

89022

GENERAL STATUTES OF
MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

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WEST PUBLISHING CO.

1918

CHAPTER 11

TAXES

GENERAL PROVISIONS

1969. Property subject to taxation—

This section means that all personal property, of whatever nature, not exempt from taxation, shall be liable for taxes. Under this section a membership in the Duluth Board of Trade is taxable (124-398, 145+108, 50 L. R. A. [N. S.] 255, Ann. Cas. 1915C, 538). Taxation, ⇨67.

A judgment sustaining an assessment of memberships in a chamber of commerce as moneys and credits under § 2316, held not to bar an assessment of such memberships for a later year as general personal property (161+516). Judgment, ⇨604.

Memberships in the Minneapolis Chamber of Commerce, though owned without the state, or within the state, but without Minneapolis, the rights and privileges which give them a value in excess of the value of the tangible property of the Chamber being exercisable there alone, have for the purposes of taxation of such excess value a situs there (161+516). Taxation, ⇨98, 260.

St. 1849-58 c. 9 § 1, R. S. 1851 c. 12 § 1, G. S. 1866 c. 11 § 1, Laws 1874 c. 1 § 1, and G. S. 1894 § 1508, cited—124-398, 145+108, 50 L. R. A. [N. S.] 255, Ann. Cas. 1915C, 538.

1970. Property exempt—

The exemption of public school property from taxation has no application to special assessments for local improvements (133-386, 158+635, L. R. A. 1916F, 861). Municipal Corporations, ⇨434(3).

1972. Real property defined—

Cited (132-232, 156+128).

Royalties under a mineral lease as rents and profits of land (see 135-413, 161+158). Mines and Minerals, ⇨70(1).

1973. Mineral, gas, coal, oil, etc.—

Where the property is described by its government description without mentioning a mineral interest owned separately from the surface, the tax certificate does not cover such mineral interest (125-491, 147+706, L. R. A. 1916D, 304). Taxation, ⇨686.

1974. Personal property defined— * * *

5. All gas, electric and water mains, pipes, conduits, subways, poles and wires of gas, electric light, water, heat or power companies, wherever constructed or located, and all tracks, roads and bridges of street railway, plank road, gravel road, turnpike and bridge companies, together with the conduits, poles and wires of such companies erected or laid in connection therewith. (Amended '17 c. 298 § 1)

In general—A membership in the Duluth Board of Trade is property (124-398, 145+108, 50 L. R. A. [N. S.] 255, Ann. Cas. 1915C, 538). Exchanges, ⇨7.

Mode of assessment of memberships in the Minneapolis Chamber of Commerce (see 161+516). Taxation, ⇨350.

See, also, notes under §§ 1969, 1988.

Constitutionality—This section does not exempt from taxation personal property not included within the classes named (124-398, 145+108, 50 L. R. A. [N. S.] 255, Ann. Cas. 1915C, 538). Taxation, ⇨197.

There has been no such settled construction of this section as to justify the application of the doctrine of practical construction (124-398, 145+108, 50 L. R. A. [N. S.] 255, Ann. Cas. 1915C, 538). Statutes, ⇨245.

The taxing of a membership in a Board of Trade would not be improper classification (124-398, 145+108, 50 L. R. A. [N. S.] 255, Ann. Cas. 1915C, 538). Constitutional Law, ⇨208(4). And it would not be a denial of equality or uniformity (124-398, 145+108, 50 L. R. A. [N. S.] 255, Ann. Cas. 1915C, 538). Taxation, ⇨40(1). And the proceedings do not deprive the member of his property without due process (124-398, 145+108, 50 L. R. A. [N. S.] 255, Ann. Cas. 1915C, 538). Constitutional Law, ⇨283. Or without compensation (124-398, 145+108, 50 L. R. A. [N. S.] 255, Ann. Cas. 1915C, 538). Eminent Domain, ⇨2(11). Or deny him the equal protection of the law (124-398, 145+108, 50 L. R. A. [N. S.] 255, Ann. Cas. 1915C, 538). Constitutional Law, ⇨229. Nor would it be double taxation (124-398, 145+108, 50 L. R. A. [N. S.] 255, Ann. Cas. 1915C, 538).

Subd. 6. Credits—Unaccrued rents to issue out of land are not "credits"; and rents due in July for the period from April 1st to July 1st are not taxable as credits May 1st (132-232, 156+128). Taxation, ⇨74.

G. S. 1878 c. 1 § 3, and G. S. 1894 § 1510, cited—124-398, 145+108, 50 L. R. A. [N. S.] 255, Ann. Cas. 1915C, 538.

1975. Other definitions— * * *

2. "Credits" shall mean and include every claim and demand for money or other valuable thing, and every annuity or sum of money receivable at stated periods, due or to become due, and all claims and demands secured by deed or mortgage, due or to become due, and all shares of stock in corporations the property of which is not assessed or taxed in this state. (Amended '17 c. 130 § 1)

Conditional sale contracts taken by a foreign corporation and recorded in this state are not taxable in this state as credits, where the transactions out of which the contracts arose were interstate in character, and the corporation has done nothing to give such contracts a business situs in this state (161+1054). Taxation, Ⓒ95(3).

Unaccrued rents to issue out of land are not "credits"; and rents due in July for the period from April 1st to July 1st are not taxable as "credits" May 1st (132-232, 156+128). Taxation, Ⓒ74.

1977. Legality presumed—

This section is unavailing to cure the failure of the county auditor to file the designation of a newspaper in which to publish the delinquent tax list, as required by § 2097 (123-273, 143+786). Taxation, Ⓒ688, 693.

That reassessment list sent to auditor under § 2349 did not show the amount of the original assessment held not to invalidate the proceedings (121-421, 141+839). Taxation, Ⓒ474.

Where original judgment book fails to show sale to state, it cannot be presumed that copy judgment book, not in evidence, shows such sale (121-367, 141+493). Taxation, Ⓒ693.

1978. Supervisory powers of tax commission—

The powers conferred on the tax commission are not legislative, and the act is constitutional (121-421, 141+839). Constitutional Law, Ⓒ80(2).

This section has to do only with the abatement and refundment of taxes in connection with completed assessments, while § 2344 deals with raising or lowering valuations for the current year before the assessment is completed (162+675). Taxation, Ⓒ470.

The Minnesota state tax commission may, on proper showing, abate an assessment in proceedings to construct a county ditch; such assessment being "an assessment levied by a municipality for local improvements" within this section, which abatement may be made after ditch is established and assessment confirmed (162+686). Drains, Ⓒ82(5).

LISTING AND ASSESSMENT

1980. Omitted property—Uncollected taxes—

This section does not authorize a reassessment where the real estate is assessed and has paid taxes for the years in question, but where the property was undervalued for those years because the assessing officer took no note of improvements (129-87, 151+537). Taxation, Ⓒ362.

1981. Assessment books—Real property list—Mortgages—Meeting of assessors—Power of tax commission—The county auditor shall annually provide the necessary assessment books and blanks at the expense of the county, for and to correspond with each assessment district. He shall make out, in the real property assessment book, complete lists of all lands or lots subject to taxation, showing the names of the owners, if to him known, and, if unknown, so stated opposite each tract or lot, the number of acres, and the lots or parts of lots or blocks, included in each description of property. The list of real property becoming subject to assessment and taxation every odd numbered year may be appended to the personal property assessment book. The assessment books and blanks shall be in readiness for delivery to the assessors on the last Thursday of March of each year.

The assessors shall meet at the office of the county auditor on said day for the purpose of receiving instructions as to their duties under the laws of the state. Provided, however, that the Minnesota tax commission may in its discretion change the date of such meeting in any county as it deems best in which case such meeting shall be held on the date fixed by said commission. (Amended '17 c. 297 § 1)

By § 3 1917 c. 297 takes effect January 1, 1918.

Description in assessment book held so indefinite as to preclude extinguishment of right of redemption by notice under § 2148 (121-409, 141+796). Taxation, Ⓒ421(1).

[1981—]1. **Same—Compensation and mileage of—**Each assessor attending such meetings shall receive as compensation for such service the

sum of three dollars and mileage at the rate of five cents per mile for each mile necessarily traveled in going from his home to and returning from, the county seat to be computed by the usually traveled route and paid out of the county treasury. ('17 c. 297 § 2)

1987. Valuation of property—

132-232, 156+128.

Cited in dissenting opinion (132-93, 155+1061).

