

## CHAPTER 271

## TAX COURT

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**271.001** [Repealed, 1977 c 307 s 31]

### 271.01 CREATION.

Subdivision 1. **Membership, appointment, qualifications.** There is hereby created a tax court as an independent agency of the executive branch of the government. The tax court shall consist of three judges, each of whom shall be a citizen of the state, appointed by the governor, by and with the advice and consent of the senate, for a term of six years commencing at the expiration of the preceding term. Any vacancy shall be filled by the governor for the unexpired term, subject to confirmation by the senate. The terms of the judges shall end on the first Monday in January. The terms of the judges shall be staggered. The initial three terms to be filled pursuant to Laws 1977, Chapter 307 will expire on the first Monday in January in the following years: 1979, 1981, and 1983. Judges may serve until their successors are appointed and qualify. They shall be selected on the basis of their experience with and knowledge of taxation and tax laws. The judges of the tax court shall be subject to the provisions of the Minnesota Constitution, Article VI, Section 6, the jurisdiction of the commission on judicial standards, as provided in sections 490.15 and 490.16, and the provisions of the code of judicial conduct.

Subd. 2. [Repealed, 1977 c 307 s 31]

Subd. 2a. [Repealed, 1977 c 307 s 31]

Subd. 3. [Repealed, 1976 c 134 s 79]

Subd. 4. [Repealed, 1971 c 753 s 2]

Subd. 4a. **Expenses.** Each judge of the tax court shall receive his actual and necessary expenses paid or incurred in the performance of his duties as provided in section 43A.04, subdivision 3.

Subd. 5. **Jurisdiction.** The tax court shall have statewide jurisdiction. Except for an appeal to the supreme court or any other appeal allowed under this subdivision, the tax court shall be the sole, exclusive, and final authority for the hearing and determination of all questions of law and fact arising under the tax laws of the state, as defined in this subdivision, in those cases that have been appealed to the tax court and in any case that has been transferred by the district court to the tax court. The tax court shall have no jurisdiction in any case that does not arise under the tax laws of the state or in any criminal case or in any case determining or granting title to real property or in any case that is under the jurisdiction of the probate court. The small claims division of the tax court shall have no jurisdiction in any case dealing with property valuation or assessment for property tax purposes until the taxpayer has appealed the valuation or assessment to the town or city board of equalization and to the county board of equalization, except for those taxpayers

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whose original assessments are determined by the commissioner of revenue. A property owner, other than a public utility, mining company, or railroad company for which the original assessments are determined by the commissioner of revenue, may not appear before the tax court 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 ten days before the county board of review meeting. The tax court shall have no jurisdiction in any case involving an order of the state board of equalization unless a taxpayer contests the valuation of his property. Only the taxes, aids and related matters contained in chapters 60A, 69, 124, 270, 272, 273, 274, 275, 276, 277, 278, 279, 285, 287, 288, 290, 290A, 291, 292, 293, 294, 295, 296, 297, 297A, 297B, 298, 299, 299F, 340, 473, 473F, and 477A shall be considered tax laws of this state subject to the jurisdiction of the tax court. This subdivision shall not be construed to prevent an appeal, as provided by law, to an administrative agency, board of equalization, or to the commissioner of revenue. Wherever used in chapter 271, the term commissioner shall mean the commissioner of revenue, unless otherwise specified.

**Subd. 6. Pending cases.** A case arising under the tax laws of this state, as defined in subdivision 5, which was pending on July 1, 1977 may be transferred to the tax court by the district court in which it was pending.

