1940 Supplement

To

Mason's Minnesota Statutes

1927

(1927 to 1940)

(Superseding Mason's 1931, 1934, 1936 and 1938 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.

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village, borough or school district funds, and no de-posite of any such designated depository shall be limited by the amount of the capital or surplus of such depository, but the authority designating such depository may nevertheless fix the limit of deposit to be made therein and shall require security there- 

for as provided by law. (Act Apr. 29, 1935, c. 318, §1.)

This act applies uniformly to all municipalities throughout the state, including the city of Minneapolis, and is in addition to any other law on the subject. Op. Atty. Gen. (86a, 22), Nov. 15, 1935.

1973-13. Application of act.—This act shall apply to all cities, villages, and boroughs, however or- 

ganized. (Act Apr. 29, 1935, c. 318, §2.)

Sec. 2 of Act Apr. 29, 1935, cited, repeals all incons- 

istent laws.

1973-14. Deposit of town and school district funds with county treasurer in certain cases.—Whenever the town board of any town or the school board of any school district in this state, by a unanimous resolution, deem it advisable, such town board or school board may invest such amount of funds in such town or school treasury as will not, in the opinion of such board, be needed by such town or school during the ensuing fiscal year, in any of the bonds of any county, city, town, village, school district, drainage or other district created pursuant to law for public purposes in Minnesota, Iowa, Wisconsin and North and South Dakota or in the bonds of any city, county, town, village, school district, drainage or other district created pursuant to law for public purposes in the United States, containing at least 3500 inhabitants provided that the total bonded in-

debtedness of any such municipality or district shall not exceed ten per cent of its assessed valuation. (Apr. 17, 1937, c. 250, §1.)

1973-15. Same—Investment of funds.—Any town 

board or school district board, investing such surplus funds in such authorized securities as herein provided, shall deposit such securities for safe-keeping with the county treasurer of the county wherein such town or school district is located. Such county treasurer shall give a receipt for each and all of the said securities to the town board or school district board, as the case may be, and such county treasurer shall keep such securities for safe-keeping, and in case such town board or school district board shall adopt a resolution requesting the county treasurer to turn such securities or any of them over to the treasurer of such town or school district. (Apr. 17, 1937, c. 250, §2.)

1973-16. Same—Need not be covered by bonds.— 
The funds of such town or school district investment such securities and deposited with such county trea-

surer by such town board or school board as herein provided shall not be included within the amount of 

money for which such town treasurer or school trea-

surer is required by law to give a bond to such town 

or school district. (Apr. 17, 1937, c. 250, §3.)

1973-17. Deposit of county funds.—In all counties in this state, now or hereafter having a area of more than five thousand (5,000) square miles and an assessed valuation of more than Two Hundred Million Dollars ($200,000,000.), exclusive of moneys and 
credits, it shall be the duty of the County Treasurer to place all moneys of the county belonging to the various funds on deposit in banks situated within the respective individual Commissioner's districts to which the said moneys and funds are either allocated or for whose specific needs and benefit such moneys and funds are used. The county and its proper dis- 
bursing officers shall draw warrants and vouchers upon said funds in the banks located in each said Commissioneer's districts. (Act Apr. 26, 1937, c. 540, §1.)

Sec. 2 of Act Apr. 26, 1937, cited, provides that the 

Act shall take effect from its passage.

CHAPTER 11

Taxes

Laws 1929, c. 38, creates a bank tax commission to 

study banks for most of national banks and report at 

next session of legislature. Laws 1931, c. 275, con-

tinues the commission to the end of the 1933 session. 

Laws 1932, c. 313, continues commission.

Laws 1931, c. 363, authorizes the tax commission to 

continue or report on excessive or earnings of na-


GENERAL PROVISIONS

1974. Property subject to taxation.


Intangibles, if so used as to become integral part of 

local business, may acquire situs for taxation other 

than domicile of their owner. Baker v. S., 186M160, 242NW 

679, See Dun. Dig. 9155, 9572b.

Power of taxation is inherent in sovereignty and re-

poses in legislation, except as limited by state or national 

Constitution, and except as so limited, it is exhaustive 

and embraces every conceivable subject of taxation. 

Reed v. B., 191M254, 253NW102, See Dun. Dig. 9115.

Taxation is a burden or charge imposed by legislatiive 

power upon persons or property to raise money for ed-

ducational purposes, with essential characteristic that it is not a 

voluntary payment or donation but an enforced con-

tribution. Bemis Bro. Bag Co. v. W., 197M216, 266NW 

696. See Dun. Dig. 9114.

Power of taxation is inherent in sovereignty and re-

poses in legislation except as it is limited by state or 


Mortgages. See Dun. Dig. 9115. This act, enacted in 1929 as a taxation statute and not merely to provide taxing officers with infor-

mation upon which value of bonds or stock could be 

determined for purpose of taxation under §1974, and the latter section is not applicable to corporate excess tax-

ation, 1d. See Dun. Dig. 9128.

Power of taxation is inherent in sovereignty and re-

poses in legislation except as it is limited by state or 

national Constitution. 1d. See Dun. Dig. 9115.

City of Mankato could not enact an ordinance requir-

ing one to start a new mercantile business to post a 

bond conditioned that if the concern does not stay in 

business for more than one year, the amount thereof 

should be forfeited to the city in liquidation of personal 


A tax assessed against land owned by state are not a 

lien thereof and may be cancelled. Op. Atty. Gen. (770e), 

June 12, 1934.

Life tenant must pay taxes during lifetime under a 


1d. See Dun. Dig. 9114.

2. Credits of non-residents in the hands of local agents.

Intangible managed by a resident trustees where right of 

revocation is reserved by non-resident trustee is sub-


4. Property of non-residents consigned for sale here.

There is no tax upon sale of surplus electric energy 

outside of corporate limits of a city, even though in an-


5. Recent property and improvements.

Under Clapp Amendment trust patent lands of adult 

mixed blood Indians in Mahnomen county became sub-

ject to taxation 25 years from date of patent. U.S. v. 

Spaeth, (DC-Minn), 24FSupp465.

An allotment to a mixed blood Chippewa Indian, fee 

patent for which had not been delivered, issue of patent 

not even having been applied for by him, is not subject 

to taxing power of state or any of its municipal sub-


9120.

A state income tax upon salary of governor of a fed-

eral reserve bank is invalid as a direct and palpable 


3. Salary of governor of a federal reserve bank is not 

immune from state income taxes. Geyser v. 31, 294M622, 285 

NW577. See Dun. Dig. 9123.

Personal property belonging to an individual or cor-

poration located on United States government land, not 

by state legislature. 1d. See Dun. Dig. 9122.

Office furnishings and equipment of National Farm Loan 

Associations are exempt from state taxation, in view of
1975. Property exempt from taxation.—All property described in this section to the extent herein limited shall be exempt from taxation, to-wit:

(1) All public burying grounds.

(2) All public schools.

(3) All public hospitals.

(4) All academies, colleges, and universities, and all seminars of learning.

(5) All churches, church property and houses of worship.

(6) Institutions of purely public charity.

(7) All public property exclusively used for any public purpose.

(8) Personal property of every household of the value of $100. The county auditor shall deduct such exempt personal property from the total valuation of such property as equalized by the tax commission assessed to such household, and extend his levy of taxes upon the remainder only.

In case there is an assessment against more than one member of a household the $100 exemption shall be divided among the members assessed in the proportion that the assessed value of the personal property of each bears to the total assessed value of the personal property of all the members assessed. (R. L. '05, §705; '13, §259; '17, §171, §1; Apr. 25, 1936, c. 385; Jan. 24, 1956, Ex. Sess., c. 66.)

½. In general.

State v. H. Longstreet Taylor Foundation. 198M263, 269 NE2d 558; 198M263, 269 NW2d 558. See Dun. Dig. 8224.

LawReV 411.

1. None except authorized by constitution.


Special assessments.


On deed by state of land to private party, city has no authority to levy assessment for local improvements made while state owned premises. Op. Atty. Gen. (404a-11), June 6, 1926.

Exemption of property from taxation. 18MinLawRev 411.


In absence of express law so declaring, property of the state is not subject to taxation. State, Appeal of, 162M258, 244NW612. See Dun. Dig. 915a.

Farms lands acquired by state through foreclosure of mortgages are not subject to tax. Id. See Dun. Dig. 915a.

The courts cannot acquire jurisdiction in proceedings to determine taxes over such property. See Dun. Dig. 915a.

Property purchased by a church as a site for new church buildings is exempt at least from time architect is employed to prepare plans. State v. Second Church of Christ, Scientist. 185M242, 240NW612. See Dun. Dig. 8224.

Pact that church purchasing site for new buildings was some small incidental revenue from the property. State v. Second Church of Christ, Scientist. 185M242, 240NW612.