1988. Classification of property—What percentages of full and true value to be assessed—

The classification involved in this section is not violative of Const. art. 9 § 1, in that it is unreasonable and not based on essential differences (128-384, 150+1087). Taxation, Ⓒ42(1).

This section applies to property within the state owned by telegraph companies (132-93, 155+1061). Taxation, Ⓒ155.

The mains, pipes, and conduits of a gas company are not "tools, implements, and machinery," under class 3, but are properly assessed under class 4 (132-419, 157+638; 132-477, 157+638). Taxation, Ⓒ375(1).

The words "all unplatted real estate" refer to and include land which is adapted to and used for rural or agricultural purposes, and not to land within the limits of a city or village, though not a part of the platted portion thereof, which is used exclusively for urban purposes. A small tract of land formerly within a platted subdivision of Minneapolis, but vacated, was properly taxed at the rate prescribed for platted real estate, where it was used exclusively for urban purposes (135-205, 160+498). Taxation, Ⓒ348.

Relator's street railway tracks, overhead feed and trolley wires, trolley poles, and underground conduits and cables, held assessable under class 4, at 40 per cent. of true value, this class including property not enumerated in the first three; and such property does not come within "tools, implements, and machinery, whether fixtures or otherwise," included in class three, and assessable at 33 $\frac{1}{3}$ per cent. of true value (128-384, 150+1087). Taxation, Ⓒ394.

The assessable value of a membership in the Minneapolis Chamber of Commerce is found by apportioning the value of the membership in excess of the value of the tangible property of the Chamber already assessed equally among the memberships, and taking 40 per cent. thereof (161+516). Taxation, Ⓒ350.

1989. Duties of assessors in odd numbered years as to real property—

In every odd numbered year, at the time of assessing personal property, the assessor shall also assess all real property that may have become subject to taxation since the last previous assessment, including all real property platted since the last real estate assessment in the even numbered year, and all buildings or other structures of any kind, whether completed or in process of construction, of over one hundred dollars in value, the value of which has not been previously added to or included in the valuation of the land on which they have been erected. He shall make return thereof to the county auditor, with his return of personal property, showing the tract or lot on which each structure has been erected and the true value added thereto by such erection. In case of the destruction by fire, flood or otherwise, of any building or structure, over one hundred dollars in value, which has been erected previous to the last valuation of the land on which it stood, or the value of which has been added to any former valuation, the assessor shall determine, as nearly as practicable, how much less such land would sell for at private sale in consequence of such destruction and make return thereof to the auditor. (Amended '17 c. 254 § 1)

LISTING PERSONAL PROPERTY

1994. By whom listed—

Cited (132-232, 156+128).

2013. Forms for listing—Assessor to value—

Cited (124-398, 145+108, 50 L. R. A. [N. S.] 255, Ann. Cas. 1915C, 538).

STATEMENTS BY CORPORATIONS, ETC.

2017. Incorporated banks—

The tax imposed by this section is a tax against the shares of stock, to be paid by the bank from earnings or dividends, and is not a tax against a national bank, and payment thereof cannot be enforced against its assets, where the bank is insolvent and in the hands of a receiver (134-315, 159+754). Taxation, Ⓒ522.

2018. Same—

134-315, 159+754.

2020. Taxes on bank stock a lien—

134-315, 159+754.

202. Same—

134-315, 159+754.

REVIEW AND CORRECTION OF ASSESSMENTS

2036. Property omitted or undervalued—Governor to appoint examiner—

121-421, 141+839.

2040. Duties of auditor and assessors—

121-421, 141+839.

EQUALIZATION OF ASSESSMENTS

2045. State Board of Equalization—Duties—

The restrictions on the power of the board found in subd. 7 of this section do not apply to the tax commission in view of the general repealing clause of this act (1907 c. 408), and in the amending act of 1909 [§§ 2333-2348] (162+675). Taxation, ¶470.

LEVY AND EXTENSION

2051. City, village, town, and school district taxes—

Municipal corporations have no inherent power of taxation (129-40, 151+545, Ann. Cas. 1916B, 189). Municipal Corporations, ¶956(1).

2052. Auditor to fix rate—

Cited (162+675).

[2056—]1. **Rate of levy in certain counties—**The county board of any county may levy for county revenue purposes, such amount in excess of existing limitations as may be necessary to defray county revenue expenses, but the total levy for county revenue purposes shall not exceed 8 mills; provided, however, that this act shall not apply to counties having an assessed valuation of more than five million dollars. ('17 c. 106 § 1)

[2058—]1. **Contracts in excess in certain villages legalized—**In all cases where heretofore the authorities of any village of this state, having a population of less than three thousand inhabitants, have in good faith contracted debts or incurred pecuniary liabilities, or both, in violation of the provisions of section 2058 of the General Statutes of 1913, and the person or persons so contracting with such authorities, or to whom such pecuniary liabilities were incurred, have in good faith and in reliance thereon fully performed such contracts and furnished full consideration for such pecuniary liabilities, and said village has received and accepted the benefits thereof, and where the claims arising from such transactions have been allowed by the proper authorities of such village, and no appeal taken from the allowance thereof within the time fixed by law, and warrants or orders of such village have been issued therefor, whether such warrants or orders have been paid or not, such transactions are in all respects validated as against the claim or defense that they were in violation of said section 2058. ('17 c. 268 § 1)

[2058—]2. **Same—Allowance of claims, etc., prima facie evidence—**In all such cases the allowance of such claims and the absence of any appeal therefrom within the time fixed by law and the issuance of warrants or orders therefor shall be prima facie evidence of each of the facts made conditions to the validating thereof as in section 1 of this act [2058—1] provided. ('17 c. 268 § 2)

[2058—]3. **Same—Pending actions—**This act shall not be construed to affect any action now pending wherein such claim or defense is involved, nor the rights or liabilities of any of the parties thereto or parties indirectly affected by the result of such action. ('17 c. 268 § 3)

2059. Tax lists made by auditor—

A county treasurer, in failing to write the words "Sold for taxes" on a tax receipt, is not guilty of a breach of duty, unless the tax list furnished him by the county auditor shows that the land has been sold for taxes; but where a county auditor failed to place on the tax list furnished the county treasurer the words "Sold for taxes," and the treasurer did

not write such words on the receipts for taxes paid by plaintiff after such sale, the auditor was liable for failure to perform the duty required by this section; and although a taxpayer was negligent in failing to pay his taxes, the failure of the auditor to place the words "Sold for taxes" on the list furnished the treasurer was the proximate cause of plaintiff's loss (123-159, 143+257, 51 L. R. A. [N. S.] 137). Counties, 90, 91.

COLLECTION BY TREASURER

2062. Lists to treasurer—

Cited (123-159, 143+257, 51 L. R. A. [N. S.] 137). 126-271, 148+116; note under § 2067.

[2063—]1. Treasurer to publish personal property tax list in counties having less than 150,000 inhabitants—The county treasurer of each county in this state, which now has or hereafter may have, less than 150,000 inhabitants, shall cause to be published once between January 1st and February 1st of each year in a legal newspaper published in the county, that portion of the current personal property tax list which pertains to personal property taxes in cities, villages, towns or assessment districts nearest the place where said newspaper is published, so far as practicable, the portion of said list to be published in the respective newspaper to be fixed and designated by the county treasurer. ('17 c. 392 § 1)

[2063—]2. Same—What list shall contain—Such list shall give the name of the person, firm or corporation assessed for such tax; the city, village, town or assessment district where the same was assessed; the assessed value of personal property for purposes of taxation upon which such tax is based; the amount of the tax; and by reference to school district, the total tax rate. Such list may be in substantially the following form:

PERSONAL PROPERTY TAX LIST

191....

Town, city or village of.....
Total tax rate by school districts.
School Dist. No. mills. School Dist. No.mills.
School Dist. No. mills. School Dist. No.mills.

