

transit" plates. The registrar may issue "in transit" plates, upon the payment of the sum of \$2 \$5 to the registrar, to dealers duly licensed in other states or provinces upon information furnished in the manner as the registrar may prescribe, and which satisfies the registrar that persons or companies applying therefor are duly licensed dealers under the laws of the states or provinces.

Sec. 4. Minnesota Statutes 1988, section 168.27, subdivision 22, is amended to read:

Subd. 22. **MOTORIZED BICYCLES, BOAT AND SNOWMOBILE TRAILERS.** Any person, copartnership or corporation having a permanent enclosed commercial building or structure either owned in fee or leased and engaged in the business, either exclusively or in addition to any other occupation, of selling motorized bicycles, boat trailers, horse trailers or snowmobile trailers, may apply to the registrar for a dealer's license. Upon payment of a \$10 fee the registrar shall license the applicant as a dealer for the remainder of the calendar year in which the application was received. Thereafter the license may be renewed on or before the second day of January of each year by payment of a fee of \$10. The registrar shall issue to each dealer, upon request of the dealer, dealer plates as provided in subdivision 16 upon payment of \$3 \$5 for each plate, and the plates may be used in the same manner and for the same purposes as is provided in subdivision 16. Except for motorized bicycle dealers, the registrar shall also issue to the dealer, upon request of the dealer, "in transit" plates as provided in subdivision 17 upon payment of a fee of \$2 \$5 for each plate. This subdivision shall not be construed to abrogate any of the provisions of this section as the same relates to the duties, responsibilities and requirements of persons, copartnerships or corporations engaged in the business, either exclusively or in addition to other occupations, of selling motor vehicles or manufactured homes.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 11:47 p.m.

CHAPTER 324—S.F.No. 462

An act relating to judicial procedure; clarifying, modifying, and recodifying tax court powers and procedures; making technical corrections and eliminating redundant and unnecessary language and obsolete references; requiring releases of liens issued in error to state that the lien was erroneous; amending Minnesota Statutes 1988, sections 270.07, subdivision 1; 270.10, by adding a subdivision; 270.69, by adding a subdivision; 271.01, subdivisions 1 and 5; 271.02; 271.04; 271.06, subdivisions 1, 2, 3, and 7; 271.07; 271.13; 271.15; 271.17; 271.18; 271.21, subdivisions 2 and 10; 277.011, subdivision 7; 278.01, subdivision 1; 278.02; 278.03; 278.08, subdivision 1; 297.43, subdivision 1; and 297C.14, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 270; repealing Minnesota Statutes 1988, sections 60A.151; 271.01, subdivision 6; 271.061; 271.21, subdivision 4; and 271.22.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [270.021] EX-OFFICERS AND EX-EMPLOYEES NOT TO REPRESENT CLIENTS; PENALTY.

An officer or employee of the department of revenue may not, for a period of one year after the term of office has ended or employment has terminated, act as counsel, attorney, or agent for a taxpayer in connection with a claim or proceeding pending in the department. An officer or employee of the department of revenue may not act as counsel, attorney, or agent for a taxpayer at any time after termination of the office or employment in connection with a claim or proceeding of which the person has knowledge that was acquired during the term of office or employment. A violation of this section is a gross misdemeanor.

Sec. 2. [270.022] FILING OFFICERS.

The commissioner of revenue is the filing officer and custodian of the books, files, and records of the department of revenue. The commissioner may certify copies of the books, files, and records in the custody of the commissioner for all purposes in the same manner as other custodians of public records. The commissioner may authorize other officers or employees of the department of revenue to certify books, files, and records in the custody of the commissioner. The authorization must be made by a written order stating the documents that may be certified and must be filed with the secretary of state.

Sec. 3. [270.0601] TAX COURT APPEALS.

The powers of examination, investigation, and subpoena, and the power to administer oaths and take testimony granted to the commissioner of revenue and officers and employees of the department of revenue in section 270.06 do not apply to a matter that has been appealed to the tax court.

