$100,000 and all reductions, refundments, or abatements of real estate tax of more than \$1,000 shall be separately shown in such statement. Such statement shall show the names of all taxpayers or other persons concerned, the original amount of each assessment, tax, or other obligation, the amount of abatement, reduction, or refundment allowed in each case, and the totals of the respective items, notwithstanding any provisions of law requiring secrecy to the contrary. The commissioner shall include in such statement the amount of all increases of taxes or assessments made by the department, classified in such manner as he may deem proper, but not showing the names of taxpayers or other persons concerned or the amounts in individual cases.

Subd. 4. Orders assessing personal liability. The commissioner may, based upon information available to him and within the prescribed period of limitations for assessing the underlying tax, assess personal liability against any officer, director, or employee of a corporation, or a member or employee of a partnership, who as an officer, director, employee, or member, falls within the personal liability provisions of section 290.92, chapter 296, or chapter 297A, for taxes arising thereunder which are due and owing by that corporation or partnership. An order assessing personal liability under this subdivision shall be appealable to the tax court without payment of the tax, penalty, or interest in the manner provided by law, but an appeal shall not preclude the commissioner from exercising any collection action he deems necessary to preserve the interests of the state while the matter is pending.

History: 1983 c 180 s 2; 1983 c 222 s 1,2

270.12 STATE BOARD OF EQUALIZATION; DUTIES.

[For text of subs 1 and 2, see M.S.1982]

Subd. 3. For taxes levied in 1983 and thereafter when a taxing jurisdiction lies in two or more counties, if the sales ratio studies prepared by the department of revenue show that the average levels of assessment in the several portions of the taxing jurisdictions in the different counties differ by more than five percent, the board shall order the apportionment of the levy, unless (a) the proportion of total adjusted assessed value in one of the counties is less than ten percent of the total adjusted assessed value in the taxing jurisdiction and the average level of assessment in that portion of the taxing jurisdiction is the level which differs by more than five percent from the assessment level in any one of the other portions of the taxing jurisdiction; (b) significant changes have been made in the level of assessment in the taxing jurisdiction which have not been reflected in the sales ratio study, and those changes alter the assessment levels in the portions of the taxing jurisdiction so that the assessment level now differs by five percent or less; or (c) commercial, industrial, mineral, or public utility property predominates in one county within the taxing jurisdiction and another class of property predominates in another county within that same taxing jurisdiction. If one or more of these factors are present, the board may order the apportionment of the levy.

If, pursuant to this subdivision, the board apportions the levy, then that levy apportionment among the portions in the different counties shall be made 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 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 November 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.

History: 1983 c 222 s 3

270.18 REASSESSMENT; COMPENSATION; REIMBURSEMENT BY COUNTIES.

The compensation of each special assessor and of his deputies, appointed under the provisions of sections 270.11, subdivision 3, and 270.16, and his expenses as such, shall be fixed by the commissioner of revenue and paid out of money appropriated for operation of the department of revenue. The commissioner of revenue on October 1 shall notify the auditor of each affected county of the amount thereof paid on behalf of such county since October 1 of the preceding year, whereupon the county auditor shall levy a tax upon the taxable property in the assessment district or districts wherein such reassessment was made sufficient to pay the same. One-half of such tax shall be levied in the year in which the

commissioner of revenue so notifies the county auditor and the remaining one-half shall be levied in the following year. The respective counties shall reimburse the state by paying one-half of the tax so assessed on or before July 1 and the remaining one-half on or before December 1 in the year in which the tax is payable by owner, whether or not the tax was collected by the county. The reimbursement shall be credited to the general fund. If any county fails to reimburse the state within the time specified herein, the commissioner of revenue is empowered to order withholding of state aids or distributions to such county equal to the amount delinquent.

History: 1983 c 343 s 4

270.19 MUNICIPALITIES TO BE PARTY TO TAX HEARINGS.

Any city, town, school district, or county (all of which governmental subdivisions shall be embraced in the word "municipality" as used hereinafter) may appear at and become a party to any proceedings before the commissioner of revenue held for the purpose of equalizing or assessing any real or personal property in such municipality, or reducing the assessed valuation of any such property. For that purpose any such municipality may employ counsel and disburse money for other expenses in connection with such proceedings, on duly itemized, verified claims, which shall be audited and allowed as now provided by law for the allowance of claims against a municipality. It shall be the duty of the commissioner of revenue, at the time of such hearing, to grant the municipality, at its request, such further reasonable time as may be necessary for such municipality to prepare for further hearing. Before granting any reduction in assessed valuation exceeding \$100,000, it shall be the duty of the commissioner of revenue, when any taxpayer or property owner has applied to the commissioner after June 30, 1983, for a reduction of the assessed valuation of any real or personal property in an amount exceeding \$100,000, to give written notice to the officials of the municipality wherein such property is located and to permit such municipality to have reasonable opportunity to be heard at any proceedings concerning such reduction.