Table with 3 columns: Name, Valuation, Tax

('17 c. 392 § 2)

[2063—]3. Same—Proof of publication—Payment—Proof of the publication of such lists shall be made and filed with the county auditor, and the payment of such publications shall be made on properly itemized and verified statements, from the county revenue fund, at a rate not to exceed the rate fixed by law for other similar publications required to be made by counties. ('17 c. 392 § 3)

2067. Tax receipts—Duplicates—Upon the payment of any tax, the treasurer shall give to the person paying a receipt therefor, showing the name and postoffice address of the person, the amount and date of payment, the land, lot, or other property on which the tax was levied, according to its description on the tax list or in some other sufficient manner, and the year or years for which the tax was levied. If for current taxes on real estate, the receipt shall have written or stamped across its face, "taxes for" (giving the year in figures), or, "First half of taxes for" (giving the year in figures), or, "Last half of taxes for" (giving the year in figures), as the case may be. If land has been sold for taxes either to a purchaser, or to the state, and the time for redemption from such sale has not expired, the receipt for such taxes shall have written or stamped across the face, "Sold for taxes." The treasurer shall make duplicates of all receipts, and shall return all such duplicates at the end of each month to the county auditor who shall file and preserve them

in his office, charging the treasurer with the amount thereof. (Amended '17 c. 18 § 1)

By § 2 1917 c. 18 takes effect January 1, 1918.

The duty imposed upon the auditor by § 2059, and that imposed upon the treasurer by this section, to write on the tax list and tax receipts the words "Sold for taxes," is ministerial, and such officers are liable for failure to perform the duty (123-159, 143+257; 51 L. R. A. [N. S.] 137). Counties, ☞90, 91; Officers, ☞116.

Assuming that the county treasurer failed to write such words, his failure to do so was the proximate cause of the loss of the taxpayer's property by his failure to redeem (123-150, 143+257, 51 L. R. A. [N. S.] 137). Whether his failure to so write was a failure to perform a statutory duty, if the lists furnished him by the auditor did not contain such words, quere (123-150, 143+257, 51 L. R. A. [N. S.] 137). A county treasurer, in failing to write the words "Sold for taxes" on a tax receipt, is not guilty of a breach of duty, unless the tax list furnished him by the county auditor shows that the land has been sold for taxes. (126-271, 148+116). Counties, ☞90.

[2067—]1. **Tax receipts to state apportionment of taxes**—The county treasurer of each county shall cause to be printed, stamped or written on the back of all current tax receipts, a statement showing the number of mills of the current tax apportioned to the state, county, city, village, town or school district. ('15 c. 319 § 1)

ACCOUNTING AND DISTRIBUTION OF FUNDS

2075. **Apportionment of penalties and interest**—All penalties and interest accruing upon any tax levied by special assessment or otherwise, for local purposes, on real estate in any incorporated city, borough or village shall be apportioned to the general revenue fund of the city, borough or village where the real estate is situated, and all other penalties, and interest collected on real estate taxes shall be apportioned one-half to the county revenue fund and the other half to school districts of the county in the manner provided for the distribution of other school funds by Section 3763 of the General Statutes of 1894, as amended by Chapter 49 of the General Laws of 1897. Provided that all costs collected shall be apportioned to the county revenue fund. (Amended '15 c. 159 § 1)

DELINQUENT REAL ESTATE TAXES

2097. Designation of newspaper—

It is the intention of this section that a certified copy of the resolution should be filed with the clerk prior to the first publication, and the failure to file it is jurisdictional (123-180, 143+355). Taxation, ☞630, 734(7).

A designation in substantial compliance with this section is a jurisdictional prerequisite to a valid judgment. The statute is not complied with by the filing of an original designation under the hand and official seal of the auditor in the office of the clerk of court, instead of a certified copy, no original or other designation being filed in the auditor's office; the filing of the original in the clerk's office not creating a presumption that an original had been filed by the auditor in his own office. And the evidence is held to sustain a finding that no original auditor's designation of a newspaper in which to publish the delinquent list was filed in his office as required by this section (123-273, 143+786). Newspapers, ☞1(4).

Correction of filing date on resolution designating newspaper. (121-173, 141+101).

2103. What defects jurisdictional—

Statutory requirements as to the steps for determining the amount of the tax are directory, while those relating to enforcement of the tax against property are mandatory (121-421, 141+839).

This section does not cure the jurisdictional defect arising from a failure to file a certified copy provided for by § 2097, prior to the first publication (123-180, 143+355). Taxation, ☞688.

This section does not cure the failure of the auditor to file in his office the designation of a newspaper in which to publish the delinquent tax list, as required by § 2097 (123-273, 143+786). Taxation, ☞688, 693.

2105. Judgment when no answer—Form—Entry—

Cited (133-386, 158+635, L. R. A. 1916F, 861).

2108. Application for judgment—Defenses—

This section does not restrict the right of defense to cases in which there has been some omission of statutory requirements, and an objection that improper items of charge were included in the amount of an assessment may be interposed in the assessment proceedings,

and hence certiorari will not lie, there being an adequate remedy otherwise (134-204, 158+977). Municipal Corporations, [§512\(1\)](#).

In view of the provision of this section making it a permissible defense that land has been assessed and taxed at a valuation greater than its real and actual value, the action of the state tax commission in refusing to reduce an illegal excessive valuation is not reviewable by certiorari, there being an adequate remedy at law in the statutory proceeding to enforce the tax (135-282, 160+665). Taxation, [§493\(4\)](#).

TAX SALES

2117. Public vendue—Procedure—

126-271, 148+116; note under § 2067.

2118. Certificate of sale—Form—Effect—Record—

Where the property is described by its government description, without mentioning a mineral interest owned separately from the surface, the tax certificate does not cover such mineral interest (125-491, 147+706, L. R. A. 1916D, 304). Taxation, [§686](#).

2119. Who may purchase—Owner—

The owner of property cannot cut out a city assessment on his property by buying up a subsequent tax title. (124-296, 145+24). Taxation, [§733](#).

A property owner, and his successors in interest held bound by contract to pay taxes on a strip of land used by himself and the adjoining owner as an alley, so that he could not obtain a tax title thereto, though he had made a separate conveyance of the alley strip (122-411, 142+805). Taxation, [§107](#), 674.

2121. Wrong name of owner—

Where the property is described by its government description without mentioning a mineral interest owned separately from the surface, the tax certificate does not cover such mineral interest (125-491, 147+706, L. R. A. 1916D, 304). Taxation, [§686](#).

2122. Entries in judgment books after sale—

Tax assignment certificate void where record does not show that land was bid in for the state (121-367, 141+493). Taxation, [§742](#).

Where original judgment book fails to show sale to state, it cannot be presumed that copy judgment book, not in evidence, shows such sale (121-367, 141+493). Taxation, [§693](#).

2123. Record of assignment of certificate or deed on sale for taxes or special assessments—

An assignment of a certificate held by one in adverse possession of land held not to break the continuity of his possession (132-311, 156+350). Adverse Possession, [§52](#).

2125. Taxes on land sold—Payment by purchaser or assignee—

127-124, 149+16; note under § 8172.

2126. Lands bid in for state—Assignment—Certificate—

A state assignment certificate for land bid in by the state, wherein the assignees are named "Goodrich and Oliphant," is sufficient to transfer to them the interest and tax lien of the state; the identity of the assignees being shown by extrinsic proof (135-186, 160+490). Taxation, [§731](#).

In making assignment of a tax certificate the auditor exercises a statutory power, and, where made for a less amount than required by the statute, they are void. Tax assignment certificates, conveying the interest of the state in lands bid in for the state, but still subject to redemption by the owner, do not have the conclusive effect given to a governor's deed conveying forfeited land and executed after the time for redemption has expired. (134-373, 159+825). Taxation, [§731](#).

2127. Unredeemed lands—Forfeited sale—

Cited (133-153, 157+1072).

Tax deed failing to show that the sale was made in compliance with the statutory requirements is void (129-25, 151+421). Taxation, [§754](#).

The authority of the Governor to execute a deed under this section is dependent on the expiration of the time for redemption (129-72, 151+534). Taxation, [§749](#).

There is no real forfeiture to the state (132-311, 156+350). Taxation, [§695](#).

2128. Conduct of sale—Such sale shall be conducted by the county auditor in such manner as shall be directed by the state auditor. Each parcel shall be sold to the highest cash bidder therefor but not for a less sum than the aggregate taxes, penalties, interest and costs charged against it, unless the cash value thereof fairly determined by the county board and approved by the Minnesota tax commission shall be less than such aggregate, in which case the value so fixed and approved shall be the minimum price for which such property may be sold. Provided that all parcels bid in for the state for taxes for the year 1910 or prior years may be disposed of for one-half of the total taxes as originally assessed. Provided, further that all unsold parcels

which are subject to delinquent taxes for ten years or more and which have been subject to sale under the provisions of this section and sections 2127 and 2129, for three years or more, may be disposed of for a sum not less than one-fifth (1/5) of the total taxes as originally assessed.