**History:** 1939 c 431 art 6 s 10; 1943 c 533 s 1; 1965 c 698 s 2,3; 1969 c 1125 s 1; 1971 c 226 s 2; 1971 c 753 s 1; 1973 c 582 s 3; 1974 c 355 s 36; 1976 c 134 s 61,62,78; 1977 c 307 s 2-4,29; 1977 c 432 s 5; 1978 c 672 s 1; 1981 c 210 s 54; 1984 c 502 art 11 s 2; 1984 c 592 s 82 (2362-10)

## 271.02 OFFICERS.

The judges of the tax court shall choose a chief judge of the tax court. The chief judge of the tax court shall appoint one of the judges to serve as the administrator, who shall be custodian of the court's files and records and shall coordinate and make hearing assignments. The administrator may appoint employees who shall be in the unclassified service. The judge who is appointed the administrator may delegate his duties as administrator to the employees whom he has appointed and may select one employee to act in his place as the assistant administrator. The clerk of district court in each county shall be the clerk of the tax court in that county. Filing fees and library fees deposited with the clerk of district court in his capacity as clerk of the tax court and in cases originally commenced in district court and transferred to the tax court shall be retained by the clerk of district court. The tax court clerk in each county shall be subject to the supervision of the administrator in tax court matters.

**History:** 1939 c 431 art 6 s 11; 1965 c 698 s 3; 1976 c 134 s 78; 1977 c 307 s 5,29; 1978 c 672 s 2; 1981 c 356 s 338 (2362-11)

## 271.03 SEAL.

The tax court shall have a seal, engraved with the words, "State of Minnesota, Tax Court". Such seal may be used to authenticate the official acts of the tax court or any judge thereof, but failure to use the seal shall not invalidate any such act.

**History:** 1939 c 431 art 6 s 12; 1965 c 698 s 3; 1976 c 134 s 78; 1977 c 307 s 29 (2362-12)

**271.04 HEARINGS.**

The tax court shall hold hearings and meetings as may be prescribed by the rules of the tax court. The principal office of the tax court shall be at the capitol, but it shall hold hearings at any other place within the state, so that taxpayers may appear before the court with as little inconvenience and expense to the taxpayer as is practicable. The tax court shall be allowed to use the district court and county court room in all of the counties. The administrator of the tax court shall consult with the district and county court judges involved before a schedule of court room to be used by the tax court is established. Each tax court judge may hear and decide cases. Upon petition by a party to a case, or upon a motion by a tax court judge, and approval by a majority of the tax court, a case may be tried before the entire tax court. When an appeal is taken by a resident taxpayer from an order of the commissioner, not involving property taxes, venue for the case shall be, at the election of the taxpayer, in Ramsey county or in the district court judicial district in which the taxpayer resides. Venue shall be in Ramsey county for an appeal taken by a non-resident taxpayer from an order of the commissioner. Venue for all other cases arising under the tax laws of the state shall be in the same judicial district as if the case was being tried in district court.

**History:** 1939 c 431 art 6 s 13; 1965 c 698 s 3; 1976 c 134 s 78; 1977 c 307 s 6; 1978 c 672 s 3 (2362-13)

**271.05 POWER TO REVIEW.**

The tax court shall have power to review and redetermine orders or decisions of the commissioner of revenue upon appeal therefrom in the cases authorized by law.

**History:** 1939 c 431 art 6 s 14; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 29 (2362-14)

**271.06 APPEALS FROM ORDERS.**

Subdivision 1. **Manner.** Except as otherwise provided by law, an appeal to the tax court may be taken, in the manner herein provided, from any official order of the commissioner of revenue respecting any tax, fee, or assessment, or any matter pertaining thereto, or any matter concerning the tax laws listed in section 271.01, subdivision 5, by any person directly interested therein or affected thereby, or by any political subdivision of the state, directly or indirectly, interested therein or affected thereby, or by the attorney general in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the attorney general, upon request, shall refuse to appeal. Notwithstanding subdivision 2, when an appeal is taken to the tax court in any case dealing with property valuation, assessment, or taxation for property tax purposes, the provisions of section 274.19, subdivisions 4 and 5, section 277.011, and chapter 278 shall apply as if the appeal had been taken to the district court.