History: 1983 c 222 s 4

270.22 FINDINGS OF FACT.

The commissioner of revenue shall determine the controversy upon the evidence produced at the hearing and shall make and file written findings of fact and his order determining the controversy. In the equalization and determination of valuations, the findings and values as given by the assessor of the local assessment district shall be considered as prima facie correct. Copies of the order and findings shall be mailed to all parties appearing at the hearing and to the auditor of the county in which the property is located. Any municipality which has appeared in the proceedings, and which is aggrieved by the order of the commissioner of revenue reducing the assessed valuation of any the property, or failing to increase the assessed valuation, may have the order of the commissioner of revenue reviewed by appeal to the court of appeals, on either of the following grounds: (a) that the determination of the commissioner of revenue was not in accordance with the laws relating to the assessment of property, or that the commissioner of revenue committed any other error of law; or (b) that the findings of fact and determination of value were unwarranted by or were contrary to the weight of the evidence.

Any owner of property who has appeared in the proceedings and who is aggrieved by the order of the commissioner of revenue raising the assessed valuation of the property, or failing to reduce the assessed valuation, may have the order of the commissioner of revenue reviewed on appeal to the court of appeals in like manner and upon the same grounds as provided for review on the appeal of any municipality.

History: 1983 c 247 s 115

270.23 NOTICE OF APPEAL.

To secure review, the municipality shall, within 30 days after mailing of notice of the determination by the commissioner of revenue, serve upon the commissioner of revenue a notice of appeal to the court of appeals from the order of the commissioner of revenue and file the original, with proof of service, with the clerk of the appellate courts, paying the filing fee provided by law for appeals in civil actions. The filing of the notice of appeal shall vest the court with jurisdiction and the appeal shall be heard and disposed of as in other civil cases.

The court shall reverse or affirm the order of the commissioner of revenue or remand the cause to the commissioner of revenue for a new hearing or further proceedings or for other disposition, with further directions as the court deems proper.

History: 1983 c 247 s 116

270.26 PROCEEDINGS TO DETERMINE ASSESSED VALUATION.

The proceedings provided in this section are for determining the assessed valuation upon the basis of which taxes are spread against property, or its owner, in the first instance. The order of the commissioner of revenue, or the final order for judgment of the court of appeals on it, shall not be a bar to any defense against the taxes interposed at the time of the proceedings for judgment on them. All defenses which may be set up against the proceedings for judgment upon the taxes may be asserted notwithstanding the determination of the commissioner of revenue or the court. If the taxes are levied or extended pending review of the order of the commissioner of revenue by the court, a judgment entered upon the taxes in the tax delinquency proceedings shall not be a bar to the spreading of further taxes against the property for that year, in the event the assessed valuation of the property is raised as herein provided. In the proceedings for the collection of any taxes which include an additional levy because of the raising of the assessed valuation of any property, the owner may answer separately to the proceedings to obtain judgment for the excess levy.

History: 1983 c 247 s 117

270.60 TAX REFUND AGREEMENTS WITH INDIANS.

The commissioner of revenue is authorized to enter into a tax refund agreement with the governing body of any Sioux or Chippewa reservation in Minnesota. The agreement may provide for a mutually agreed upon amount as a refund to the governing body of any sales or excise tax paid by the Indian residents of a reservation into the state treasury, or for an amount which measures the economic value of an agreement by the council to pay the equivalent of the state sales tax on items included in the sales tax base but exempt on the reservation, notwithstanding any other law which limits the refundment of taxes.

There is annually appropriated from the general fund to the commissioner of revenue the amounts necessary to make the refunds provided in this section.

History: 1983 c 342 art 6 s 1

270.68 LEGAL ACTION; CONFESSION OF JUDGMENT.

[For text of subd 1, see M.S.1982]

Subd. 2. Appeals. Either party to an action or a judgment for the recovery of any taxes, interest, or penalties under subdivision 1 may appeal the judgment as in other civil cases.