Evidence shows that real estate has since 1928 been continuously occupied and used as a seminary of learning, and hence is exempt from taxation. State v. Northwestern College, 192M253, 256NW11. See Dun. Dig. 8224.

A municipal golf course purchased by a city on June 1, 1931, is exempt from taxation for 1931 and subsequent years, assuming that it is without unreasonable delay devoted to the purpose of public use. Op. Atty. Gen., Mar. 4, 1931.


A municipal golf course purchased by a city on Jan. 1, 1931, is exempt from taxation for 1931 and subsequent years, assuming that it is without unreasonable delay devoted to the purpose of public use. Op. Atty. Gen., Apr. 3, 1944.

Farms owned by department of rural credit do not become subject to taxation when sold by state on condition, and deed, is cancelled. Op. Atty. Gen., Apr. 3, 1944.


Building principally used for school purposes is exempt, though part of it is rented to others. Op. Atty. Gen., Apr. 13, 1923.

Assembling hall maintained by church on parcel of land distant from church is exempt from taxation, though it is occasionally rented to other organizations for a small charge. Op. Atty. Gen., Apr. 9, 1933.


Building of public utilities used for charitable purposes held exempt even though incidental income was received from use thereof. Op. Atty. Gen. (414a-10), Sept. 11, 1935.

Church parsonage was exempt though parsonage was rented and income applied on salary of minister. Op. Atty. Gen. (414a-15), Sept. 11, 1935.


A dwelling house sold to church for parsonage under contract dated April 20, 1935, and deed for which was executed and delivered June 3, 1936, should be returned by assessor as church property. Op. Atty. Gen. (414a-6), July 8, 1937.


not been recorded, and such deed may be recorded with
out the payment of certain fees, but village should assure order from tax com-
Nov. 27, 1938.
A "public hospital" must allow free access to public with-
out limitation and must be operated from tax-
At of public rather than for benefit of a private individ-
10, or group of individuals, but it need not be used solely for bene-
fit of public and must not be leased for a fee for trans-
A real estate appraiser appointed in one county and in
another county is exempt from taxation, though it is a
"standing plant for the city," and though surplus energy is
not taxes, and must be paid to the state by the county.
buys land for a public purpose, unpaid installments are
purchases under I jaws 1937, c. 88, Ex. Sess., and county
1938.
A public hospital is one that allows free access to public without discrimination and is operated for benefit of a public, or group of individuals, or personal
14, or group of individuals, but mere fact that a fee is
charged does not preclude exemption if there is no
March 31, 1938.
Where real estate is leased to a state on September 27, 1937,
and lease for one year given to former owner, taxes set
by auditor in December, 1937, could be, even as to purchaser in 1938. Op. Atty. Gen., (770G), April 21,
1939.
Where rural credit department owned land on May 1, 1938,
and sold it to a private party under contract on July 1,
1938, purchaser was entitled to cancellation of the 1938 taxes, but would be liable for taxes for succeed-
Taxes levied against real property while title is in state is not a lien on the land may be cancelled. Op. Atty. Gen., (770G), May 8, 1939.
Where department of rural credit acquired title to real estate by foreclosure on July 10, 1938, and on Octo-
ber 17, 1938, sold to private party, contract was not to take property as is then on share crop basis, though it did not
grow thereon on share crop basis, though it did not
be subject to being about one-tenth of total revenue, is not de-
chargeable and rented old building to the state free of rent on
condition that it pay taxes and maintenance costs, prop-
erty would be employed as directed by the said will.
A hospital owned by an individual and operated with
educational Institution to be used as a dormitory. Op.
where department of rural credit became owner of
land on September 27, 1938, purchased was entitled to cancellation of 1938 taxes, but would be liable for taxes for succeed-
A building formed part of a charitable institution
would become subject to taxation if it were leased to
5. Held not exempt.
A hospital owned by an individual and operated with
an intent to make private profit is not exempt from tax-
Dug. 915a.
But that waterworks is not actively used but is held as
a reserve plant does not make land taxable as long as
is not abandoned or leased to private party or put to other use. Anoka County v. C, 194M551, 251NWS8. See Dun. Dug. 915a.
Waterworks by city to two other municipalities and to
other consumers outside city, revenue derived there-
from is not in ordinary commerce, but is not de-
terminate consideration and does not remove exemption, word "exclusively" meaning "substantially all" or "for.
"Porition of land owned by city and used as a part of waterworks plant was not taxable for a period of time when
portion of land owned by city and used as a part of waterworks plant was not taxable for a period of time when
purchaser was entitled to cancellation of the 1938 taxes, but would be liable for taxes for succeed-
Portion of the land which city owns for waterworks plant is not taxable to the state for period in which the city
pay city a stipulated rental is not exempt from taxation
as such portion is not used for a public purpose despite fact that city may have possibilities of using it for other purposes.
1975-2. Veteran's pension, bonus, or compensa-
transferred to section 9447-1.
Because a building erected for a special use may have no market value by reason of no demand, it should not escape its just share of the tax burden. State v. Federal Reserve Bank, 25FSuppl14.

Taxes on real estate are unfordable only against the land and cannot be enforced against the land owner personally for taxes on improvements.

Where University leases land to faculty members under long term leases to be used for dwellings constructed by leaseholders, the land is not taxable as real estate and as part of the land as fourth class real estate and not as homestead of the occupant, and it is not taxable as part of the land held for university purposes.

House on land owned by another is to be taxed as real estate and as part of the land as fourth class real estate and not as homestead of the occupant, and it is not to be taxed as personal property if located on United States railroad property.

Life tenant must pay taxes during lifetime under a deed of a farm to a town.

Taxation of real estate subject to mortgage, 20 Minn LawUev347.

1978. Mineral, gas, coal, oil, etc.

Interests or estates in lands may be segregated and taxed separately. 172M263, 271, 273, 215NW71, 180, 181.

Where leased land to be used for dwellings, buildings are personal property and should be taxed as such.

Where title to buildings sold by school board at auction, though not right of possession, passes to the purchaser, the buildings are personal property.

(3) Where University leases land to faculty members under long term leases to be used for dwellings, the leasehold interest and the buildings are taxable as real estate.

(4) Greenhouse crops or plants grown in greenhouse property or, otherwise, including herbaceous annuals, are taxed as other property and not exempt.

1980. 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, and every claim due, upon which the mortgage registration tax has been paid, and all shares of stock in corporations 75 per cent or more of the real and/or tangible personal property of which is not taxable in this state.

As amended Apr. 1, 1939, c. 127.

174M309, 213NW872.

(2) Shares of corporate stock held by a resident in a domestic corporation property of which is assessed and taxed in this state, is not taxable as credits, even though a portion of property of corporation is located outside state. Holmes v. B., 200M57, 273NW623. See Dun. Dig. 9272.

Decisions regarding taxation of memberships in unincorporated boards of trade or chambers of commerce prior to 1929 are not controlling. Taxation of corporate shares held by a resident in a domestic corporation, major part of whose property is assessed and taxed in this state.

Shares of stock of Standard Oil Company of Indiana operating filling stations in this state and bulk stations in state are exempt from taxation.

Shares of stock of Central States Electric Company operating filling stations, bulk stations and gasoline stations are exempt from taxation.

Shares of stock of foreign corporation, having substantial property in the state, are subject to moneys and credits tax.

Shares of stock in foreign holding company which has subsidiary in state which pays substantial taxes upon property to the moneys and credits tax.

1981. Shares of stock of foreign telephone corporation are exempt if telephone corporation pays gross earnings tax.

Shares of stock in foreign corporation owned by residents of state are subject to moneys and credits tax.

Shares of stock in corporation paying gross earnings tax to the federal and state are subject to a property tax in state equal to 2% or less of its total real and tangible personal property.

If combination made is to be held in equity, the combination may under its broad equitable powers order a refundment of taxes on part of personal property owned.

Evidence sustains finding as to true and full value of defendant's lot in proceeding for assessment of 1932 tax.


Trial court held not to have erred in granting a temporary injunction to restrain county board and county auditor from taxing in certain manner. Refundment of taxes on personal property owned by corporation, 20 Minn Suppl 14.

Aim is to assess property at its market or sales value as distinguished from its cost price or intrinsic value.

Defendant, having voluntarily paid tax after it had learned of claimed error in assessment, can not be said that tax was "erroneously" paid. State v. Penn Mut. Life Ins. Co., 198M115, 269NW37; 198M547. See Dun. Dig. 9210.

While word "tax" in its broad meaning includes both general taxes and special assessments, courts are reluctant to so hold where record can be made public revenues. Calhoun Beach Holding Co., 237NW317. See Dun. Dig. 9277a.

Defendant not at special assessment commission did not disregard statutory prohibitions when it made order without first procuring approval of standing committee on taxes in which the property is located.

Where an order granting abatement of taxes held not to constitute abuse of discretion, justifying interference by court.