Sec. 4. Minnesota Statutes 1988, section 270.07, subdivision 1, is amended to read:

Subdivision 1. (a) The commissioner of revenue shall prescribe the form of all blanks and books required under this chapter and shall hear and determine all matters of grievance relating to taxation. Except as otherwise provided by law, the commissioner shall have power to grant such reduction or abatement of gross tax capacities or taxes and of any costs, penalties or interest thereon as the commissioner 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~~

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~~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. In the case of taxes other than gross earnings taxes, the order may be made only on application and approval as provided in this paragraph.~~ 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.

(b) The commissioner has the power to grant reductions or abatements of gross earnings tax. An application for reduction of gross earnings taxes may be made directly to the commissioner without the favorable action of the county board and county auditor. The commissioner shall direct that any gross earnings taxes that may have been erroneously or unjustly paid be applied against unpaid taxes due from the applicant.

(c) The commissioner shall forward to the county auditor a copy of the order made by the commissioner in all cases in which the approval of the county board is required.

~~(d) The commissioner may refer any question that may arise in reference to the true construction of this chapter to the attorney general, and the 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 the commissioner made in all cases in which the approval of the county board is required.~~

~~(e) The commissioner may by written order abate, reduce, or refund any penalty or interest imposed by any law relating to taxation, if in the commissioner's opinion the failure to timely pay the tax or failure to timely file the return is due to reasonable cause. Such order shall, in the case of real and personal property taxes, be made only on application and approval as provided in this section; in the case of all other taxes, such The order shall be made on application of the taxpayer to the commissioner and.~~

~~(f) If the an order issued under this subdivision is for an abatement, reduction or refund of over \$5,000, it shall be valid only if approved in writing by the attorney general.~~

~~(g) 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 in this ~~subdivision~~ paragraph (a) with respect to the reduction or abatement of real or personal property taxes in response to a taxpayer's application for an abatement, reduction or refund of taxes, gross tax capacities, costs, penalties or interest.~~

Sec. 5. Minnesota Statutes 1988, section 270.10, is amended by adding a subdivision to read:

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Subd. 1a. NOTIFICATION TO TAXPAYER. At the same time that notice of the assessment, determination, or order of the commissioner is given to a taxpayer, the taxpayer must be notified in writing of the 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 by the commissioner of revenue or a local unit of government, the taxpayer must be notified in writing that a taxpayer must appeal to the town or city board of equalization and to the county board of equalization before appealing to the small claims division of the tax court, except for those taxpayers whose original assessments are determined by the commissioner of revenue.

Sec. 6. Minnesota Statutes 1988, section 270.69, is amended by adding a subdivision to read:

Subd. 11. ERRONEOUS LIENS. If the commissioner of revenue determines that the filing of the notice of any lien was erroneous, within 14 days after the determination, the commissioner must issue a certificate of release of the lien. The certificate must include a statement that the filing of the lien was erroneous. In the event that the claim is erroneous, reasonable attorney fees shall be paid.

Sec. 7. Minnesota Statutes 1988, section 271.01, subdivision 1, is amended to read:

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 is a court of record. 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, the term of one judge expiring on the first Monday of each odd-numbered year.~~ 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.

Sec. 8. Minnesota Statutes 1988, section 271.01, subdivision 5, is amended to read:

Subd. 5. **JURISDICTION.** The tax court shall have statewide jurisdiction. Except for an appeal to the supreme court or any other appeal allowed under

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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 whose original assessments are determined by the commissioner of revenue. 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 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, 297C, 297D, 298, 299, 299F, 473, 473F, and 477A Laws governing taxes, aids, and related matters administered by the commissioner of revenue, laws dealing with property valuation, assessment or taxation of property for property tax purposes, and any other laws that contain provisions authorizing review of taxes, aids, and related matters by the tax court 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. Whenever used in this chapter, the term commissioner shall mean the commissioner of revenue, unless otherwise specified.

Sec. 9. Minnesota Statutes 1988, section 271.02, is amended to read:

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, and~~ appoint employees who shall be in the unclassified service. ~~The chief judge who is appointed the administrator~~ may delegate administrative duties to the employees appointed ~~and may select one employee to act in the administrator's place as the assistant administrator.~~ The court administrator of district court in each county shall be the court administrator of the tax court in that county. Filing fees and library fees deposited with the court administrator of district court in the capacity of court administrator of the tax court and in cases originally commenced in district court and transferred to the tax court shall be retained by the court administrator of district court. The court administrator of the tax court in each county shall be subject to the supervision of the administrator in tax court matters.