Subd. 2. **Time; notice; intervention.** Except as otherwise provided by law, within 60 days after notice of the making and filing of an order of the commissioner of revenue, the appellant, or his attorney, shall serve a notice of appeal upon the commissioner and file the original, with proof of such service, with the tax court administrator or with the clerk of district court acting as clerk of the tax court; provided, that a tax court judge, for cause shown, may by written order extend the time for appealing for an additional period not exceeding 30 days. The notice of appeal shall be in the form prescribed by the tax court. Within five days after receipt, the commissioner shall transmit a copy of the notice of appeal to the attorney general in all cases where the amount at issue exceeds \$100. The attorney general shall represent the commissioner, if requested, upon all such appeals except

in cases where the attorney general has appealed in behalf of the state, or in other cases where he deems it against the interests of the state to represent the commissioner, in which event the attorney general may intervene or be substituted as an appellant in behalf of the state at any stage of the proceedings.

Upon a final determination of any other matter concerning the tax laws listed in section 271.01, subdivision 5, the taxpayer or his attorney shall file a petition or notice of appeal as provided by law with the clerk of district court, acting in the capacity of clerk of the tax court, with proof of service of the petition or notice of appeal as required by law and within the time required by law. As used in this subdivision, "final determination" includes a notice of assessment and equalization for the year in question received from the local assessor, an order of the local board of equalization, or an order of a county board of equalization.

The tax court shall prescribe a filing system so that the notice of appeal or petition filed with the tax court clerk is forwarded to the tax court administrator. In the case of an appeal or a petition concerning property valuation for which the assessor, a local board of equalization, a county board of equalization or the commissioner of revenue has issued an order, the officer issuing the order shall be notified of the filing of the appeal. The notice of appeal or petition shall be in the form prescribed by the tax court.

**Subd. 3. Pleadings.** Within 20 days after the service and filing of the notice of appeal, unless the appeal be theretofore dismissed, the commissioner or the appropriate unit of government shall make, certify, and file with the tax court a return comprising a copy of any application or petition by which the proceeding was instituted and of any other material paper preceding the order of the commissioner or the appropriate unit of government, a copy of the order appealed from, a statement of each finding of fact and ruling of law made by the commissioner or the appropriate unit of government in the matter, and a denial, admission, or explanation with respect to each allegation of fact in the notice so far as not covered by the order or findings; provided, that any judge of the tax court, for cause shown, may extend the time for filing such return for an additional period not exceeding 30 days. Where the commissioner is required to transmit a copy of the notice of appeal to the attorney general, he shall, within ten days after service of the notice of appeal upon the commissioner, transmit to the attorney general a complete copy of all papers required for the return. Allegations of new matter in the return shall be deemed to be denied by the appellant.

**Subd. 4. Appeal fee.** At the time of filing the notice of appeal the appellant shall pay to the clerk of the tax court an appeal fee of \$25; provided, that no appeal fee shall be required of the commissioner of revenue, the attorney general, the state or any of its political subdivisions. In small claims division, the appeal fee shall be \$2. The provisions of chapter 563, providing for proceedings in forma pauperis, shall also apply for appeals to the tax court.

**Subd. 5. Modification or rescission of orders.** At any time before final determination of an appeal by the tax court, the commissioner may, upon notice to the appellant and with the approval of the attorney general, offer to modify or rescind the order appealed from and, if such action be satisfactory to the appellant and to all other parties appearing in the proceeding, if any, and they shall stipulate thereto in writing, the proposed modification or rescission shall be made by the commissioner, and the appeal shall thereupon be dismissed, with such adjustment of costs as may be agreed upon between the commissioner and the appellant and specified in the stipulation.