Where order does not abate special assessments commission did not disregard statutory prohibitions where it made order with regard to property assessed at delinquent tax sales under erroneous belief that property was taxable at delinquent tax sales.

A tax commission has power to grant application for refundment of any excess of interest paid on a discuss assessment if approved by the county board.

A county board has no authority to compromise personal property tax judgment without prior notice and relief must proceed in manner outlined by this section.

A tax commission has authority to refer taxes to tax court for determination of true and full value of any property or to order a refundment of taxes paid on personal property assessed.
in wrong school district, provided county board and county auditor have first favorably recommended granting of application for abatement and cancellation of taxes on property owned by village and used by Boy Scouts. Op. Atty. Gen. (424a-3), June 24, 1936.

Where land was conveyed to a town in consideration of payment of taxes, county commissioners have no authority to consider an application for reduction of tax on property so acquired. Op. Atty. Gen. (481a-2), Oct. 23, 1935.

Existing shortage on account of failure of county auditor to extend homestead classification to real estate after passing to them, and personal representative is liable personally if he had knowledge of such omission during administration of estate, and personal representative is further personally liable if monies and credits tax is not paid for years covered by administration. Op. Atty. Gen. (614f), Jan. 7, 1935.

5. Liens.-Estate of owner of personal property.

Moneys and credits which were omitted in assessment of any year or years during life of deceased owner may be assessed and taxed for such year or years after estate has been distributed and personal representative discharged, and heirs and legatees are liable on property subject to such lien; but no lien created under this section on personal representative if he has knowledge of such omission during administration of estate, and personal representative is further personally liable if monies and credits tax is not paid for years covered by administration. Op. Atty. Gen. (614f), Jan. 7, 1935.


Relief accorded because taxes were illegally assessed or collected. 15 Minn. Law Rev. 952.

LISTING AND ASSESSMENT


Real estate taxes on Minnesota land for year 1933 "owed" on May 1 shall not be assessed as overdue or delinquent, or accepted, or used as a basis in a recommendation for abatement or cancellation of taxes, but Minnesota Tax Commission have authority to grant such reduction or statement of taxes upon recommendation of county commissioners and county auditor. Op. Atty. Gen. (407f), Feb. 15, 1935.

In wrong school district, provided county board and county auditor have first favorably recommended granting of application for abatement and cancellation of taxes on property owned by village and used by Boy Scouts. Op. Atty. Gen. (424a-3), June 24, 1936.

One who acquired homestead subsequent to assessment in an odd-numbered year is entitled to have it classed as homestead for taxes of the following year. Op. Atty. Gen., April 10, 1938.

Claim for money and credits taxes is not one which is required to be filed in probate court. Op. Atty. Gen. (614f), Apr. 15, 1936.


Claim for money and credits taxes is not one which is required to be filed in probate court. Op. Atty. Gen. (614f), Apr. 15, 1936.

Cashes that due on May 1 are assessable as monies and credits for the current year, but share of crops realized for past years are assessable as ordinary personal property in even-numbered year. Op. Atty. Gen., May 2, 1939.


1. In general.

Claim for money and credits taxes is not one which is required to be filed in probate court. Op. Atty. Gen. (614f), Apr. 15, 1936.


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Cashes that due on May 1 are assessable as monies and credits for the current year, but share of crops realized for past years are assessable as ordinary personal property in even-numbered year. Op. Atty. Gen., May 2, 1939.


5. Land omitted from tax books altogether.

Property was omitted from tax records because of defective notice of tax judgment sale in 1932, and 1937 tax, though error, was not spread as a current tax under this section. Op. Atty. Gen. (125b-4). Mar. 30, 1938.

7. Effect of death of owner of personal property.

Moneys and credits which were omitted in assessment of any year or years during life of deceased owner may be assessed and taxed for such year or years after estate has been distributed and personal representative discharged, and heirs and legatees are liable on property subject to such lien; but no lien created under this section on personal representative if he has knowledge of such omission during administration of estate, and personal representative is further personally liable if monies and credits tax is not paid for years covered by administration. Op. Atty. Gen. (125b). Jan. 7, 1935.


Assessment of the taxes due on omitted property in a gross sum for a number of years in the published delinquent tax list was not a jurisdictional defect; but interest and penalties should not be added to the amount where the taxpayer was deprived of opportunity to pay taxes. Op. Atty. Gen. It relates to valuation and assessment of homesteads, time for assessment and valuation being fixed by this section. Op. Atty. Gen., Sept. 28, 1935.

Cashes that due on May 1 are assessable as monies and credits for the current year, but share of crops realized for past years are assessable as ordinary personal property in even-numbered year. Op. Atty. Gen., May 2, 1939.

1986-1. Compensation of assessors in certain counties.—That in all towns, villages and cities other than cities of the first class and cities now or hereafter having home rule charters containing provisions in conflict with this Act which are situated in counties having a population of not less than 450,000 inhabitants and an assessed valuation, including monies and credits, of more than $450,000,000.00, the assessor and each deputy assessor of each town, village and city, shall be entitled to compensation for each day's service necessarily rendered by him, the sum of Five dollars, not exceeding, however, 120 days in any one year, and mileage at the rate of Five cents per mile necessarily traveled by him in going to and returning from the County Seat of such county to attend any meeting of the assessors of such county which may be legally called by the Minnesota Tax Commission and also for each mile necessarily traveled by him in making his return of assessment to the proper officer of such county. (Act Apr. 5, 1935, c. 118, §1.)

The title to Act Apr. 5, 1935, cited, is as follows: "An act to amend the laws within which assessors are required to perform their duties and their compensation; to determine and fix the time within which assessments on real property must be made; to determine the value of personal property, and to affect parts of acts inconsistent herewith are hereby superseded, modified, or amended so far as necessary to give effect to the provisions of this act. (Act Apr. 5, 1935, c. 118, §3.)"

1986-2. Time for performance of duties of assessors in certain counties.—The duties of the assessor in towns, villages and cities affected by this Act shall be performed by the assessor, or, if he is temporarily disabled, by the deputy assessor, and shall be performed between the first Monday in April and the last Monday in July of each year. (Act Apr. 5, 1935, c. 118, §2.)

1986-3. Inconsistent acts repealed.—All acts and parts of acts inconsistent herewith are hereby superseded, modified, or amended so far as necessary to give effect to the provisions of this act. (Act Apr. 5, 1935, c. 118, §3.)


Under this section a city operating under a special charter may appoint a deputy assessor, and fix his compensation at an amount not exceeding that of the assessor. Deputy assessor, however, does not prevent that result. Op. Atty. Gen. Feb. 28, 1936.

Deputy or assistant assessor is a village officer or employee, and his compensation may be fixed by the body empowered to fix the compensation of the assessor. Op. Atty. Gen., Feb. 10, 1936.

This section may be invoked where village assessor is temporarily disabled and will be unable to attend to his duties. Op. Atty. Gen. Apr. 14, 1932.

Where town assessor was elected in March, 1935, followed by appointment of deputy assessor by board with approval of county auditor, and assessor died in June, 1935, and deputy took up duties of office, and there was no appointment of assessor either by the board or the county auditor following the death, there existed a vacancy filled by appointment under §1086 or §1087, and one elected assessor in even numbered years was not entitled to take office. Op. Atty. Gen. (124a-l), Apr. 5, 1936.


Whether or not an assessor may appoint an assistant or deputy in the city of Eveleth, it is within power of city council to appoint an engineer or appraiser of streets and public improvements, with consent of city council for purpose of having that officer or person appraise improvements, or make report or expert witness in the event of litigation involving taxation of mines. Op. Atty. Gen. (124a-I), Aug. 10, 1938.

1990. Assessor's duties. Sec. 1990 of this act is a general rule which must, in particular cases, be modified where it appears that its strict application reaches a result greatly in excess of the true value of the property. Op. Atty. Gen. Apr. 28, 1931.


In determining value of gasoline, amount of federal excise tax, and state gasoline tax, no reduction is allowed for the effect of federal, state, or local regulations and policies, etc. Op. Atty. Gen. (424a-l), May 27, 1936.

Cubicle method of valuation of buildings is a general rule which must, in particular cases, be modified where it appears that its strict application reaches a result greatly in excess of the actual sale value of the property. Op. Atty. Gen. Apr. 28, 1931.

Cubicle method of valuation of buildings is a general rule which must, in particular cases, be modified where it appears that its strict application reaches a result greatly in excess of the actual sale value of the property. Op. Atty. Gen. Apr. 28, 1931.


Valuation for taxation of certain unimproved lands as reduced by the court, held sustained by evidence. 176M 478, 219NW720.

In determining true and full value of real property, no undue discrimination or inequities must be adhered to. State v. Federal Reserve Bank, (DC-Minn), 25FSuppl4.

Valuation for taxation of certain unimproved lands as reduced by the court, held sustained by evidence. 176M 478, 219NW720.