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Sec. 10. Minnesota Statutes 1988, section 271.04, is amended to read:

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 in Saint Paul,~~ 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~~ court room in all of the counties. The administrator of the tax court shall consult with the court administrator of 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 nonresident 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.

Sec. 11. Minnesota Statutes 1988, section 271.06, subdivision 1, is amended to read:

Subdivision 1. **MANNER.** Except as otherwise provided by in section 270.07, subdivision 1, paragraph (a), or any other 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, including the imposition of interest and penalty, or any matter ~~concerning the tax laws listed in~~ over which the court is granted jurisdiction under 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.

Sec. 12. Minnesota Statutes 1988, section 271.06, subdivision 2, is amended to read:

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 the appellant's attorney, shall serve a notice of appeal upon the commissioner and file the original, with proof of such

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service, with the tax court administrator or with the court administrator of district court acting as court administrator of the tax court; provided, that ~~a~~ the 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 the attorney general 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 over which the court is granted jurisdiction~~ under section 271.01, subdivision 5, the taxpayer or the taxpayer's attorney shall file a petition or notice of appeal as provided by law with the court administrator of district court, acting in the capacity of court administrator 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 district court administrator acting as court administrator of the tax court 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.

Sec. 13. Minnesota Statutes 1988, section 271.06, subdivision 3, is amended to read:

Subd. 3. **PLEADINGS.** Within ~~20~~ 30 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~~ composed of 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;~~ all relevant correspondence or other communication, 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

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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, the commissioner 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.

Sec. 14. Minnesota Statutes 1988, section 271.06, subdivision 7, is amended to read:

Subd. 7. **RULES.** The rules of evidence and 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 The tax court may adopt rules under chapter 14. The rules in effect on January 1, 1989, apply until superseded.

Sec. 15. Minnesota Statutes 1988, section 271.07, is amended to read:

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~~

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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 the party shall deposit the estimated cost thereof, in advance, with the court administrator, subject to payment of the actual cost therefrom as soon as determined.

Sec. 16. Minnesota Statutes 1988, section 271.13, is amended to read:

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 the court administrator of the tax court~~ in on 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.~~

Sec. 17. Minnesota Statutes 1988, section 271.15, is amended to read:

271.15 WHO MAY ADMINISTER OATHS.

~~The commissioner of revenue,~~ Each judge of the tax court, the administrator and court administrators 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 be. ~~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.~~

Sec. 18. Minnesota Statutes 1988, section 271.17, is amended to read:

271.17 FILING OFFICERS.

~~The commissioner of the department of revenue and~~ The tax court adminis-

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trator and the district court administrators ~~of the tax court~~ shall be the filing officers and custodians of the books, files, and records of ~~their respective agencies~~ the tax court. ~~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.

Sec. 19. Minnesota Statutes 1988, section 271.18, is amended to read:

271.18 ~~EX-OFFICERS AND EX-EMPLOYEES~~ EX-JUDGES 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 the 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 of revenue or in the tax court at the time of termination. No ~~officer, judge, referee, or employee shall,~~ at any time after the termination of the office or employment, act as counsel, attorney, or agent in connection with any claim or proceeding of which the person terminated has knowledge which was acquired in the course of a 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.

Sec. 20. Minnesota Statutes 1988, section 271.21, subdivision 2, is amended to read:

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 in cases involving valuation, assessment, or taxation of residential property homesteaded by the taxpayer real or personal property, if the taxpayer has satisfied the requirements of section 271.01, subdivision 5, and in the case of nonhomestead property, the assessor's estimated market value is less than \$100,000; 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 \$5,000, including penalty and interest.

Sec. 21. Minnesota Statutes 1988, section 271.21, subdivision 10, is amended to read:

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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 heard as small claims referee. Each referee shall be a citizen of Minnesota and shall have experience with and knowledge of tax law or property taxation and property values, depending on the case at issue. A referee shall be paid at a rate of 80 percent of the salary of the judges of the ~~county district~~ court in that county, prorated by the length of time served as a referee. Each referee shall receive actual and necessary expenses paid or incurred in the performance of duties.