The purchaser shall forthwith pay the amount of his bid to the county treasurer, and the officer conducting the sale shall give to him a certificate in a form prescribed by the attorney general, in which shall be set forth the name of the purchaser, a description of the land sold, the price paid and the date and place of the sale. The auditor and treasurer of the county shall attend such sale, the former to make a record of all sales thereat, and the latter to receive all moneys paid on account thereof. (Amended '17 c. 303 § 1)

1917 c. 303, does not expressly amend this section, but it is entitled "An act amending section 2128 of the General Statutes of Minnesota for 1913, relating to delinquent taxes."

Taxes delinquent prior to year 1914—See 1915 c. 334, "An act to enforce payment of real estate taxes upon all unsold tracts of land included in the sale held in the year 1914 under the provisions of chapter 543, General Laws of 1913."

129-25, 151+421; note under § 2127.

One claiming title to land sold under G. S. 1894 § 1616 must prove authority from the state auditor to make such sale; recitals in the deed executed by the county auditor not being evidence of such authority (131-468, 155+640). Taxation, Ⓒ788(5), 810(1).

2129. Purchaser to receive deed.—

See §§ [2130—]1 to [2130—]3.

The deed is not conclusive that the time for redemption had expired when it was executed, and the owner of the land may show that no notice was given under § 2148 (129-72, 151+534). Taxation, Ⓒ788(7).

R. L. 1905 § 938 cited on question of effect of tax assignment certificates (134-373, 159+825).

129-25, 151+421; note under § 2127.

2130. Same—How made and when—

See §§ [2130—]1 to [2130—]3.

134-373, 159+825.

Where the sale is not made in accordance with the statutory requirements, and no valid notice to redeem is given, the right of redemption is not cut off. A notice failing to state that the certificates were presented to the county auditor by the holder thereof is fatally defective (129-25, 151+421). Taxation, Ⓒ704.

[2130—]1. **Tax commission to issue state tax deeds**—That all the duties and powers heretofore conferred by statute upon the governor concerning the issuing of state tax deeds under the provisions of Sections 2129 and 2130, General Statutes of 1913, and Chapter 543, Laws of 1913, are hereby conferred upon the chairman of the Minnesota Tax Commission. ('15 c. 332 § 1)

This act takes effect May 1, 1915.

[2130—]2. **Same—Application for deed, to whom and how made—Records of commission**—That all applications for such tax deeds shall be made to the chairman of the Minnesota Tax Commission and the applicant shall present to such official the original tax certificate and certified copy of the notice of expiration of redemption, with proof of service thereof and of the filing of such proof in the office of the county auditor, and certificate of such auditor that the time of redemption has expired and that no redemption has been made, and such other proof as said chairman may require. All of said papers shall be filed in the office of the secretary of the Minnesota Tax Commission, and shall remain therein as permanent records in said office. ('15 c. 332 § 2)

[2130—]3. **Same—Fees of county auditor**—The county auditor shall be entitled to collect a fee of fifty cents from such applicant for each certified copy of a notice of expiration of redemption and the preparation of the other necessary papers and information in connection therewith, which fee shall be retained by such auditor in addition to his salary provided by law. ('15 c. 332 § 3)

2132. Certificates and deeds as evidence—Grounds for setting aside—Evidence of payment—County and state, when parties—

G. S. 1894 § 1594 cited on question of effect of tax assignment certificates (134-373, 159+825).

Certificate of tax assignment not prima facie evidence where judgment book fails to show that land was bid in for the state (121-367, 141+493). Taxation, Ⓒ742.

2133. Action to set aside—Limitation—

The limitation prescribed by this section does not commence to run until 60 days after a valid notice of expiration of the time of redemption has been served. (135-186, 160+490). Taxation, Ⓒ805(1).

2134. Invalid certificate—State's lien passes, when—

Not repealed by § 2150 (121-301, 141+183, Ann. Cas. 1914C, 755). Taxation, Ⓒ696. 126-218, 148+273; note under § 2188.

REDEMPTION FROM TAX SALES**2138. Amount payable—**

Subd. 3—Cited and applied (133-456, 158+701).

2148. Notice of expiration of redemption—

In general—Deed is not conclusive that time for redemption had expired, and owner may show that no notice was given under this section (129-72; 151+534). Taxation, Ⓒ788(7).

Under this section the court might adjudge a lien to the holder of a tax certificate issued upon a sale subsequent to the taking effect of 1902 c. 2 § 47, though the sale and certificate be valid and there is time and opportunity to serve a notice of the expiration of the time of redemption (126-218, 148+273). Taxation, Ⓒ814(4).

Form of notice—The part of this section providing a form of notice was superseded by 1905 c. 270 (§ 2149, post), so that a notice of expiration of redemption from any tax sale subsequent to 1902 must conform substantially to the form prescribed by 1902 c. 2 § 47 (131-332, 155+107). Taxation, Ⓒ696.

155+107, followed, and held that a notice failing to conform to § 47, c. 2, Laws 1902, as required by c. 270 Laws 1905, was invalid (132-144, 155+1038; 131-332, 155+107; 135-186, 160+490). Taxation, Ⓒ704.

Statement of amount required to redeem—Where the amount stated in the notice includes delinquent taxes accruing subsequent to the sale, it is incumbent on the holder of the tax certificate to affirmatively prove by evidence outside the recitals in the notice the amount of such delinquent taxes, and that he paid the same, and the date of such payment. In the absence of such evidence, the right of redemption is not terminated (133-456, 158+701). Taxation, Ⓒ810(3).

A notice which imposes on the redemptioner the burden of determining which of two amounts stated therein as necessary to redeem is correct is insufficient. The notice in this respect must be definite and specific (130-397, 153+758, Ann. Cas. 1916E, 157). Taxation, Ⓒ704.

Qualifications required of newspaper—Where the notice is served by publication the newspaper must possess the qualifications required by statute to entitle it to publish such notices; and the requirement that it must "be circulated in or near its place of publication to the extent of at least 240 copies" is not satisfied by showing that 240 copies are published, without showing where they are circulated (130-202, 153+517). Taxation, Ⓒ706.

To whom directed and upon whom served—For the notice to be effective, it must be directed to the person in whose name the land stands assessed on the assessment book; the recitals in the notice not furnishing the required proof (129-367, 152+764). Taxation, Ⓒ722(3).

Notice given to the certificate holder himself is insufficient, in the absence of proof that the title to the land then stood in his name (130-202, 153+517). Taxation, Ⓒ703.

Misnomer in notice—A notice directed to "Goodridge-Call L'b'r. Co.," the land being assessed in the name "Goodridge-Call Lbr. Co." is sufficient (130-202, 153+517). Taxation, Ⓒ703.

Return of service—Under this section, when no one is in possession, there must be a return of the sheriff to that effect as a prerequisite to the publication of the notice of expiration of the period of redemption (133-153, 157+1072). Taxation, Ⓒ706.

2149. Expiration of redemption—Notice—

130-397, 153+758, Ann. Cas. 1916E, 157; 129-25, 151+421; note under § 2130.

That part of § 2148 prescribing form of notice is superseded by 1905 c. 270 (this section), so that a notice of expiration of redemption from any tax sale subsequent to 1902 must conform substantially to the form prescribed by 1902 c. 2 § 47 (131-332, 155+107; 132-144, 155+1038; 124-321, 145+27). Taxation, Ⓒ696, 704.