**Subd. 6. Hearings; determination of issues; default.** The tax court shall hear, consider, and determine without a jury every appeal de novo. A tax court judge may empanel an advisory jury upon his motion. The tax court shall hold a

public hearing in every case. All such parties shall have an opportunity to offer evidence and arguments at the hearing; provided, that the order of the commissioner or the appropriate unit of government in every case shall be prima facie valid. When an appeal to the tax court has been taken from an order or determination of the commissioner or from the appropriate unit of government, the proceeding shall be an original proceeding in the nature of a suit to set aside or modify the order or determination. In case no appellant shall appear the tax court shall enter its order affirming the order of the commissioner of revenue or the appropriate unit of government from which the appeal was taken. If the department of revenue's sales ratio study is introduced in tax court as evidence, the sales ratio data from the study shall be admissible as evidence only as provided in section 278.05, subdivision 4.

**Subd. 7. Rules.** The rules of civil procedure for the district court of Minnesota shall govern the procedures in the tax court, where practicable. The rules of the tax court in effect on July 1, 1977 shall govern until superseded. The tax court may make additional rules when the law or special circumstances so require, provided that before any additional rule is adopted, the tax court first holds a public hearing thereon, affording all affected interests an opportunity to participate, and gives notice of its intention to hold a hearing at least 30 days prior to the date set for the hearing by United States mail, to representatives of associations or other interested groups or persons who have registered their names with the court for that purpose and in the state register. The notice in the state register shall include the full text of the rule proposed for adoption. The tax court shall make available at least one free copy of the proposed rule to any person requesting it. At the public hearing the tax court shall make an affirmative presentation of facts establishing the need for and reasonableness of the rule proposed for adoption and fulfilling any relevant substantive or procedural requirements imposed on the tax court by law. After the hearing ends, 20 days shall be allowed for written material to be submitted and recorded in the hearing record. If the tax court approves the rule, the tax court shall promptly publish a notice of adoption in the state register. A rule is effective five working days after the notice of adoption is published in the state register unless a later date is specified in the rule. Any rule adopted after July 1, 1977, which is not published in the state register, shall be of no effect. The tax court is exempt from the administrative procedure act but, to the extent authorized by law to adopt rules, may use the provisions of section 14.38, subdivisions 5 to 9.

**History:** 1939 c 431 art 6 s 15; 1943 c 174 s 3; 1945 c 604 s 23,24; 1957 c 770 s 1; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 7-12,29; 1978 c 672 s 4; 1979 c 333 s 95; 1981 c 253 s 29; 1982 c 424 s 130; 1984 c 502 art 11 s 3 (2362-15)

#### **271.07 STENOGRAPHIC REPORT; TRANSCRIPT.**

Except in the small claims division, the tax court shall provide for a verbatim stenographic report of all proceedings had before it upon appeals, as required by the laws relating to proceedings in district court. In case of a review by the supreme court of an order of the tax court, transcripts of the proceedings before the tax court shall be furnished to the tax court, the commissioner, and the attorney general upon request, and the cost thereof shall be paid out of funds appropriated therefor upon such terms as the tax court may prescribe. Transcripts shall be furnished to other parties by the reporter at the same legal rates applicable at the time to the district court reporters of the county in which the case was tried, but no transcript shall be made for or delivered to such other party unless he shall deposit the estimated cost

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thereof, in advance, with the clerk, subject to payment of the actual cost therefrom as soon as determined.

*History: 1939 c 431 art 6 s 16; 1965 c 698 s 3; 1976 c 134 s 78; 1977 c 307 s 13,29 (2362-16)*

## 271.08 FINDINGS OF FACT; DECISION, ENTRY OF JUDGMENT.

Subdivision 1. The tax court, except in small claims division, shall determine every appeal by written order containing findings of fact and the decision of the tax court. A memorandum of the grounds of the decision shall be appended. A certified copy of the order shall be transmitted to the commissioner of revenue or the appropriate unit of government and filed in that office. Notice of the entry of the order and of the substance of the decision shall be given by mail to all other parties who have appeared, and also, in all cases where the amount at issue exceeds \$100, to the attorney general.