Where a two story brick building is located upon land leased from a railroad, lower floor and basement being owned by one individual and the second story by another individual, assessor could not divide assessment. Op. Atty. Gen. (408), Sept. 1, 1938.

Where there were not sufficient sales to establish a sale or market price, for land, court properly heard and considered judgment and opinion of men of competent and sagacity and experience regarding the fair and just value of the property. Op. Atty. Gen., Feb. 19, 1934; note under §1089.


Decision of district court sustaining, in proceedings for collection of taxes, assessed valuation of real estate, being reasonably supported by evidence, will not be disturbed. State v. Walsu, 165M553, 255NW22. See Dun. Dig. 9210.

the value of lands for the purpose of taxation and in fixing the assessed value thereof, to consider and give due weight to every element and factor affecting the market value thereof, including its location with reference to roads and streets and the location of roads and streets thereon or over the same, and to take into consideration a reduction in the acreage of each tract or lot, not within five (5) acres, of such land used for any improved public highway and the reduction in area of land caused thereby. It shall be the duty of every assessor and board in determining the value of lands for the purpose of taxation and in fixing the assessed value thereof, to consider and give due weight to lands which are comparable in character, quality and location, to the end that all lands similarly located and improved will be assessed upon a uniform basis and without discrimination. (42, c. 123; Apr. 20, 1931, c. 24; §1; Apr. 23, 1935, c. 237, §1.)

State v. Oliver Iron Mining Co., 198 M285, 270 NW2d; note under §1992

In placing valuation for taxation purposes on Federal Reserve Bank building reliance may not be had solely upon valuation computed by capitalization of estimated income, since the building when erected was not primarily constructed as such but for the purpose of its features which may detract from its usefulness as a commercially enhanced building, such as the necessary enhancement for the purpose for which it was built. State v. Federal Reserve Bank, (DC-Minn), 25 Suppl. 9210.

Evidence sustaining finding as to true and full value of defendant’s lot, in proceeding for assessment of 1932 tax. (42, c. 1937, c. 132; Apr. 21, 1933, c. 359; July 23, 1937, Sp. Ses. c. 86, §1; July 25, 1937, Sp. Ses. c. 86, §1.)

1933. Classification of property.—All real and personal property subject to a general property tax and not subject to any gross earnings or other like tax is hereby classified for purposes of taxation as follows:

Class 1. Iron ore whether mined or unmined shall constitute Class one (1) and shall be valued and assessed at fifty (50) per cent of its true and full value. If unmined, it shall be assessed with and as a part of the real estate in which it is located, but at the rate prescribed for iron ore, mined by underground methods subsequent to August first of a calendar year and prior to the next succeeding May first, which requires concentration other than crushing or screening, or both to make it suitable for commercial blast furnace use. (42, c. 1937, c. 132; Apr. 21, 1933, c. 359; July 22, 1937, Sp. Ses. c. 86, §1.)

Class 2. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence, shall constitute class two (2) and shall be valued and assessed at twenty-five (25) per cent of the full and true value thereof.

Class 3. Live stock, poultry, all agricultural products, except as provided by class three “a” (3a), stocks of merchandise of all sorts together with the furniture and fixtures used therewith, manufacturers’ materials and machinery, tools, implements and machinery whether fixtures or otherwise, except as provided by class three “a” (3a) and all unpleted real estate, except as provided by classes one (1) and three “b” (3b) hereof, shall constitute class three (3) and shall be valued and assessed at thirty three and one-third (33 1/3) per cent of the true and full value thereof.

Class 3a. All agricultural products in the hands of the producer and not held for sale, all horses, mules and asses used exclusively for agricultural purposes, and all agricultural tools, implements and machinery used by the owner in any agricultural pursuit shall constitute class three “a” (3a) and shall be valued and assessed at ten (10) per cent of the full and true value thereof. (13, c. 483, §1; ’23, c. 140 [1988]; Mar. 31, 1933, c. 132.)

Class 3b. All unpleted real estate, except as provided by class one (1) hereof and which is used for the purposes of a homestead, shall constitute class three “b” (3b) and shall be valued and assessed at twenty (20) per cent of the true and full value thereof. Provided, if the true and full value is in excess of the sum of $4,000.00, the amount in excess of said sum shall be valued and assessed as provided for by class three “b” (3b). Provided, further, that the first $4,000.00 full and true value of each tract of unpleted real estate used for the purpose of a homestead shall be exempt from taxation for state purposes; except that the first $4,000.00 full and true value shall remain subject to and be taxed for the purpose of raising funds for the discharge of any and all state indebtedness incurred prior to and existing at the time of the passage of this act. (As Amended Apr. 21, 1933, c. 259; July 25, 1937, Sp. Ses. c. 86, §1.)

Class 3c. All platted real estate, except as provided by class one (1) hereof and which is used for the purposes of a homestead, shall constitute class three “c” (3c) and shall be valued and assessed at forty (40) per cent of the true and full value thereof. Provided, if the true and full value is in excess of the sum of $4,000.00, the amount in excess of said sum shall be valued and assessed as provided for by class three “c” (3c). Provided further, that the first $4,000.00 full and true value of each tract of platted real estate used for the purpose of a homestead shall be exempt from taxation for state purposes; except that said first $4,000.00 full and true value shall remain subject to and be taxed for the purpose of raising funds for the discharge of any and all state indebtedness incurred prior to and existing at the time of the passage of this act. (As Amended Laws 1933, c. 359; July 23, 1937, Sp. Ses. c. 86, §1.)

For the purpose of determining salaries of all officials based on assessed valuations and of determining tax limitations and net bonded debt limitations now established by statute or by charter, class 2b and class 3c property shall be figured at thirty three and one-third (33 1/3) per cent of the true and full value thereof respectively.

Class 4. All property not included in the preceding classes shall constitute class four (4) and shall be valued and assessed at forty (40) per cent of the true and full value thereof. (G. S. ’13, §1988; ’13, c. 483, §1; ’23, c. 140; Mar. 31, 1933, c. 132; Apr. 21, 1933, c. 359, §1; July 23, 1937, Sp. Ses. c. 86, §1.)

§1992

1977M2583, 271, 273, 215 NW71, 180, 181; notes under §1976

1975M209, 215 NW872

By listing its coal bridges under class 4 for a series of years, owner did not thereby estop itself from having


Laws 1933, c. 359, amending this section is not applicable to 1933 taxes insofar as same relates to valuation and classification of homesteads.

See Dun. Dig. 9210.

§1992

Amendment by Laws 1933, c. 359, is applicable to assessments to be made by assessors in 1934, taxes on which will become due and payable in 1935, but not to taxes to be collected in 1936. Op. Atty. Gen., Feb. 10, 1934.

Classification of property for purposes of assessment and taxation under amendment by Laws 1933, c. 359, should be by same assessors as passed questions involved before assessment. Classification of lands is to be made as of May 1 of even-numbered years for that year and the following year.

Property held under contract for deed may be a homestead.

Property becomes homestead of owner as soon as he takes possession with intention of making it his home by occupying and using for residential homestead classification until May of even-numbered year.

Whether a person who resides on certain premises only part of the year is entitled to classification of homestead is a question of fact to be determined by assessors and upon appeal by court. Property of same owner of separate properties cannot claim both as homestead.

A building may be used for purposes of homestead and also for other purposes without affecting original classification under Sec. 3 or 4.

where there are different tracts of land may not constitute one homestead unless they are contiguous, but two farms of land separated merely by road or railroads may be aggregated.

The homestead tax reduction law does not follow the same rule as the homestead exemption law, that the six months' absence period of the homestead exemption law not apply to the tax law, and that the filing of a homestead declaration by the owner of separate properties cannot claim both as homestead.


Contiguous tracts used by husband and wife for homestead purposes may be assessed as such, although husband owns one part, and wife the other, 30th, 1935.

Whether commercial, industrial or manufacturing buildings and land, and power dam, are to be considered as property used for purposes of a homestead. Op. Atty. Gen. (232d), Dec. 6, 1935.

An oversight in assessing homestead property as such does not give anyone the right to remove a building on his own lot and have it assessed away from the homestead purchase if made by recommendation of the county board and county auditor.


Whether commercial, industrial or manufacturing buildings and land, and power dam, are to be considered as property used for purposes of a homestead. Op. Atty. Gen. (232d), Dec. 6, 1935.


Whether commercial, industrial or manufacturing buildings and land, and power dam, are to be considered as property used for purposes of a homestead. Op. Atty. Gen. (232d), Dec. 6, 1935.


Where a person owns three lots and lives in a house on one lot and has a house on another lot which he rents out, he is entitled to homestead classification on the lot on which his house is located and also vacant lot if used by him as a garden or lawn. Op. Att'y Gen. (179a), May 31, 1937.

Sheriff occupying county jail building as living quarters cannot claim homestead exemption in house owned by him, in which he has reserved one room for storage of furniture, unless he can be said to actually occupy such house. Op. Att'y Gen. (232d), June 25, 1937.