[2149—]1. **Appointment of resident agent on whom notice may be served—Statement filed with county auditor—**That any person or corporation having any right, title or interest in or to any land or real property in this state may file or cause to be filed in the office of the county auditor of the county in which such land or real property is situated a statement in writing containing, first, the name of the person or corporation having such right, title or interest; second, a description of the land or real property in which

such right, title or interest is had; and third, the designation of some person who is a resident of such county or of some corporation which has an office or place of business within such county upon whom or upon which a personal service may be made of notices of the expiration of the period of redemption of land or real property from tax sales. Each such statement shall be signed by the person or corporation having such right, title or interest or by any agent or attorney of such person or corporation, but need not specify the nature of such right, title or interest. ('17 c. 388 § 1)

[2149—]2. **Same—Duties of auditor—Fees—Statement, when ceases to be valid—Release of particular parcel**—Each such statement so filed in the office of any county auditor in this state shall be immediately numbered and filed in his office by such county auditor consecutively in the order in which it is received and such county auditor shall, at the same time, enter consecutively in the order in which such statement is received, in a book to be kept by him for that purpose, first, the file number of such statement; second, the date when such statement is received and filed by him; third, the name of the person or corporation named in such statement as having some right, title or interest in land or real property, with the post office address of such person or corporation, if given in such statement; and fourth, the name of the person or corporation named in such statement as the one upon whom or upon which a personal service of notice may be made. And at the same time such county auditor shall enter the file number of such statement in his real estate transfer book or books under each piece or parcel of land described in such statement. For the duties required of the county auditor by this act he shall be paid, for his own use and as an additional emolument of his office, by the person presenting such statement to be filed, a fee of twenty-five cents for each piece or parcel of land described in such statement. Each such statement shall cease to be valid and effectual as such for any and all the purposes of this act at the expiration of five years from the date of its filing, or when the person named therein as the one upon whom a personal service of notices may be made dies or ceases to be a resident of such county, or when the corporation named therein as the one upon which a personal service of notices may be made ceases to have an office or place of business within such county. Provided, however, that the person or corporation named in a statement filed under the provisions of this act as having such right, title or interest may file in the same office in which such statement is filed an instrument releasing any particular piece or parcel of land or real property described in such statement from the effect of such statement, such releasing instrument to be executed with the same formalities as are necessary to entitle conveyances of real estate to record. Such releasing instrument shall be by the said county auditor immediately attached to and filed with such statement affected thereby. Every person or corporation filing such releasing instrument shall, before such releasing instrument is filed, pay to said auditor, for his own use, a fee of ten cents for each such releasing instrument. From the time such releasing instrument is so filed such statement affected thereby shall cease to be valid and effectual as to such particular piece or parcel of land or real property so released, but shall nevertheless be and remain valid and effectual as such for any and all the purposes of this act as to each and every other piece or parcel of land or real property therein described. ('17 c. 388 § 2)

[2149—]3. **Same—Service to be made on resident agent**—Service of notice of expiration of redemption from all tax sales, whether of lands bid in by the state or otherwise sold, shall be made upon resident agents appointed under this act, in the same form, in the same manner and within the same time, as is now or may hereafter be provided by law for personal service upon the person to whom such notice of expiration of redemption is directed. The full period of redemption shall not expire until sixty days shall have elapsed after the service of such notice and proof thereof has been filed. ('17 c. 388 § 3)

[2149—]4. **Same—Not to supersede other notices**—The service of notices required by the provisions of this act shall not supersede or take the place of

the notices required by any other law of this state to be served or published, but shall be additional thereto. ('17 c. 388 § 4)

2150. Notice not to issue in certain cases after six years from sale—Certificates, when void—Lien—No notice of the expiration of the time of redemption upon any certificate of tax judgment sale issued to an actual purchaser, or upon any state assignment certificate shall issue or be served under the provisions of Section 1654 of the General Statutes of 1894, or any other law in force at the time of the passage of this act, after the expiration of six years from the date of the tax judgment sale described by any such certificate; nor shall any such certificate be recorded in the office of any register of deeds after the expiration of seven years from the date of such sale. All such certificates upon which such notice of expiration of redemption shall not be issued and served, and such certificate recorded in the office of the proper register of deeds within the times limited by this act, shall be void and of no force or effect for any purpose whatever, and failure to serve such notice or record such certificate within the time herein prescribed shall operate to extinguish the lien of said purchaser for the taxes for the year or years in such certificate described and appearing, anything in any other statute of this state to the contrary notwithstanding. (Amended '15 c. 77 § 1)

1915 c. 77 § 1 added the words beginning "and failure to serve such notice." Section 2 provides that the act shall not affect any pending action or proceeding. By section 3 the act takes effect March 1, 1916. See § [2150—]1.

Does not repeal §§ 2134, 2165, 2168, 2171, 2188 (121-301, 141+183, Ann. Cas. 1914C, 755). Taxation, ☞696.

The limitations contained in this section apply only to tax certificates issued before the lands become forfeited to the state, and to notices of expiration of the time to redeem issued thereon. The time for giving such notices as to lands forfeited to the state remained unlimited (124-321, 145+27). Taxation, ☞701.

Failure to record certificate does not extinguish tax lien (121-301, 141+183, Ann. Cas. 1914C, 755). Taxation, ☞686.

[2150—]1. Notice not to issue in certain cases after six years from sale—Certificate, when void—Lien—No notice of the expiration of the time of redemption upon any certificate of tax judgment sale issued to an actual purchaser or upon any state assignment certificate issued under the provisions of section 1601 General Statutes 1894 or upon any certificate issued to an actual purchaser at any forfeited tax sale held under the provisions of section 1616, 1617 of the General Statutes 1894, or under the provisions of sections 936, 937 and 938 of the Revised Laws of 1905, or under the provisions of section 2127, 2128 and 2129 General Statutes 1913, or under any of said sections or any act amendatory thereof, shall be issued or served after the expiration of six years from the date of the tax judgment sale described by any such certificate; nor shall any such certificate be recorded in the office of any register of deeds after the expiration of seven years from the date of such sale. All such certificates upon which such notice of expiration of redemption shall not be issued and served and such certificate recorded in the proper register of deeds' office within the time limited by this act, shall be void and of no force and effect for any purpose whatever, and failure to serve such notice or record such certificate within the time herein prescribed shall operate to extinguish the lien of said purchaser for the taxes for the year or years in such certificate described and appearing and the lien of all subsequent taxes paid under any such certificate. Provided, that the lien of any taxes for the year or years described in any such certificate, or the lien of any subsequent taxes paid under any such certificate may be enforced by a sale of the property covered by such lien by a sale thereof by foreclosure or other proper action or proceeding at any time within nine months after the taking effect of this act.

Provided further, however, that this act shall not apply to or affect liens of the state in and upon lands which have been bid in for the state and subsequently sold or assigned. ('17 c. 488 § 1)

By section 3 the act takes effect January 1, 1918.
See § 2150.

[2150—]2. Same—Pending actions—This act shall not affect any action or proceeding now pending in the courts of this state. ('17 c. 488 § 2)

REFUNDMENT

2157. On sale or assignment, when allowed—

Cited (121-301, 141+183, Ann. Cas. 1914C, 755).

Under this section the holder of a tax certificate is entitled to refundment of money paid for his certificate when the assessment of the tax is void, and he is entitled to a refundment of subsequent void taxes paid which the statute permits to be tacked to his certificate, where, at the time of payment, he is without knowledge of the invalidity of the taxes though the payment, if made by the owner of the land, would be voluntary and not recoverable (161+511). Taxation, [§21\(2\)](#).

Effect of registration of title (see 123-397, 143+981, L. R. A. 1916D, 1). Records, [§9\(13\)](#).

2159. On judgment—County to be party—

Effect of registration of title (see 123-397, 143+981, L. R. A. 1916D, 1). Records, [§9\(13\)](#).

ACTIONS INVOLVING TAX TITLES

2165. Tax judgment or sale set aside—Purchaser's lien—Sale to satisfy—

Not repealed by § 2150 (121-301, 141+183, Ann. Cas. 1914C, 755). Taxation, [§696](#).

Although plaintiff's tax title has failed, he is entitled to have his lien for the taxes paid by him enforced in his action to determine adverse claims (135-186, 160+490). Taxation, [§814\(4\)](#).

It is immaterial that the judgment adjudging the amount of the lien fails to direct a sale for its enforcement (128-498, 151+201). Taxation, [§827](#).

That a tax lien in favor of plaintiff was adjudged against defendant's land as a whole, instead of placing specific amounts against each tract, is not open to objection (128-498, 151+201). Quieting Title, [§52](#).

Costs held properly awarded to defendant on adjudging the amount of plaintiff's lien (128-498, 151+201). Quieting Title, [§54](#).

2168. Action to quiet title—

123-180, 143+355.

In general—That defendant does not establish a record title does not deprive him of the right to be heard on appeal (129-72, 151+534).

Not repealed by § 2150 (121-301, 141+183, Ann. Cas. 1914C, 755). Taxation, [§696](#).

Extent of purchaser's lien—Although plaintiff's tax title has failed, he is entitled to have the lien for the taxes paid by him enforced in his action to determine adverse claims (135-186, 160+490). Taxation, [§814\(4\)](#).