Subd. 2. Upon the filing of the order of the tax court, described in subdivision 1, with the clerk of the tax court, judgment shall be entered thereon in the same manner as in the case of an order of the district court.

*History: 1939 c 431 art 6 s 17; 1945 c 604 s 25; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 14,29 (2362-17)*

## 271.09 APPEALS AND REVIEWS.

Subdivision 1. **Exclusive remedy.** Except as otherwise provided in sections 270.07, subdivision 1, and 271.01, subdivision 5, unless an appeal is taken to the district court, the right of appeal herein provided shall be the exclusive remedy for reviewing the action of the commissioner of revenue or the appropriate unit of government respecting any tax, assessment, or other obligation as defined in section 271.01, subdivision 5. Upon any appeal taken by a taxpayer, the decision of the tax court, or the decision of the supreme court upon review thereof, as the case may be, shall be final and conclusive upon all parties to the proceedings as to all matters at issue determined by such decision. In all cases the decision of the tax court upon appeal, or of the supreme court upon review, as the case may be, shall stand in lieu of the order of the commissioner or the appropriate unit of government from which the appeal was taken.

Subd. 2. **Review by tax court conclusive.** Except as provided in section 271.01, subdivision 5, in all cases other than those wherein the taxpayer has appealed to the tax court or has agreed in writing that the decision upon appeal or review shall be conclusive, all rights of action or defenses in the courts of the state respecting any tax, fee, or assessment, now afforded the taxpayer by law shall be preserved.

Subd. 3. **Tax due obligation.** At the time of the taking of an appeal to the tax court, the taxpayer shall pay at least the amount of the tax or other obligation conceded by the taxpayer to be due, if any, when it becomes due provided that this shall not relieve the taxpayer from complying with any other requirements of law. The provisions of sections 274.19, subdivision 5, 277.011, subdivision 3, and 278.03 shall govern the filing with the tax court of an appeal dealing with property valuation, assessment, or taxation for property tax purposes, as if the appeal had been taken to the district court.

*History: 1939 c 431 art 6 s 18; 1963 c 740 s 25; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 15-17,29 (2362-18)*

**271.10 REVIEW BY SUPREME COURT.**

Subdivision 1. **Certiorari.** A review of any final order of the tax court may be had upon certiorari by the supreme court upon petition of any party to the proceedings before the tax court. Such review may be had on the ground that the tax court was without jurisdiction, that the order of the tax court was not justified by the evidence or was not in conformity with law, or that the tax court committed any other error of law.

Subd. 2. **Service of writ.** Within 60 days after notice of the making and filing of the order of the tax court, or the making and filing of an order on a petition for rehearing, the petitioner for review shall obtain from the supreme court a writ of certiorari, and shall serve the same upon all other parties appearing in the proceedings before the tax court, and shall file the original, with proof of such service, with the clerk of the tax court. Every petitioner, except the attorney general, the commissioner of revenue, the state and its political subdivisions, shall also pay to the clerk the fee prescribed by rule 103.01 of the rules of civil appellate procedure which shall be disposed of in the manner provided by that rule, and file a bond or make a deposit in like manner and amount as in case of an appeal from the district court. The fee shall be disposed of as in such case. Return upon the writ shall be made to the supreme court and the matter shall be heard and determined by the court as in other certiorari cases, subject to the provisions hereof and to such rules as the court may prescribe for cases arising hereunder.

**History:** 1939 c 431 art 6 s 19; 1943 c 174 s 4; 1965 c 698 s 3; 1971 c 686 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1976 c 239 s 40; 1977 c 307 s 18,29; 1Sp1981 c 1 art 8 s 2 (2362-19)