Sec. 22. Minnesota Statutes 1988, section 277.011, subdivision 7, is amended to read:

Subd. 7. **PENALTIES AND INTEREST.** If the tax be sustained in full as levied, the judgment shall include any penalties or interest which have then accrued thereon for failure to pay the same, or any part thereof, at the time required by law. If the tax is increased, the judgment must include penalty and interest on the unpaid part of the original tax assessment, but not on the amount of the increase in tax. If the tax be reduced, no penalties and interest shall be included in the judgment because of the failure to pay such reduced tax prior to the entry thereof. The judgment shall be subject to such interest or penalties as would under the law attach to the tax embraced therein after the entry thereof.

Sec. 23. Minnesota Statutes 1988, section 278.01, subdivision 1, is amended to read:

Subdivision 1. **DETERMINATION OF VALIDITY.** Any person having any estate, right, title, or interest in or lien upon any parcel of land, who claims that such property has been partially, unfairly, or unequally assessed in comparison with other property in the ~~city or county~~ (1) city, or (2) county, or (3) in the case of a county containing a city of the first class, the portion of the county excluding the first class city, or that the parcel has been assessed at a valuation greater than its real or actual value, or that the tax levied against the same is illegal, in whole or in part, or has been paid, or that the property is exempt from the tax so levied, may have the validity of the claim, defense, or objection determined by the district court of the county in which the tax is levied or by the tax court by serving two copies of a petition for such determination upon the county auditor ~~and, one copy each on the county treasurer and the county attorney and filing the same, and one copy on the county treasurer.~~ In counties where the office of county treasurer has been combined with the office of county auditor, the petitioner must serve the number of copies required by the county. The petitioner must file the copies with proof of service, in the office of the court administrator of the district court before the 16th day of May of the year in which the tax becomes payable. The county auditor shall immediately forward one copy of the petition to the appropriate governmental authority in a home rule charter or statutory city or town in which the property is located if that city

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or town employs its own certified assessor. A copy of the petition shall also be sent to the school board of the school district in which the property is located. A petition for determination under this section may be transferred by the district court to the tax court. An appeal may also be taken to the tax court under chapter 271 at any time following receipt of the valuation notice required by section 273.121 but prior to May 16 of the year in which the taxes are payable.

Sec. 24. Minnesota Statutes 1988, section 278.02, is amended to read:

278.02 PETITION MAY INCLUDE SEVERAL PARCELS.

Such petition need not be in any particular form, but shall clearly identify the land involved and shall set forth in concise language the claim, defense, or objection asserted. Several parcels of land in or upon which the petitioner has an estate, right, title, interest, or lien may be included in the same petition, but only if they are in the same city or town, except that contiguous property overlapping city or town boundaries may be included in one petition.

Sec. 25. Minnesota Statutes 1988, section 278.03, is amended to read:

278.03 PAYMENT OF TAX.

If the proceedings instituted by the filing of the petition have not been completed before the 16th day of May next following the filing, the petitioner shall pay to the county treasurer 50 percent of the tax levied for such year against the property involved, unless permission to continue prosecution of the petition without such payment is obtained as herein provided. If the proceedings instituted by the filing of the petition have not been completed by the next October 16, or, in the case of class 1b agricultural homestead, class 2a agricultural homestead, and class 2c agricultural nonhomestead property, November 16, the petitioner shall pay to the county treasurer 50 percent of the unpaid balance of the taxes levied for the year against the property involved if the unpaid balance is \$2,000 or less and 80 percent of the unpaid balance if the unpaid balance is over \$2,000, unless permission to continue prosecution of the petition without payment is obtained as herein provided. The petitioner, upon ten days notice to the county attorney and to the county auditor, given at least ten days prior to the 16th day of May or the 16th day of October, or, in the case of class 1b agricultural homestead, class 2a agricultural homestead, and class 2c agricultural nonhomestead property, the 16th day of November, may apply to the court for permission to continue prosecution of the petition without payment; and, if it is made to appear

- (1) That the proposed review is to be taken in good faith;
- (2) That there is probable cause to believe that the property may be held exempt from the tax levied or that the tax may be determined to be less than 50 percent of the amount levied; and
- (3) That it would work a hardship upon petitioner to pay the taxes due,

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the court may permit the petitioner to continue prosecution of the petition without payment, or may fix a lesser amount to be paid as a condition of continuing the prosecution of the petition.