Under this section a tax claimant, whose title is invalid because of a defective notice of expiration of the period of redemption, is not entitled to a lien for the costs incurred upon such notice (133-153, 157+1072). Taxation, [§824](#).

In an action to determine adverse claim, where defendant answered, claiming title absolute, the court properly allowed costs to plaintiff, though under this section the lien was decreed defendant as holder of the tax certificate (126-218, 148+273; 128-498, 151+201). Taxation, [§818](#).

Under this section the court might adjudge a lien to the holder of a tax certificate issued upon a sale subsequent to the taking effect of 1902 c. 2 § 47, though the sale and certificate be valid, and there is time and opportunity to serve a notice of the expiration of the time of redemption (126-218, 148+273). Taxation, [§814\(4\)](#).

2170. Plaintiff to pay taxes in action to set aside—

129-367, 152+764; 126-218, 148+273; note under § 2168.

MISCELLANEOUS PROVISIONS

2171. Lien of real estate taxes—

126-218, 148+273; note under § 2188.

Not repealed by § 2150 (121-301, 141+183, Ann. Cas. 1914C, 755). Taxation, [§696](#).

Although plaintiff's tax title has failed, he is entitled to have the lien for taxes paid enforced in his action to determine adverse claims (135-186, 160+490). Taxation, [§814\(4\)](#).

By force of § 2134 the lien is transferred to tax title holder, who may enforce lien without compliance with § 2150 (121-301, 141+183, Ann. Cas. 1914C, 755). Taxation, [§823](#).

2172. Assessments for local improvements in cities—Priority of liens—

The provision of this section that a later tax lien is superior to an earlier city assessment lien is not against public policy (124-300, 145+21). Taxation, [§502](#).

Where title is obtained under tax liens which are equal in right of priority by sale and expiration of the period of redemption, the holders thereof become tenants in common (124-300, 145+21). Tenancy in Common, [§3](#).

A purchaser of a tax title, based on taxes for 1906 to 1909, inclusive, is a tenant in common with a purchaser under a St. Paul city assessment lien accruing in 1906 (124-305, 145+25). Tenancy in Common, [§3](#).

Under 1905 c. 200, a tax title, based on taxes for 1906 to 1909, inclusive, is equal in right of priority with title based on a St. Paul city assessment lien accruing in 1906 (124-305, 145+25). Taxation, [§785](#), 786.

A tax title based on a single forfeiture sale for taxes for the years 1891, 1892, and 1902 to 1909, inclusive, is equal in right of priority with a lien based upon a St. Paul city assessment accruing in 1909 (124-296, 145+24). Taxation, [§733](#).

Tax titles based on tax sales for general taxes of 1906 to 1909, inclusive, and on a sale to enforce a St. Paul city assessment lien accruing in 1906, are superior to separate city assessment liens accruing at different times during years from 1896 to 1901, but are inferior to city assessment liens accruing in 1912 (124-305, 145+25). Taxation, [§785](#), 786.

Under 1905 c. 200, general tax liens and city assessment liens are of equal rank and general rules as to tax liens of equal rank apply. Each lien is superior to all that precede it in time. A later tax or assessment lien will take priority over all earlier liens, whether for taxes or assessments. Priority is determined as of the date of accrual of the original lien, not as of the date of sale. City assessments accruing in any year are equal in right of priority with lien of taxes for that year (124-300, 145+21). Taxation, [§509](#), 510.

Where land is sold at a forfeiture tax sale for taxes for a number of years for the entire amount, the lien of the holder of a certificate issued on such sale is equal in right with an assessment lien accruing in any one of those years (124-300, 145+21). Taxation, [§733](#).

2184. Structures, etc., not to be removed—Injunction—

This section does not affect the right of the owner to recover from a stranger who removes timber (129-25, 151+421). Trespass, [§19](#).

2188. Real estate tax judgment—No limitation—

Although plaintiff's tax title has failed, he is entitled to have the lien for taxes paid by himself and his assignors enforced in his action to determine adverse claims (135-186, 160+490). Taxation, [§814\(4\)](#).

A lien adjudged under § 2168 may include taxes paid subsequent to the giving of a defective notice of redemption, whether such taxes be paid before or after they become delinquent (126-218, 148+273). Taxation, [§814\(4\)](#).

Not repealed by § 2150 (121-301, 141+183, Ann. Cas. 1914C, 755). Taxation, [§396](#).

2190. Taxes paid by mortgagees, etc.—

126-218, 148+273; note under § 2188.

2192. Deeds, etc.—Payment before transfer and record—Auditor's certificate—Penalty, etc.—

162+525.

RAILROAD COMPANIES

2226. Gross earnings tax—Return of earnings—When payable—

Defendant and certain navigation companies agreed that defendant should employ stevedores to perform work, part of which it was the duty of defendant to perform; the navigation companies paying the actual cost of the labor. Defendant acted in the transactions as the hiring and disbursing agent of the boat companies, but making no profit. Held, in the absence of fraud or evasion of the obligations of either party to the state, moneys received from such boat companies are not subject to the gross earnings tax (130-377, 153+850). Taxation, [§382](#).

Where a carrier acts as the hiring and disbursing agent of another carrier in the performance of duties partly owing by both, for which the former receives no profit, the moneys collected by it are not subject to the gross earnings tax, where such services are included in the freight charges of the other company which pays a gross earnings tax thereon, since to impose such tax on both companies would involve double taxation (130-377, 153+850). Taxation, [§47\(1\)](#).

2232. Same—Taxes, how apportioned—

Apportionment of earnings, where several corporations use same tracks, and some of such corporations are liable to the gross earnings tax, and some not (122-106, 142+19). Taxation, [§394](#).

2235. Same—Apportionment, how certified—Duties of county and state auditors—Taxes, how apportioned—

Const. art. 9 § 9 has no application to the issuance of the warrant by the auditor on the state treasury for the distribution of the tax collected under this section (125-67, 145+607). States, [§130](#).

FREIGHT LINE COMPANIES

2250. Freight line company defined—

1907 c. 250 held not an unlawful burden on interstate commerce (129-30, 151+410). Commerce, [§72](#).

1907 c. 250 held to authorize imposition of the tax on refrigerator cars owned by a packing company, and operated by it over the lines of different railroad companies, though the motive

power was furnished by the railroad companies, and such companies received the same freight as they would have received had the cars belonged to them (129-30, 151+410). Taxation, Ⓒ 148.

TELEGRAPH AND TELEPHONE COMPANIES

2262. Telegraph companies—Annual statement—
132-93, 155+1061.

2263. State board of equalization to assess—Rate—
Property of telegraph companies, if not included in § 1988, is to be valued and assessed under this section, at its "full and true value in money" (132-93, 155+1061). Taxation, Ⓒ 155.

2264. Collection—Action—Distress—
132-93, 155+1061.

[2267—]1. Certain penalties and interest on certain telephone companies cancelled—That the penalties and interest accruing on unpaid delinquent gross earnings taxes for the year 1913 and prior years of telephone companies whose gross earnings for said years have not exceeded five hundred dollars (\$500) per year are hereby cancelled and abated, provided such companies pay all of such delinquent taxes into the state treasury on or before July 31, 1915. ('15 c. 172 § 1)

INHERITANCES, DEVICES, BEQUESTS AND GIFTS

2271. Taxation on inheritances, etc.—
Cited (162+525).

The language of this section indicates an intention to impose a succession tax in all cases in which the legislature has the power to impose such tax, and it cannot be construed as applying only where the devolution of the property is governed by our laws (128-371, 150+1094, L. R. A. 1916A, 901). Taxation, Ⓒ 860.

Subd. 2—As between debtor and creditor the situs of a debt is the domicile of the creditor. But he may give it a situs elsewhere, and it may be taxed under the laws of the state where the evidences of indebtedness are deposited. But the statute imposes a tax upon the transfer of the property and not upon the property itself. The transfer having been made in this state by a resident is taxable here, although the actual situs of the property was in Kentucky, and though such transfer may be subject to tax in that state (124-508, 145+390, 56 L. R. A. [N. S.] 262, Ann. Cas. 1915B, 861). Taxation, Ⓒ 868(2).