**271.11** [Repealed, 1977 c 307 s 31]

**271.12 WHEN ORDER EFFECTIVE.**

No order for refundment by the commissioner of revenue, the appropriate unit of government, or the tax court shall take effect until the time for appeal therefrom or review thereof by all parties entitled thereto has expired. Otherwise every order of the commissioner, the appropriate unit of government, or the tax court shall take effect immediately upon the filing thereof, and no appeal therefrom or review thereof shall stay the execution thereof or extend the time for payment of any tax or other obligation unless otherwise expressly provided by law; provided, that in case an order which has been acted upon, in whole or in part, shall thereafter be set aside or modified upon appeal, the determination upon appeal or review shall supersede the order appealed from and be binding upon all parties affected thereby, and such adjustments as may be necessary to give effect thereto shall be made accordingly. If it be finally determined upon such appeal or review that any person is entitled to refundment of any amount which has been paid for a tax or other obligation, such amount, unless otherwise provided by law, shall be paid to him by the state treasurer, or other proper officer, out of funds derived from taxes of the same kind, if available for the purpose, or out of other available funds, if any, with interest at six percent from the date of payment of the tax, unless a different rate of interest is otherwise provided by law, in which case such other rate shall apply, upon certification by the commissioner of revenue, the appropriate unit of government, the tax court or the supreme court. If any tax, assessment, or other obligation be increased upon such appeal or review, the increase shall be added to the original amount, and may be enforced and collected therewith.

**History:** 1939 c 431 art 6 s 21; 1945 c 604 s 26; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 19,29 (2362-21)

**271.13 MAY COMPEL ATTENDANCE OF WITNESSES.**

The commissioner of revenue, the tax court, and each judge of the tax court shall, respectively, have power to subpoena and compel the attendance of witnesses and the production of books, records, papers, and documents at any hearing or investigation at any place within the state in any matter within the scope of their authority, and shall also have power to administer oaths to witnesses and to take testimony under oath. Disobedience of an order of the tax court or any subpoena or refusal by any witness to be sworn or to testify upon any material matter at any such hearing or investigation shall be punishable in like manner as a contempt of the district court, in proceedings instituted upon complaint of the authority issuing the order or subpoena in the district court of the county where the order was made or the subpoena was made returnable. Subpoenas for witnesses or the production of documentary evidence shall be issued at the request of any party to the proceeding. Subpoenas may be signed by the commissioner or by a judge of the tax court or by the administrator or clerk of the tax court in behalf of the tax court, as the case may be. The commissioner of revenue shall no longer exercise this power in any matter that has been appealed to the tax court.

*History: 1939 c 431 art 6 s 22; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 20,29 (2362-22)*

**271.14** [Repealed, 1977 c 307 s 31]

**271.15 WHO MAY ADMINISTER OATHS.**

The commissioner of revenue, each judge of the tax court, the administrator and clerks of the tax court, and all other officers and employees of the department and of the tax court shall, respectively, have power to administer oaths and to take and certify acknowledgments so far as they may deem necessary to the proper discharge of their respective duties, and may authenticate the same with the seal of the department or the tax court, as the case may. The commissioner of revenue and any officer and employee of the department shall no longer exercise this power in any matter that has been appealed to the tax court.

*History: 1939 c 431 art 6 s 24; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 21,29 (2362-24)*

**271.16** [Repealed, 1977 c 307 s 31]

**271.17 FILING OFFICERS.**

The commissioner of the department of revenue and the administrator and clerks of the tax court shall be the filing officers and custodians of the books, files, and records of their respective agencies. The commissioner, administrator, and clerks and their deputies shall, respectively, have power to certify and authenticate copies of the books, files, and records in their custody for all purposes in like manner and with like effect as other custodians of public records. Any other officer or employee of the department thereto authorized by the commissioner by written order filed with the secretary of state shall have like power to certify and authenticate copies of any books, files, and records of the department specified in the order, other than those of the tax court. A judge of the tax court and any other officer or employee of the tax court thereto authorized by the tax court by written order filed with the administrator of the tax court shall also have like power to certify and



authenticate copies of any books, files, and records of the tax court specified in the order.