Whether ownership of two lots of real estate has a homestead in one of them is a question of fact. Op. Att'y Gen. (232d), May 31, 1937.

Where husband claims homestead in Minnesota and wife in Florida, it becomes a question of fact which is homestead. Op. Att'y Gen. (232d), May 5, 1937.


Where farmer's wife became ill and he rented farm to son and obtained a house in city and moved his wife there with small amount of necessary household goods with intent to remain there only until wife's health improved, leaving most of his furniture at the farm and working there daily himself, farm should probably be classified as homestead. Op. Att'y Gen. (232d), May 31, 1938.

Person having two houses on one lot, one of which he rents is entitled to have that lot on which he has located his home in homestead classification. Op. Att'y Gen. (222d), May 2, 1938.

Ownership of apartment buildings by cooperative association, each occupant buying one apartment, does not entitle each occupant to homestead classification, nor is association entitled to benefit of reduction in valuation. Op. Att'y Gen. (414e-15), Sept. 1, 1938.

Class 4.

House on land owned by another is to be taxed as real estate and not as homestead, forth class real estate and not as homestead of the occupant, and is to be taxed at forty-eight per cent (48%) of the assessed value of the land considered as property in a municipality for railroad property. Op. Att'y Gen. (529-7), May 28, 1938.

Whether commercial, industrial or manufacturing buildings and land, and power dam, are platted or unplatted land does not depend upon whether they are leased or rented, but upon whether they are actually platted or not, but determines upon whether the dam is used for public or for private use. Op. Att'y Gen. (488e), July 1, 1936.

1933-1. Effective January 1, 1934.—This Act shall take effect and be in full force and effect from and after January 1, 1937. (Act Apr. 21, 1933, c. 359, §2; July 23, 1937, Sp. Sess., c. 88, §2.)

1933-2. Classification of iron ore—Definitions. (a) The word "ore" shall be construed to include gold, silver, copper, and lead ore, and all deposits of commercial deposits of iron-bearing materials, including hematite, magnetite, siderite, and pyrite, and all other rocks which contain iron minerals, but not as the term is defined in the mining laws of the United States, but as defined in the provisions of the Minnesota Act, this Act shall be construed to exclude all deposits of coal, limestone, and dolomite, and all deposits of sand, gravel, and similar materials, and all other materials in which iron minerals are not the dominant constituent.

(b) "Deposit" means a body of iron-bearing materials which in accordance with good engineering and metallurgical practice should be mined as a unit.

Low-grade iron-ore concentrations shall mean those commercial deposits of iron-bearing materials, not including paint rock, located beneath the surface of the earth, which in their natural state require beneficiation to make them suitable for blast furnace use, and which after such beneficiation produce in tonnage less than fifty per cent (50%) in iron ore concentrates from which the tonnage of low-grade iron-bearing materials shall be delivered to a beneficiation plant at which the concentrates are to be mined in good engineering and metallurgical practice to produce such concentrates.

"Beneficiation" shall mean the process of concentrating the portion of the iron-bearing formations entering the beneficiation plant as defined in this Act.

"Concentrates" shall mean such ores which by the process of beneficiation have been made suitable for the blast furnace use.

"Tonnage recovery" or "tonnage recovery of iron ore concentrates" shall mean the proportion which the weight of concentrates recovered or recoverable after beneficiation bears to the weight of the low-grade iron-bearing material entering the beneficiating plant. (Apr. 22, 1937, c. 364, §1.)

1933-3. Same—Classifications of low grade iron ore. There are hereby established classifications for purposes of taxation which are designated Class 1, (a), which shall consist of those low-grade iron-ore concentrations as defined above. Such classifications shall be assessed at the following percentages of their full and true value: If the tonnage recovery is less than forty per cent (40%) and not less than forty-five per cent (45%), the assessed value shall be forty-eight and one-half per cent (48 1/2%) of the full and true value; if the tonnage recovery is less than forty-nine per cent (49%) and not less than forty-eight per cent (48%), the assessed value shall be forty-seven per cent (47%) of the full and true value; and for each subsequent reduction of per cent (1%) in tonnage recovery, the percentage of assessed value to full and true value shall be reduced an additional one and one-half per cent (1 1/2%) of the full and true value, but the assessed value shall never be less than thirty per cent (30%) of the full and true value. The land, exclusive of such formations, shall be assessed as otherwise provided by law. (Apr. 22, 1937, c. 364, §2.)

1933-4. Same—Determination of classification.—The classification of iron-ore-bearing formations under the provisions of this Act shall be determined in the manner hereinafter provided by the Minnesota Tax Commission in the business of mining whose tonnage recovery of iron-ore concentrates for a taxable year in producing concentrates from the iron-ore-bearing material entering the beneficiating plant has been less than fifty per cent (50%) may file a petition with the Minnesota Tax Commission requesting classification of such deposit under the provisions of this Act. The taxpayer shall furnish such data and information concerning the operation of such deposit as the Minnesota Tax Commission may require and who shall upon receipt thereof submit such petition and data to the University of Mines Experiment Station. Said Mines Experiment Station shall consider the deposit referred to in said petition as a unified commercial operation, and based on all engineering data and information furnished shall file a written report thereon with the Minnesota Tax Commission who, after hearing duly had, shall approve or disapprove such report. If a classification is made covering such deposit and property the Commission shall give appropriate notice thereof to the taxing districts affected thereby. If the Commission disapprove such classification, their decision and order may be reviewed by a writ of certiorari issued out of the Supreme Court on petition of the party aggrieved presented to said court within thirty days after the date of said order. Such classifications shall also be subject to further review by the Mines Experiment Station from time to time upon request of the Commission or upon further petition by the taxpayer. Valuations determined hereunder shall be subject to the provisions of Section 2372 of the 1934 supplement to Mason's Minnesota Statutes. (Apr. 22, 1937, c. 364, §3.)

Explanatory note.—The reference "Section 2372 of the 1934 supplement to Mason's Minnesota Statutes" is incorrect. Sections 2371-1 to 2372-10 were, perhaps, intended.

1933-5. Same—Provisions severable.—If any part or provision of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair or invalidate any other part or provision of the remainder of the Act. (Apr. 22, 1937, c. 364, §4.)

1933-6. Same—Inconsistent acts repealed.—All acts or parts of acts inconsistent herewith are hereby repealed. (Apr. 22, 1937, c. 364, §5.)

Sec. 6 of Act Apr. 22, 1937, cited, provides that the Act shall take effect from its passage.
1934. Assessment of real property in odd numbered years.—In the second year of any 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 and improvements thereon and 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. Every assessor shall list, without revaluing, in each odd numbered year, the property on the tax list of the preceding year, and shall not list the same property on the tax list of the year following. The county auditor shall note such change in the assessed valuation of the real property in the even numbered year, and shall recompute the taxes due thereon.

The county auditor shall note such change in the assessed valuation upon the tax lists, caused by a change in classification, and shall calculate the amount of such decrease or increase, and shall make return thereof to the auditor. (As Amended Apr. 14, 1937, c. 206, §1.)


1996. Lessees and equitable owners.

Upon completion of contract to sell land, it becomes subject to taxation as other real estate is taxed, and the amount of such taxes should be determined by assessment at the time and place of sale, and the true 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. (As Amended Apr. 14, 1937, c. 206, §1.)

LISTING PERSONAL PROPERTY

1900. By whom listed.

Franchises are subject to taxation. City of South St. Paul, 1933c2a, 248NW258. See Duen. Dig. 3125.

MONOY and credits which were omitted in assessment of any year or years during life of deceased owner may be redetermined by taxation for such year or years after administration of estate has been closed. Where real estate has been distributed and personal representative discharged, the heirs and legatees are liable on property passing to them, and personal representative in liable personally for any omission during administration of estate, and personal representative is further personally liable if moneys and credits tax is not paid for years covered by administration. Op. Atty. Gen. (614f), Jan. 7, 1935.


Where defendant sold farm machinery under contract to a dealer and it was in possession of dealer for sale on taxing day, it should not have been taxed. State v. J. I. Case Co., 196M140, 248Nw 726. See Duen. Dig. 3199(422).

2002. Lists to be verified.


Personal property on a dealer's inventory is personal property at the place of residence of the owner, unless he is a merchant or a manufacturer thereof. Op. Atty. Gen., May 26, 1931.

Pipe lines of companies transporting gasoline running through the property of others under an easement, are personal property and should be taxed as such. Op. Atty. Gen., May 26, 1931.


Where farm on which owner resides is located partly in a village and partly in a township, all personal property on the farm should be listed and assessed in taxing district in which house where house is located. Op. Atty. Gen. (421a-17), June 26, 1937.


Where farm is located on land between two towns and town line divides house, residence of farmer depends upon intent. Id.