The devolution of debts owed by residents of this state, whether evidenced by promissory notes or not, and of the stock of corporations of this state, and of the stock of national banks located in this state, is subject to a succession tax in this state, though the debts were owing to, and the stock was held by, nonresident decedents (128-371, 150+1094, L. R. A. 1916A, 901). Taxation, Ⓒ 867(1).

Bonds of a railroad company, incorporated under the laws of Minnesota, having its principal place of business and general offices in the state, payable in New York, owned by a resident of Illinois and in his possession there at the time of his death, the persons succeeding thereto being residents of Illinois, the railway being subject to jurisdiction in states other than Minnesota, and it not being necessary to invoke the laws of Minnesota or resort to its courts, are not subject to a succession tax in Minnesota. Distinguishing (128-371, 150+1094, L. R. A. 1916A, 901; 133-117, 157+1076, L. R. A. 1916E, 1288). Taxation, Ⓒ 867(2).

Where the obligation is secured by a mortgage of real property of the corporate debtor, organized under the laws of the state as a railway corporation, a portion of which is in Minnesota and a larger portion in other states, through which the railroad passes, where it is subject to jurisdiction, and where the debt can be enforced and the mortgage foreclosed, and the whole mortgaged property sold, the fact that the mortgage covers property in Minnesota does not give it, a taxable situs, supporting a succession tax (133-117, 157+1076, L. R. A. 1916E, 1288). Taxation, Ⓒ 868(1).

Subd. 5—Where a testator residing in Minnesota exercised by will a power of appointment given in the will of his mother, executed in Kentucky, in respect to property in the custody of a resident of Kentucky, such exercise of the power is constituted by the transfer of the property and not its creation (124-508, 145+390, 50 L. R. A. [N. S.] 262, Ann. Cas. 1915B, 861). Taxation, Ⓒ 878(2).

Under this section, the appointment, when made, is a taxable transfer in the same manner as though the property to which such appointment relates belonged absolutely to the donee of the power, and had been bequeathed or devised by the will. Therefore this case is treated as though the testator actually owned the property and had bequeathed it to the persons named in the will (124-508, 145+390, 50 L. R. A. [N. S.] 262, Ann. Cas. 1915B, 861). Taxation, Ⓒ 878(2).

2273. To take effect on death—When payable—Value of future or limited estate, etc.—

Prior to the amendment made by 1911 c. 209, the tax was computed upon the value of the inheritance at the time of decedent's death, and it became due when the beneficiary entered into the possession and enjoyment of any part exceeding the statutory exemption (132-104, 155+1077). Taxation, Ⓒ887, 895(4).

The inheritance tax law, as amended by 1911 c. 209, is not unconstitutional as embracing more than one subject not expressed in its title, or as infringing the equality provisions of the state and federal constitutions or the provision relating to the impairment of contracts (128-371, 150+1094, L. R. A. 1916A, 901). Constitutional Law, Ⓒ119, 229(1); Statutes, Ⓒ121(4); Taxation, Ⓒ121.

Where present value of precedent estate is ascertained, present value of estate passing to remaindermen is difference between present values of precedent estate and of entire estate, and tax thereon is payable presently, without regard to ultimate disposition of remainder (162+459). Taxation, Ⓒ897.

This section requires immediate payment of all inheritance taxes, except in single case of tax measured by value of estate or interest not susceptible of present valuation. That persons to whom succession will ultimately pass may not yet be known, and that amount which will pass to particular person may not yet be known, is not ground for deferring payment of tax (162+459). Taxation, Ⓒ887.

If inheritance tax rate be uncertain tax is to be paid at highest rate to which succession would, in any event, be subject; and if subsequent events show that such rate is too high, excess tax is to be refunded (162+459). Taxation, Ⓒ886½.

2281. Transfer by foreign executors, etc.—Personal property of nonresident decedent—Proceedings before attorney general—Shares of stock—Appeal—Where law of domicile exempts transfers of personal property of residents of Minnesota—

This act is not unconstitutional (128-371, 150+1094, L. R. A. 1916A, 901); note under § 2273.

A nonresident decedent's personal property having a situs in this state is subject to the succession tax of this state, though the devolution of such property is governed by the law of the decedent's domicile (128-371, 150+1094, L. R. A. 1916A, 901). Taxation, Ⓒ868(2).

The reciprocal exemption amendment made by 1911 c. 209, subsequently repealed, construed (see 128-371, 150+1094, L. R. A. 1916A, 901). Taxation, Ⓒ872.

2283. Application for letters testamentary, etc.—Notice—Determination of value of inheritance, etc.—

This act is not unconstitutional (128-371, 150+1094, L. R. A. 1916A, 901); note under § 2273.

2284. Appraisers—

This act is not unconstitutional (128-371, 150+1094, L. R. A. 1916A, 901); note under § 2273.

2285. Inheritance, etc., how appraised—

This act is not unconstitutional (128-371, 150+1094, L. R. A. 1916A, 901); note under § 2273.

2286. Notice of appraisal—Powers and duties of appraisers—Compensation and fees—

This act is not unconstitutional (128-371, 150+1094, L. R. A. 1916A, 901); note under § 2273.

2288. Notice upon determination—Additional clerical assistance—

This section, as amended by 1911 c. 209, is not unconstitutional (128-371, 150+1094, L. R. A. 1916A, 901); note under § 2273.

2289. Objections—Notice and hearing—Reassessment—Bill of particulars—General inventory and appraisal—

This section, as amended by 1911 c. 209, is not unconstitutional (128-371, 150+1094, L. R. A. 1916A, 901); note under § 2273.

2290. Nonpayment of tax—Duties of county officers—Hearing in probate court—Action by state—Property omitted—

In a proceeding for the collection of an inheritance tax, the state acts in its governmental capacity, not in its proprietary interests, and is not liable for costs or disbursements when the proceeding fails (133-117, 158+637, L. R. A. 1916E, 1288). States, Ⓒ215.

2292. Where estate of nonresident not probated—Agreement by attorney general to compound tax—Consent to assignment or delivery of property—

This section, as amended by 1911 c. 209, is not unconstitutional (128-371, 150+1094, L. R. A. 1916A, 901); note under § 2273.

2293. Powers of attorney general—Citation to persons having knowledge, etc.—Production of books, etc.—Penalty for refusal—Fees—
Cited (131-116, 154+750).

MORTGAGES ON REAL PROPERTY

2301. Mortgage defined—

This act is intended solely as a revenue measure, and is not a restriction upon the right to contract, and if the instrument contains the information required, and the tax is assured to the state, the instrument executed is not invalid (122-419, 142+721). Mortgages, [§](#)54.

When parties, by mutual mistake, fail to insert in a deed given to secure a debt the fact that it is intended as security and the amount of the debt secured, the instrument may be reformed so as to comply with this section (122-419, 142+721). Reformation of Instruments, [§](#)18.

1907 c. 328, imposes no obligation on the mortgagee to pay the registry tax if he does not choose to record or enforce the mortgage (125-218, 146+350, 51 L. R. A. [N. S.] 465, Ann. Cas. 1915C, 774).

2302. Tax on record or registration—Rates—A tax of fifteen cents is hereby imposed upon each hundred dollars, or fraction thereof, of the principal debt or obligation which is, or in any contingency may be, secured by any mortgage of real property situate within the state executed and delivered after the passage and approval hereof and recorded or registered hereafter; provided that any such mortgage heretofore executed and delivered shall not be recorded or registered without payment of the tax originally stipulated in section 2 hereof as originally enacted; provided further that if any such mortgage shall describe any real estate situate outside of this state, such tax shall be imposed upon such proportion of the whole debt secured thereby as the value of the real estate therein described situate in this state bears to the value of the whole of the real estate described therein, as such value shall be determined by the state auditor upon application of the mortgagee; and provided further that if the maturity of any portion of said debt secured by the said mortgage, as therein stipulated, shall be fixed at a date more than five years after the date of said mortgage, then and in that case, the tax to be paid on such portion shall be at the rate of twenty-five cents on each hundred dollars or fraction thereof. (Amended '17 c. 73 § 1)

2307. Prepayment of tax—Evidence—Notice—

Where a contract for the sale of land is pleaded in the complaint and admitted in the answer, it is not material, in determining the rights of the parties between themselves, whether or not the registry tax has been paid (128-307, 150+903). Vendor and Purchaser, [§](#)345.

Evidence held not to show any rights or equities requiring the court to relieve a junior redemptioner, claiming under a subsequent mortgage, recorded without prepayment of the mortgage registry tax (127-37, 148+1066, Ann. Cas. 1916C, 527). Quieting Title, [§](#)44(3).