**History:** 1939 c 431 art 6 s 26; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 22,29 (2362-26)

### **271.18 EX-OFFICERS AND EX-EMPLOYEES NOT TO REPRESENT CLIENTS; EXCEPTION; VIOLATION.**

No officer, judge, or employee of the department of revenue, or the tax court, except referees appointed for the small claims division, shall, within one year after his office or employment has terminated, act as counsel, attorney, or agent for a taxpayer in connection with any claim or proceeding pending in the department. No officer, judge, referee, or employee shall, at any time after the termination of his office or employment, act as counsel, attorney, or agent in connection with any claim or proceeding of which he has knowledge which was acquired in the course of his term of office or employment in the department or in the tax court. Any violation of the provisions of this section shall be a gross misdemeanor.

**History:** 1939 c 431 art 6 s 27; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 23,29 (2362-27)

### **271.19 COSTS AND DISBURSEMENTS.**

Upon the determination of any appeal under this chapter before the tax court, or of any review hereunder by the supreme court, the costs and disbursements may be taxed and allowed in favor of the prevailing party and against the losing party as in civil actions. In any case where a person liable for a tax or other obligation has lost an appeal or review instituted by him, and the tax court or court shall determine that he instituted the same merely for the purposes of delay, or that the taxpayer's position in the proceedings is frivolous, additional costs, commensurate with the expense incurred and services performed by the agencies of the state in connection with the appeal, but not exceeding \$5,000 in any case, may be allowed against him, in the discretion of the tax court or court. Costs and disbursements allowed against any such person shall be added to the tax or other obligation determined to be due, and shall be payable therewith. Costs and disbursements allowed against the state or other public agencies shall be paid out of funds received from taxes or other obligations of the kind involved in the proceeding, or other funds of the agency concerned appropriated and available therefor. Witnesses in proceedings under this chapter shall receive like fees as in the district court, to be paid in the first instance by the parties by whom the witnesses were called, and to be taxed and allowed as herein provided.

**History:** 1939 c 431 art 6 s 28; 1965 c 698 s 3; 1976 c 134 s 78; 1977 c 307 s 29; 1984 c 514 art 3 s 3 (2362-28)

### **271.20 DECISIONS FILED WITHIN THREE MONTHS.**

All questions of fact and law and all matters submitted to the judges of the tax court shall be disposed of and their decision filed with the clerk of the tax court within three months after such submission, unless sickness or casualty shall prevent, or the time be extended by written consent of the parties. No part of the salary of any judge of the tax court shall be paid unless the voucher therefor be accompanied by certificate of the judge that he has fully complied with the requirements of this

section. A tax court judge shall devote his full time to the duties of his office and shall not engage in the practice of law.

**History:** 1939 c 431 art 6 s 30; 1965 c 698 s 3; 1976 c 134 s 78; 1977 c 307 s 24,29 (2362-30)

### 271.21 SMALL CLAIMS DIVISION.

Subdivision 1. There shall be a division of the tax court known as the small claims division. The judges of the tax court shall sit as judges of the small claims division. Each judge shall have authority to hear and decide the cases that he hears as small claims judge.

Subd. 2. At the election of the taxpayer, the small claims division shall have jurisdiction only in the following matters:

(a) any case concerning the valuation, assessment, or taxation of residential property homesteaded by the taxpayer; or

(b) any other case concerning the tax laws as defined in section 271.01, subdivision 5 in which the amount in controversy does not exceed \$2,500, including penalty and interest.

Subd. 3. A taxpayer may elect to appeal in the small claims division instead of appealing to the regular division of the tax court. If the taxpayer elects to appeal to the small claims division, and 30 days have elapsed since the filing of the appeal, or briefs have been filed or a hearing held on the matter, whichever occurs first, he shall not appeal to the regular division in the same matter. If he elects to appeal to the regular division, he shall not appeal to the small claims division in the same matter.