[For text of subds 3 and 4, see M.S.1982]

History: 1983 c 247 s 118

270.69 LIEN FOR TAXES.

Subdivision 1. Creation of lien. The tax imposed by any chapter administered by the commissioner of revenue, and interest and penalties imposed with respect thereto, including any recording fees, sheriff fees, or court costs that may accrue, shall become a lien upon all the property within this state, both real and personal, of the person liable for the payment or collection of the tax, except his homestead, from and after the filing by the commissioner of a notice of lien in the office of the county recorder of the county in which the property is situated, or in the case of personal property belonging to an individual who is not a resident of this state, or which is a corporation, partnership, or other organization, in the office of the secretary of state.

[For text of subds 2 and 3, see M.S.1982]

Subd. 4. Period of limitations. The lien imposed by this section shall, notwithstanding any other provision of law to the contrary, be valid and enforceable for ten years from the date of filing the notice of lien, which must be filed by the commissioner within five years after the tax should have been paid or the return is filed, whichever is later. A notice of lien filed in one county may be transcribed to any other county within ten years after the date of its filing, but the transcription shall not extend the period during which the lien is enforceable.

[For text of subds 5 and 6, see M.S.1982]

Subd. 7. Notice of mortgage foreclosure or contract termination. If a lien has been filed by the commissioner of revenue against real property pursuant to this section, and, subsequent to the recording of the lien, a mortgage foreclosure upon the real property is commenced under chapter 580, or a termination of contract of sale of the real property is commenced under section 559.21, notice of the mortgage foreclosure or termination of contract of sale shall be mailed to the commissioner not less than 25 days prior to the foreclosure or termination. Provided, notice need not be given pursuant to this subdivision if the lien of the commissioner has been filed within 30 days or less prior to the foreclosure or termination. The contents of the notice shall be as prescribed in section 7425(c)(1) of the Internal Revenue Code of 1954, as amended through December 31, 1982.

Subd. 8. Filing entitlement. Execution of notices of liens or of other notices affecting state tax liens by the commissioner of revenue or his delegate entitles

them to be filed, and no other attestation, certification, or acknowledgement is necessary.

History: 1983 c 180 s 3-6

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 within five years after the tax should have been paid or the return is filed, whichever is later, or if the tax judgment has been filed, within the statutory period of enforcement of a valid tax judgment, by a levy upon all property and rights to property of the person liable for the payment or collection of such tax (except that which is exempt from execution pursuant to section 550.37) or property on which there is a lien provided in section 270.69. 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.

[For text of subs 2 to 9, see M.S.1982]

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. The personal liability imposed by subdivision 8 and the penalty imposed by subdivision 9 may, after demand to honor a levy has been made, be assessed by the commissioner within 60 days after service of the levy. An assessing tax order under this subdivision shall be appealable to the tax court without payment of the tax, penalty, or interest in the manner provided by law, but an appeal shall not preclude the commissioner from exercising any collection action he deems necessary to preserve the interests of the state while the matter is pending.

[For text of subs 11 to 13, see M.S.1982]

Subd. 14. Priority of levy. Notwithstanding section 52.12, a levy by the commissioner made pursuant to the provisions of this section upon a taxpayer's funds on deposit in a financial institution located in this state, shall have priority over any unexercised right of setoff of the financial institution to apply the levied funds toward the balance of an outstanding loan or loans owed by the taxpayer to the financial institution. A claim by the financial institution that it exercised its right to setoff prior to the levy by the commissioner must be substantiated by evidence of the date of the setoff, and shall be verified by the sworn statement of a responsible corporate officer of the financial institution. Furthermore, for purposes of determining the priority of any levy made under this section, the levy shall be treated as if it were an execution made pursuant to chapter 550.

[For text of subs 15 and 16, see M.S.1982]

History: 1983 c 180 s 7-9

270.75 INTEREST PAYABLE TO COMMISSIONER.

[For text of subs 1 to 4, see M.S.1982]

Subd. 5. The rates of interest or amount in lieu of interest contained in subdivisions 1 to 4 shall be adjusted by the commissioner of revenue not later than October 15 of 1983 and any year thereafter if the adjusted prime rate charged by

banks during the six-month period ending on September 30 of that year, rounded to the nearest full percent, is at least a full percentage point more or less than the interest rate which is then in effect. The adjusted rate of interest or amount in lieu of interest shall be equal to the adjusted prime rate charged by banks, rounded to the nearest full percent, and shall become effective on January 1 of the immediately succeeding year except as provided in subdivision 4. For purposes of this subdivision, the term "adjusted prime rate charged by banks" means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System. The determination of the commissioner pursuant to this subdivision shall not be considered a "rule" and shall not be subject to the Administrative Procedure Act contained in chapter 14.

[For text of subds 6 and 7, see M.S.1982]

History: 1983 c 207 s 1