Failure to make payment of the amount required when due shall operate automatically to dismiss the petition and all proceedings thereunder unless the payment is waived by an order of the court permitting the petitioner to continue prosecution of the petition without payment. The petition shall be automatically reinstated upon payment of the entire tax plus interest and penalty if the payment is made within one year of the dismissal. The county treasurer shall, upon request of the petitioner, issue duplicate receipts for the tax payment, one of which shall be filed by the petitioner in the proceeding.

Sec. 26. Minnesota Statutes 1988, section 278.08, subdivision 1, is amended to read:

Subdivision 1. ~~TAXES DUE INTEREST; PENALTY. Whether or not the tax is sustained in full as levied or increased and section 278.03 notwithstanding, the judgment shall include any interest which has accrued on the taxes for failure to pay the taxes or any part of the taxes as provided in sections 279.01 and 279.03. If the tax is reduced, no penalty shall be included in the judgment because of the failure to pay the reduced tax prior to entry of judgment. After the judgment is entered, it shall be subject to interest and penalty at the rates provided in chapter 279 for delinquent payment of property taxes. The judgment must include the following interest:~~

(1) if the tax is sustained in full, interest on the unpaid part of the tax computed under section 279.03;

(2) if the tax is increased, interest on the unpaid part of the tax as originally assessed computed under section 279.03;

(3) if the tax is reduced, interest on the difference between the tax as recomputed and the amount previously paid computed under section 279.03.

If the tax is sustained or increased, penalty on the unpaid part of the tax as originally assessed computed under section 279.01 must be included in the judgment.

Sec. 27. Minnesota Statutes 1988, section 297.43, subdivision 1, is amended to read:

Subdivision 1. **PENALTY ON UNPAID TAX.** If a tax imposed by this chapter, or any part of it, is not paid within the time required for the payment, or an extension of time, or within 30 days after final determination of an appeal to the tax court relating to it ~~if the taxpayer is not required to pay the amount in dispute pending appeal under section 271.061,~~ there shall be added to the tax a penalty equal to three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the

New language is indicated by underline, deletions by ~~strikeout~~.

amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.

Sec. 28. Minnesota Statutes 1988, section 297C.14, subdivision 1, is amended to read:

Subdivision 1. **PENALTY ON UNPAID TAX.** If a tax imposed by this chapter, or any part of it, is not paid within the time required for the payment, or an extension of time, or within 30 days after final determination of an appeal to the tax court relating to it ~~if the taxpayer is not required to pay the amount in dispute pending appeal under section 271.061,~~ there shall be added to the tax a penalty equal to three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.

Sec. 29. **REPEALER.**

(a) Minnesota Statutes 1988, sections 271.01, subdivision 6; 271.21, subdivision 4; and 271.22, are repealed.

(b) Minnesota Statutes 1988, sections 60A.151 and 271.061, are repealed.

Sec. 30. **EFFECTIVE DATE.**

Section 25 is effective the day following final enactment and applies to petitions dismissed on or after that date. Section 29, paragraph (b), is effective the day following final enactment and applies to appeals pending before the tax court and appeals filed on or after that date.

Presented to the governor May 26, 1989

Signed by the governor May 26, 1989, 6:00 p.m.

CHAPTER 325—S.F.No. 530

An act relating to waste management; defining waste reduction; extending the expiration date of waste advisory councils; authorizing counties to designate waste to landfills; requiring financial reports from landfills; clarifying the limits of political subdivision liability for superfund cleanup at landfills; authorizing the pollution control agency to acquire interests in real estate necessary for superfund; authorizing superfund to reimburse political subdivisions for costs incurred in responding to emergency releases of hazardous materials; making claims for injuries due to petroleum contamination eligible for compensation by the harmful substance compensation fund; authorizing transfer of money from the petroleum tank release cleanup fund; altering the metropolitan council's authority for solid waste planning; raising the solid waste disposal fee in the metropolitan area; clarifying the 1990 ban on disposal of unprocessed waste in the metropolitan area; extending the date until

New language is indicated by underline, deletions by ~~strikeout~~.