Where farm on which owner resides is located partly in a village and partly in a township, all personal property on the farm should be listed and assessed in taxing district in which house where house is located. Op. Atty. Gen. (421a-17a), March 17, 1939.

Residence is in that place in which habitation of person is fixed without present intention of moving therefrom, and to which whenever he is absent he intends to return. House should be taxed where judgment debt is not to go into another state or county for temporary purposes. Op. Atty. Gen. (614d), July 7, 1935.


Franchises are subject to taxation. City of South St. Paul, 1995M25, 248NW238. See Duen. Dig. 3125.


If a person is engaged in the manufacture of aeronautics, the plane would be taxable at place where manufacturing business is carried on. Op. Atty. Gen. Mar. 30, 1933.

If aeroplanes are kept for sale by a person who would come within the definition of a merchant, they would be taxable at the place where such business is conducted. Op. Atty. Gen. Mar. 30, 1931.

2006. Farm property of non-resident.

Lessor's share of crops held over from former years are assessable as ordinary personal property in assessment district in which they are located on May 1, and are assessable as personal property in assessment district in which they are located if owner resides in that district. Op. Atty. Gen. (614m), Aug. 14, 1934.

Farm on which owner resides is located partly in a village and partly in a township, all personal property on the farm should be listed and assessed in taxing district where house is located. Op. Atty. Gen. (421a-17), June 26, 1937.

2009. Express companies, etc.

Companies transporting gasoline through pipe lines are not transportation companies. 2012. Express companies. Their pipe lines and other personal property should be assessed in taxing district where it is actually located, or where it is kept, regardless of the principal place of business of the company or the corporation. Op. Atty. Gen. May 26, 1931.

2012. Electric light and power companies to be assessed where property is located.


2012-1. Electric light and power utilities—Place of assessment of personal property with situs outside of corporate limits of villages, cities and boroughs.

Personal property other than personal property lying inside of the corporate limits of any city, or first class of electric light and power companies, and other individuals and partnerships, supplying electric power having a fixed situs outside of the corporate limits of villages, cities and boroughs shall be listed with and assessed by the Minnesota tax commission in the county where situated. (As amended Apr. 20, 1939, c. 92, §1.)

2012-2. Same—Percentage of assessments—Supply to farmers—Co-operative associations.—The tax commission shall assess such property at the percentage of full and true value fixed by law, and on or before
the 15th day of November shall certify to the county auditor of each county in which such property is located the amount of the assessment made against each company owning such property therein; provided, however, that the tax commission shall assess at five per cent of full and true value distribution lines, and the attachments and appurtenances thereto, used primarily for supplying electricity to farmers at retail, and which shall be taxed at the average rate of taxes of all counties throughout the state of Minnesota, levied for all purposes, for the preceding year and which shall be entered, certified and credited as provided in Laws 1925, Chapter 306, Section 3 (2012-3).

This act shall not apply to cooperative associations organized under the provisions of Laws 1928, Chapter 326 (§§7834 to 7847), and laws amendatory thereof and of supplementary thereto and engaged in electrical heat, light or power business upon a mutual, non-profit and cooperative plan. (As amended Apr. 17, 1933, c. 315, §2.)

2012-4. Annual tax on electric, heat, light or power co-operative associations.—Co-operative associations organized under the provisions of Laws 1933, Chapter 226 [(§7834 to 7847)], and laws amendatory thereof and of supplementary thereto and engaged in electrical heat, light or power business upon a mutual, non-profit and cooperative plan in rural areas as hereinafter defined, hereby recognized as quasi-public in their functions and purposes. (Act Apr. 18, 1939, c. 303, §1.)

2012-5. Same—Definitions.—As used in this chapter, the term "rural area" shall be deemed to mean any area of the state of Minnesota not included within the boundaries of any incorporated city, village or borough and such term shall be deemed to include both farm and non-farm population thereof. (Act Apr. 18, 1939, c. 303, §2.)

2012-6. Same—Amount of tax.—There is hereby imposed upon each such co-operative association on December 31 of each year, a tax of $1.00 for each 160 members or fraction thereof of such association. The tax, when paid, shall be in lieu of all personal property taxes, state, county or local, upon distribution lines and the attachments and appurtenances thereto of such associations located in rural areas. The tax shall be payable on or before March 1 of the next succeeding year, to the Tax Commission who shall retain five percent of the proceeds of such tax for expenses of administration and shall distribute the balance thereon or before July 1 of each year to the respective counties of the state in proportion to the number of members of such associations in the several counties as of December 31 of the preceding year, as determined by reports of such associations made and verified in such manner and on such forms as may be prescribed by the Tax Commission. The monies so distributed to the respective counties shall be credited by the treasurers thereof, one-half to the general revenue fund and one-half to the general school fund of the county. (Act Apr. 18, 1939, c. 303, §13.)

2018. Where listed in case of doubt. Relief accorded taxpayer as to taxes illegally assessed or collected. 15SImmLawRev692.

STATEMENTS BY CORPORATIONS, ETC.

2021. Corporations, companies and associations generally.

Franchises are subject to taxation. City of South St. Paul v. Minn. Cook Stove Co., 252 Minn. 340, 282 NW 124, 124 NE 116, 100 NE 116. This section was impliedly repealed by mortgage registration tax money and credit tax, and income tax. Bemis Bros. and Sparr v. W., 197 Minn. 345, 270 NW 948. See Dun. Dig. 5287, 5212.

Mason's Stat. 1927, §3021, was enacted as a taxation statute to provide income tax on franchise and on true value thereof, and the latter section is not applicable to corporate excess taxation. id.

2020-1. Assessment of bank and mortgage loan company shares, etc.

Act Apr. 17, 1933, c. 315, authorizes the state tax commission to compromise the tax on bank shares for 1933 and 1934. It is omitted as temporary. Act Apr. 5, 1939, c. 131, authorizes the state tax commission to compromise the tax on bank shares for 1925. It is omitted as temporary. Act Jul 15, 1937, Sp. Spec. Sess., c. 305, authorizes settlement by Minnesota Tax Commission of tax on shares of national banks for the years 1937 and 1938, as of May 1 of each year, by the assessment by the commission of the true value of the shares on condition that the bank or its successor in writing promptly, make such assessment. The commission is also directed to report to the next session of the legislature a plan for taxing bank shares.

Whether this section violates Mason's USCA title 12, §548, is a question of fact to be determined each year in accordance with varying rates of taxation. Cherokee State Bank v. W., 162 Minn. 293, 207 NW 416. See Dun. Dig. 5015.

A state statute levying a tax upon all bank stock is not rendered unconstitutionally discriminatory against state bank because its operation might be invalid as applied to national banks. Id.


An agricultural credit corporation organized to lend money to those engaged in production or marketing of agricultural products could not be held to have been organized or operated under §7446, but is governed by §7446, and is subject to §2301-1, relating to assessment and taxation of bank and mortgage loan company stock. Op. Atty. Gen. (926-1), June 15, 1937.

Formula set out is not to be applied rigidly, but is to be used for purpose of arriving at true and full value of stock. Op. Atty. Gen. (4226), June 14, 1940.

2020-5. Assessment of investment company shares.

That the shares of stock of every investment company organized under the laws of this state coming within the purview of Section 7771 of Mason's Minnesota Statutes for 1927, shall be assessed and taxed in the taxing district where such investment company has its principal place of business, whether the stockholders of such investment company reside in such place or not and shall be assessed in the name of and be payable by such investment company. The treasurer or other officer of such investment company shall list all shares of the company for assessment in the same manner as personal property is listed. To aid the assessor in determining the true value of the shares of capital stock, the accounting officer of every such investment company shall furnish to the assessor on or before July 15, 1937, and on or before June 1 of each year thereafter a sworn statement showing as of the immediately preceding May 1, the amount and number of the shares of its capital stock, the amount of its surplus and undivided profits, and the amount of its real property and tangible personal property located in this state upon which a tax in this state has been paid during the preceding annual period and the amount of any indebtedness upon which taxes have been properly and fully paid under the provisions of Sections 2322 to 2330, inclusive, Mason's Minnesota Statutes for 1927. The assessor shall deduct the amount of such real property and tangible personal property located in this state upon which a tax in this state has been paid during the preceding annual period and the amount of any indebtedness upon which taxes have been properly and fully paid under Sections 2322 to 2330, inclusive, Mason's Minnesota Statutes for 1927, from the aggregate amount of such capital, surplus and undivided profits and the remainder shall be taken as the basis for the valuation of such shares, and stockholders and shall be assessed at 33 1/3% of the full and true value thereof; and such tax shall be in lieu of all other taxes on such investment companies for the year in which such shares are assessed and
taxed except income tax and shall be in lieu of all other taxes on such shares and taxes on the property of such investment companies except upon real property, tangible personal property, motor vehicles, mortgage registrations, and taxes on franchises measured by a mileage limitation. (June 21, 1937, Sp. Sess., c. 5, §1.)