The payment of the tax is not an obligation imposed on the mortgagee. He is merely required to pay the tax in case he desires to record or enforce the mortgage (125-218, 146+350, 51 L. R. A. [N. S.] 465, Ann. Cas. 1915C, 774). Mortgages, [§](#)200.

[2313—]1. Certain instruments intended as mortgages legalized—That any instrument made and recorded prior to January 1, 1916, which is absolute in form but given and intended as a mortgage or security for a debt and in which the fact that it is so intended and the amount of such debt are not expressed and upon which instrument the mortgage registration tax has been paid, is hereby legalized and made as valid and effectual to all intents and purposes and of the same force and effect in all respects, for the purpose of notice, evidence, validity, as a mortgage or security, foreclosure, cancellation or otherwise, as if such instrument had contained a statement that it was intended as security and the amount of the debt thereby secured; provided that nothing in this act shall be held to apply to any action heretofore commenced or now pending in any of the courts of this state. ('17 c. 401 § 1)

[2315—]1. Certain foreclosures, etc., of contracts legalized, etc.—That in all cases where a contract for the purchase or sale of real estate has been foreclosed or cancelled or attempted to be foreclosed or cancelled, and such foreclosures or cancellation is defective by reason of the fact that prior

thereto no mortgage registration tax has been paid on said contract, such foreclosure or cancellation and all proceedings in connection therewith and the record thereof, if any shall have been made, are hereby legalized and made as valid and effectual to all intents and purposes and of the same force and effect in all respects, for the purpose of notice, evidence, validity, foreclosure, cancellation or otherwise as if such mortgage registration tax had been paid prior to the time of the commencement of any such proceedings. Provided that the mortgage registration tax on said contract has been paid in full before the passage of this act. ('15 c. 235 § 1)

[2315—]2. **Same—Rights, when barred**—Any person, persons, co-partnership or corporation as vendee holding any contract for the purchase or sale of real estate, which said contract has heretofore been foreclosed or cancelled or attempted to be foreclosed or cancelled, and the mortgage registration tax was not paid, said person, persons, co-partnership or corporation shall have thirty days from and after the passage of this act to assert any rights they may have under and by virtue of said contract, or be forever barred from asserting same. Provided, that nothing in this act shall be held to apply to any action heretofore commenced or now pending in any of the Courts of this State. ('15 c. 235 § 2)

[2315—]3. **Certain foreclosures, etc., of contracts legalized, etc.**—That in all cases where a contract for the purchase or sale of real estate has been foreclosed or cancelled, or attempted to be foreclosed or cancelled, and such foreclosure or cancellation is defective by reason of the fact that prior thereto no mortgage registration tax has been paid on said contract, such foreclosure or cancellation, and all proceedings in connection therewith and the records thereof, if any, shall have been made, are hereby legalized and made as valid and effectual to all intents and purposes and of the same force and effect in all respects, for the purpose of notice, evidence, validity, foreclosure, cancellation and in all respects, the same as if such mortgage registration tax had been paid prior to the time of the commencement of any such proceedings, provided, that said mortgage registration tax on any such contract shall be paid in full before the trial of any action commenced by the vendee of any such contract subsequent to the passage of this act. ('17 c. 288 § 1)

[2315—]4. **Same—Rights, when barred**—Any person, persons, copartnership or corporation as vendee holding any contract for the purchase or sale of real estate which said contract has been heretofore foreclosed or cancelled, or attempted to be foreclosed or cancelled, and the mortgage registration tax was not paid, said person, persons, copartnership, or corporation shall have one year from and after the passage of this act to assert any rights they may have under and by virtue of said contract, or be forever barred from asserting same, provided, that nothing in this act shall be held to apply to any action heretofore commenced or now pending in any of the courts of this state. ('17 c. 288, § 2)

MONEY AND CREDITS

2316. **Definition—Tax rate**—

Cited (132-232, 156+128).

A judgment sustaining assessment of memberships in a chamber of commerce as moneys and credits under this section held not to bar assessment of such memberships for a later year as general personal property under §§ 1969-1975 (161+516). Judgment, ☞604.

2317. **How listed**—

Unaccrued rents to issue out of land are not "credits" (132-232, 156+128). Taxation, ☞74.

2319. **Tax commission to prepare instructions—Form of return—Blanks**—The Minnesota tax commission shall annually prepare instructions for bringing in the lists required by the preceding section. They shall prepare a form for the returns which the taxpayers are required to make by this act, and this form shall be printed on a separate sheet, and shall be entirely distinct from the forms prepared for the returns of other classes of property.

This form shall require the taxpayer to make a return of the total amount of his "money" and "credits" taxable under this act.

The county auditor shall cause to be printed and shall furnish assessors blank lists for the return of property taxable under this act, in such form as the Minnesota tax commission may prescribe, and the assessor shall furnish one of such blank lists to each person in his district liable to taxation. ('11 c. 285 § 4, amended '17 c. 129 § 1)

MINNESOTA TAX COMMISSION

2333. Commission created—

Cited (162+675).

2343. Powers and duties—

Cited (162+686).

The powers conferred on the tax commission are not legislative, so as to render the statutes unconstitutional (121-421, 141+839). Constitutional Law, Ⓒ80.

2344. To have powers of state board of equalization—Meetings—Other powers and duties—

The powers conferred are not legislative, and the act is constitutional (121-421, 141+839). Constitutional Law, Ⓒ80.

This section is not unconstitutional as denying due process of law (121-421, 141+839). Constitutional Law, Ⓒ284.

Literal compliance as to giving of notice is immaterial, where the objecting party in fact appears and is heard (121-421, 141+839). Taxation, Ⓒ450(1).

Under subd. 5 of this section the state tax commission may reduce the assessed value of real or personal property below that fixed by the city assessor or county board, without approval of city or county taxing authorities (162+675). Taxation, Ⓒ470.

Evidence held to sustain order of state tax commission reducing the assessed valuation of iron mines, ore, etc., from that assessed by city assessor within rules governing court in reviewing the commission's action on certiorari (162+675). Taxation, Ⓒ493(7).

Refusal of state tax commission reducing a city assessor's valuation of iron mines, ore, etc., to order mine owners to produce their books, showing costs of mining and to compel owners' witnesses to answer questions on subject, held no ground for reversal (162+675). Taxation, Ⓒ493(S).

2348. Property omitted or undervalued—Reassessment—

This section does not deny due process of law (121-421, 141+839). Constitutional Law, Ⓒ284.

This section is not violative of Const. art. 11 § 4, providing for election of county and township officers (121-421, 141+839). Officers, Ⓒ2.

This section is not violative of Const. art. 9 § 1, in that it permits a person to be singled out, and his property reassessed on a different basis from that of other property (121-421, 141+839). Taxation, Ⓒ40.

That complaint did not allege complainant's interest in such a way as to be covered by the verification held immaterial (121-421, 141+839). Taxation, Ⓒ483.

Complaint merely "complaining," and not "alleging" the facts, held sufficient (121-421, 141+839). Taxation, Ⓒ483.

This section does not limit the persons who can make the complaint to a court, the legislature, or a committee thereof (121-421, 141+839). Taxation, Ⓒ461.

2349. Qualification of assessors—Reassessment, how made—Grievances—Appeals—

The powers conferred on the special assessor are not legislative (121-421, 141+839). Constitutional Law, Ⓒ80.

This section is not violative of Const. art. 11 § 4, providing for election of county and township officers (121-421, 141+839). Officers, Ⓒ2.

This section does not deny due process of law (121-421, 141+839). Constitutional Law, Ⓒ284.

This section is not violative of Const. art. 9 § 1, in that it permits a person to be singled out, and his property reassessed on a basis different from that of other property (121-421, 141+839). Taxation, Ⓒ40.

Notice of appeal from reassessment held sufficient (121-421, 141+839). Taxation, Ⓒ493.

That the reassessment list sent to the auditor did not show the amount of the original assessment held not to render the proceedings void, in view of § 1977 (121-421, 141+839). Taxation, Ⓒ491.

Where notice of appeal is given the court acquires jurisdiction, though the county auditor fails to file a certified copy of the assessment, and on appeal to the supreme court the merits will be determined, though a default judgment was entered in the district court based on the reassessment (121-421, 141+839). Taxation, Ⓒ493.