Subd. 4. At the same time that notice of the assessment, determination, or order of the commissioner or the appropriate unit of government is given to a taxpayer, the taxpayer shall be notified in writing of his right to appeal to the tax court, and if applicable, to the small claims division. In any notice of assessment, determination or order dealing with property valuation or assessment for property tax purposes, the taxpayer shall be notified in writing that he must appeal to the town or city board of equalization and to the county board of equalization before he may appeal to the small claims division of the tax court, except for those taxpayers whose original assessments are determined by the commissioner of revenue.

Subd. 5. A taxpayer shall commence a proceeding in the small claims division by filing with the clerk of the tax court a petition in the form prescribed by the rules of the tax court, which shall state the nature of the taxpayer's claim. Upon the filing of a petition by the taxpayer to the small claims division, the clerk of the tax court shall give notice thereof to the commissioner or to the appropriate unit of government, who shall thereafter be deemed a party to the proceeding. In the event a petition is filed, the small claims division shall thereafter have exclusive jurisdiction over the case if it meets the requirements of subdivision 2.

Subd. 6. The hearing in the small claims division shall be informal and without a jury. The judge may hear any testimony and receive any evidence he deems necessary or desirable for a just determination of the case. Sales ratio studies published by the department of revenue may be admissible as a public record without foundation. All testimony shall be given under oath. A party may appear on his own behalf or may be represented or accompanied by an attorney. No transcript of the proceedings shall be kept.

Subd. 7. At any time prior to entry of judgment, a taxpayer may dismiss a case in the small claims division by notifying the clerk of the tax court in writing. The dismissal shall be with prejudice and shall not revoke the election specified in subdivision 3.

Subd. 8. The judgment in the small claims division shall be conclusive upon all parties and may not be appealed. The court may order the commissioner or the appropriate unit of government to modify or cancel an assessment, pay or allow a refund, or take other action necessary to effectuate the judgment. Notice that no appeal may be had from a small claims judgment shall appear prominently on the petition form. The judgment shall not be considered as judicial precedent and shall have no force or effect in any other case, hearing, or proceeding. No judgment shall be rendered in a case dealing with property valuation or assessment for property tax purposes until after the state board of equalization has issued its order, if any, for that area or property.

Subd. 9. Subpoenas in a proceeding in the small claims division will be issued only at the discretion of the court.

Subd. 10. Whenever the small claims division trial docket becomes congested with appeals involving valuation, classification, and assessment of property for tax purposes, the judges of the tax court may appoint referees to hear the property tax cases appealed to the small claims division. Each referee shall have authority to hear and decide the cases that he hears as small claims referee. Each referee shall be a citizen of Minnesota and shall have experience with and knowledge of property taxation and property values. A referee shall be paid at a rate of 80 percent of the salary of the judges of the county court in that county, prorated by the length of time that he serves as a referee. Each referee shall receive his actual and necessary expenses paid or incurred in the performance of his duties.

Subd. 11. The provisions of sections 271.01 to 271.20, shall apply to proceedings in the small claims division unless this section expressly provides otherwise.

**History:** 1977 c 307 s 25

#### **271.22 JUDGES; APPOINTMENT.**

The governor may appoint the judges of the tax court serving on July 1, 1977 to serve on the tax court created by Laws 1977, Chapter 307, or he may appoint new judges who meet the qualifications provided in section 271.01, subdivision 1. Cases tried before the current tax court shall be decided within three months after July 1, 1977 by the judges of the tax court who heard the case, and they shall be paid the salary specified before July 1, 1977, unless they are appointed to the tax court created by Laws 1977, Chapter 307. The provisions of Laws 1977, Chapter 307 will not bar or change any right provided prior to its enactment to the parties in matters that have been decided by the current tax court. Any matter not tried by the current tax court prior to July 1, 1977 shall be automatically transferred to the tax court created by Laws 1977, Chapter 307. The taxpayer shall be given an opportunity to make his election to appeal to the small claims division or to appeal to the regular division of the tax court.

**History:** 1977 c 307 s 26