Citizens Morris Plan Company of Minneapolis, organized and operating pursuant to §7774-25, et seq., is not an investment company, and hence the mileage limitation does not apply. Opinion, May 10, 1937.


A corporation doing business in the state is not subject to the personal property tax on any shares of stocks unless it can be classified as either surplus or undivided profits. Id.

All money and credits owned by a federal savings and loan association doing business in the state are taxable under §237, but not under §3025-6. Op. Atty. Gen., (614n), March 7, 1939.

**2029-5. Same—Apportionment of taxes.** The First Bank Stock Corporation and the Northwest Bancorporation are not "banks" or "mortgage loan companies" as defined by the statutes providing for taxation of banks. Op. Atty. Gen., Aug. 29, 1929.

## REVIEW AND CORRECTION OF ASSESSMENTS

### 1934. Board of review.

17 Mar. 1934, c. 209, §2.

Where before May 1 of an odd-numbered year a dwelling formerly not a homestead becomes one, owner, not having made timely demand upon assessor, local board of review, or county board of equalization for a reclassification of property for assessment as a homestead, is not entitled to mandamus to compel county auditor to reclassify property. State v. Strom, 193M173, 298NW371, See Dun. Dig., §198.

Members of county board of Yellow Medicine County are entitled to $2 per day and mileage while acting on committee, and $3 per day and mileage while acting on board when board is acting as board of equalization. Op. Atty. Gen., May 15, 1933.


Relief accorded taxpayer as to taxes illegally assessed or collected. 15MinnLawRev693.

### 1935. Certification of state tax levy.—The state tax shall be levied by the legislature, and the rate of such tax shall be certified by the state auditor to each county auditor on or before November 15 annually. He shall also notify each county auditor of the amount due the state from his county on account of school textbooks furnished such county, and each county auditor so notified shall levy a sufficient tax to meet such indebtedness, which tax shall be levied and collected and paid into the state treasury in the same manner as other state taxes. (R. L. 1921, §67; G. S. 1930, §2049; Apr. 24, 1937, c. 282.) Act Apr. 24, 1937, c. 385, §6, authorizes state auditor to levy tax for 10 years beginning in 1938 to pay certificated indebtedness pursuant to appropriation for buildings at state educational institutions. Tax levy for state purposes on all taxable property. Laws 1935, c. 278.


### 1937. County taxes.

- **County boards.**
  - Counties having 200,000 to 2,000,000 population, and valuation of 5,000,000 to 7,000,000 acres, may levy additional taxes. Laws 1939, v. 26, ch. 30, §1.
  - Counties having 24 to 26 townships and population of 14,000 to 16,000 and valuation of $6,000,000 to $7,600,000, may levy additional taxes to not exceed $50,000. Laws 1939, c. 86.
  - Counties having 24 or 26 townships, and 34,000 to 35,000 population, may levy additional taxes in amounts not to exceed $1,600,000. Laws 1939, c. 92.
  - In counties having 25 or more townships and less than 18,500 population and a valuation of more than $6,000,000 and outstanding road and bridge warrants of more than $100,000, excess levies are legalize. Laws 1936, c. 144.
  - **Provision requiring county board to levy county taxes in July of each year is directory, not mandatory. Op. Atty. Gen. (1985), Aug. 29, 1934.**
  - **County board may amend resolution levying road and bridge tax at any adjourned meeting prior to certification of taxes to auditor. Op. Atty. Gen. (1956a-14), Sept. 16, 1934.**
  - **County board may amend tax levy made in July in any prior time prior to spreading of taxes on tax rolls, as where there is a change of a tax from town to county system. Op. Atty. Gen. (339p), Nov. 28, 1938.**

### 2057-2. Limit of tax levy in certain counties.—In all counties in this state now or hereafter having property of an assessed valuation of not less than $176,000,000, exclusive of moneys and credits and having 96% or more of the assessed valuation of all property for taxation exclusive of moneys and credits in said counties now or hereafter located within the limits of the City of Milwaukee the County Board may levy a tax of not to exceed two and three-fifths mills on the
Civil, village, town, and school taxes.

A municipality has authority to make a levy for road and bridge purposes and for the support of the poor, two mills in any town having a taxable valuation less than one hundred thousand dollars, and the rate of which shall not exceed one-half of one per cent in any town. The rate of tax for road and bridge purposes in any town shall not exceed five mills per dollar of the taxable valuation of such county, in which case the county board of such county may include in its annual report a levy for general revenue purposes up to but not exceeding seven mills.


County boards, school boards, town boards, and village councils, have power to amend or change their first tax levy without the consent of the county auditor, if the amendment is received by the auditor before October 19th, but if the amendment is not received in such time, the county auditor refuses to recognize the same. Op. Atty. Gen., Nov. 10, 1937.

2058. Salaries of members of board of estimate and taxation.—That the salary and compensation of each member of the Board of Estimate and Taxation in each city in Minnesota now or hereafter having over 10,000 inhabitants, whose salary and compensation as an officer or employee of the city is less than $2500.00 per annum, and is hereby fixed at and is to be paid out of the fund appropriated to such purpose, the combined salary of such members as an officer or employee of the city and as member of the Board of Estimate and Taxation shall not exceed $5250.00 in any one year. (App. Dec. 24, 1933, c. 125, §1.)

2059. Auditor to fix rate.

Clerical work of county auditor in preparing and sending an assessment roll shall not be an assessment or assessment chargeable for the purpose of defraying cost of such said work, as provided in section 305, and which levied more than $80,000 in excess of existing limitations.

Tax levy in counties having population of 10,000 to 14,999, assessed valuation of $16,000,000 to $20,000,000, and acres of 500,000 to 550,000 acres. Act Feb. 17, 1939, c. 24, §1, as amended Mar. 1, 1939, c. 28, §80.

2060. County board to levy additional tax in certain cases.—There shall be levied annually on each dollar of taxable property, except such as is law otherwise taxable, as assessed and entered on the tax lists for the county purposes enumerated, taxes at the rates specified as follows:

1. For state purposes, such amount as may be levied by the legislature.

2. For county purposes, such amount as may be levied by the county board, the rate of which tax for general revenue purposes shall not exceed five mills, unless such maximum mill levy will not raise the sum of $40,000 based upon the last preceding assessment valuation of such county, in which case the county board by unanimous vote may levy at such rate as will raise the amount levied by the board but not exceeding said sum of $40,000, except that in any county not hereafter having a population of not less than 65,000, nor more than 85,000, inhabitants, according to the last Federal census, and having not less than 25, nor more than 45, full or fractional congressional townships, the county board is hereby authorized by unanimous vote of its members to make levies for general revenue purposes up to but not exceeding seven mills.

3. For town purposes, such sum as may be voted at any legal town meeting, the rate of which tax shall not exceed, exclusive of such sums as may be voted at the annual town meeting for road and bridge purposes and for the support of the poor, two mills in any town having a taxable valuation of one hundred thousand dollars or more, and the amount of which shall not exceed one hundred dollars in any town having a taxable valuation less than one hundred thousand dollars, and the rate of which shall not exceed one-half of one per cent in any town. The rate of tax for road and bridge purposes in any town shall not exceed five mills per dollar, and the tax for poor purposes shall not exceed two mills, provided, however that in any town in which the amount levied within the above limitations is not sufficient to enable such town to carry on its necessary governmental functions, the electors, during the business hour after disposing of the annual report may authorize an additional levy not to exceed three mills to enable such town to carry on such necessary governmental functions.

For school district purposes, such amounts as are provided in chapter 14, §747, et seq. (As amended Apr. 22, 1937, c. 79, §1; Apr. 8, 1939, c. 170.)

Act Mar. 28, 1933, c. 126, validates county levies for 1935 taxes in excess of 1933 levy.

Act Mar. 30, 1933, c. 129, validates all county levies therefore made for general revenue purposes exceeding existing limitations.

Op. Atty. Gen., Feb. 6, 1935, c. 60, applicable by its description only to Pine County provides that the county board may, in the years 1933 and 1940, levy taxes for general revenue purposes at such a rate and in such amount in excess of existing limitations as will produce sufficient revenue to defray county expenses, payable out of the revenue fund; provided, however, that no levy shall be made at a rate that will produce more than $80,000 in taxes collected and paid into the revenue fund of said county, which rate calculated to produce said amount shall be based on the percentage of the taxes currently payable in the preceding year, which have been collected by July first of the year in which the levies authorized thereby are made.

Tax levy in counties having population of 20,000 to 24,999, assessed valuation of $8,000,000 to $10,000,000, and acreage of 550,000 to 552,000 acres. Act Apr. 15, 1931, c. 92, §1, as amended Apr. 19, 1933, c. 28, §80.
Apr. 6, 1939, c. 170, which concerns additional tax levy in Stearns County, amends Mason's Minn. St. 1937, §2060, which see.

Sec. 2. Levy in Yellow Medicine County. Act Apr. 8, 1939, c. 176.

Tax rate in counties having 48 townships, area of 1,000 to 1,200 square miles, a taxable valuation of $8,000,000 to $10,000,000, and assessed valuation of $4,000,000 to $5,000,000. Apr. 17, 1933, c. 210, amending §2122, c. 192, S.F. 2060-1, 2060-2. Rate of tax levy in towns—Exceptions. See §§2060-5 to 2060-9.

Act Apr. 3, 1939, c. 159, authorizes counties having 26,000 to 28,000 population and 7 to 9 congressional townships, may levy not to exceed 5 mills for county purposes, inclusive of money and credits, of $2,000,000 to $4,000,000. Apr. 19, 1937, c. 293, provides that in counties having $7,000,000 to $10,000,000 assessed value, exclusive of money and credits, the maximum levy which may be made by a town for local purposes may be extended in addition to the seven-mill limit. Op. Atty. Gen., May 31, 1930.


Act Apr. 8, 1939, c. 176, which see. Tax rate in counties having 26,000 to 28,000 population and 7 to 9 congressional townships, may levy not to exceed 7 mills for county purposes, inclusive of money and credits, of $2,000,000 to $4,000,000. Apr. 19, 1937, c. 293, provides that in counties containing 39 to 46 townships, 21,000 to 26,000 population, and assessed valuation of $6,000,000 to $10,000,000, tax levy exceed $35,000.00 to $60,000.00, to levy county taxes, but not to exceed $60,000.00. Act Apr. 24, 1937, c. 299, provides that in counties having $3,000,000 to $5,000,000 assessed value, exclusive of money and credits, the maximum levy which may be made by a town for local purposes may be extended in addition to the seven-mill limit. Op. Atty. Gen., May 31, 1930.

2060-5. Limitation of act.—This Act shall apply to all towns in the State of Minnesota, population of more than 3,000, exclusive of incorporated villages or cities therein, and an assessed valuation of taxable property, exclusive of money and credits, of more than $10,000,000.00. (Act Apr. 6, 1935, c. 133, §1.)
as herein specified will produce a total levy of town taxes as great or greater than an average of $1,000,000.00 per government section of the entire area of such town, according to government survey of the property therein in any one calendar year. (Act Apr. 6, 1935, c. 133, §5.)

2060-7. Limitation of expenditures.—No such town shall vote the rate of the electors for levying such contract debts or make expenditures in any calendar year in excess of the amount of taxes levied for that year, plus any available unexpended balance in prior years against which obligations have not been incurred. (Act Apr. 6, 1935, c. 133, §5.)

2060-8. Act additional limitation.—This Act shall not abate or affect any law hereinafter enacted by or for any city, town, or village, which law shall be constitutional as special legislation. Independent School Dist. No. 29 v. B., 187M444, 246NW161. See Dun. Dig. 425, 463.

2060-9. County auditor to make levy within limit.—If any such town shall return to the County Auditor a levy greater than herein permitted, such County Auditor shall extend only such amount of taxes as the limits herein prescribed shall permit, and in making the end he shall determine the area of such towns as herein described from the records in his office or such other data as to government survey as may be available. If any such town shall make levies otherwise valid, in specific amounts, for specific purposes, which aggregate more than the total amount permitted by this Act, then the amount of each specific levy shall be reduced and spread by him proportionately to bring the total levy within the total limit herein permitted. (Act Apr. 6, 1935, c. 133, §4.)

2061. Tax levy for general purposes limited.—The total amount of taxes levied in the year 1921 and in each year thereafter, by or for any city or village, for any and all general and special purposes whatsoever, exclusive of taxes levied for special assessments for local improvements on property specially benefited thereby, shall not exceed one hundred dollars per capita of the population of such city or village; provided that in the years 1930 and 1931 such total levy shall not exceed eighty dollars per capita of the population of such city or village; provided further, that nothing in this section, as amended, shall be construed to affect or limit levies hereinafter or hereafter made pursuant to Section 3 [2061-3] of this Act for the retirement of indebtedness incurred prior to Apr. 21, 1921, within the limits then permitted by law. (21, c. 417, 1; Apr. 16, 1925, c. 206, §1.)

Act Jan. 18, 1936, Sp. Sess. 1935-36, c. 55, authorizes whatever limitations hereinafter or hereafter made pursuant to Section 3 [2061-3] of the Act for the retirement of indebtedness incurred prior to Apr. 21, 1921, within the limits then permitted by law. (21, c. 417, 1; Apr. 16, 1925, c. 206, §1.)

Laws 1929, cc. 298, 393 relating to certain villages, are valid. 227M41, 227NW262.

By reason of events transpiring since commencement of action, it having become impossible to grant plain-

2061-1. Tax levy in cities of the third class.—The governing body of any city of the third class now or hereafter organized in this state and operating under a home rule charter, and which charter provides that the city may levy annually for general corporation purposes, and wherein there is due and delinquent a public or private lien for more than $900,000.00, exclusive of monies and credits, may levy annually for general corporation purposes, an amount not exceeding thirty mills on the dollar of the taxable valuation of the city for all purposes, and wherein there is due and delinquent special assessments in the amount of $35,000.00 or more, may, notwithstanding said maximum of annual tax levy, levy not to exceed thirty mills annually in addition to said twenty mills for the purpose of creating a fund with which to retire and pay outstanding certificates of indebtedness of any such city issued prior to July 1, 1937. All moneys derived from any such additional levy shall not exceed seventy-five dollars per capita of the population of such city or village. Provided that if prior to the calendar year 1929 any such city or village has incurred by proper authority a valid indebtedness, including bonds, in excess of its cash on hand, plus any amount in any sinking fund, such city or village, within, but not above, the limits now permitted by law, in addition to the foregoing, may levy sufficient sums to pay and discharge such excess indebtedness, bonds and interest thereon; but any such additional sums so levied shall be separately accounted for and provided further, that nothing in this section, as amended, shall be construed to affect or limit levies hereinafter or hereafter made pursuant to Section 3 [2061-3] of this Act for the retirement of indebtedness incurred prior to Apr. 21, 1921, within the limits then permitted by law. (21, c. 417, 1; Apr. 16, 1925, c. 206, §1.)

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Laws 1929, cc. 298, 393 relating to certain villages, are valid. 227M41, 227NW262.
20% less than the assessed valuation upon which taxes for the year 1936 were spread, such village for a period of time shall not exceed the sinking fund provided for in the levy of 25 mills for general corporation purposes instead of 20 mills now permitted by law. (Apr. 12, 1937, c. 194, §2.)

### §2062. Tax levy for schools limited.

See §2062-1 to 2062-6.


This section is applicable to school districts organized under Laws 1919, c. 289, (Act 160-10), Dec. 8, 1919.


#### §2062-2. Limitation of tax levy.- The total amount of taxes which may be levied by or for any such school district for any and all general and special purposes, including the payment of indebtedness on bonds and interest thereon, and when collected are payable to the county auditor, shall not exceed the sum of the county school tax of one mill in connection with the federal tax of one mill required to be levied by statute, but exclusive of any state levy shall not exceed in the year 1935 $51.75 per capita of the population of such school district.

In the year 1936 shall not exceed $51.90 per capita.

In the year 1937 shall not exceed $49.90 per capita.

In the year 1938 shall not exceed $48.00 per capita.

In the year 1939 shall not exceed $47.50 per capita.

In the year 1940 shall not exceed $47.50 per capita.

In the year 1941 shall not exceed $47.50 per capita.

In the year 1942 and in each year thereafter shall not exceed $40.00 per capita. (Act Apr. 6, 1935, c. 132, §2.)

##### §2062-3. Sinking fund for bonds and interest. Any school district having outstanding at the time of the passage of this Act any bonded or other indebtedness shall, out of the levies within the limits above stated, set aside each year sufficient money from each year's tax levy to provide for the interest on such bonded or other indebtedness and at least one-tenth of the principal of such indebtedness. In addition thereto, such school district shall establish and set aside out of the tax levy and shall certify a copy of such resolution to the county auditor, shall take effect from its passage.

#### §2062-4. Federal census to govern. — For the purposes of this act, the last state or federal census taken prior to the calendar year in which any such levy may be made shall govern; provided, that if the federal census of 1940 or any subsequent decennial federal census shall not be taken so as to show the population of any school district hereunder, or if the population of such school district cannot be computed from the district enumerators' reports prepared and filed at the time of the taking of said federal census, the governing body of said school district shall, at any time within two years following the end of the calendar year in which said federal census is taken, have a special census taken of the population of said school district shall pass a resolution requesting the taking thereof by the Secretary of State, and shall furnish the Secretary of State a certified copy thereof; whereupon the Secretary of State shall fix such census to be taken under this act is question of fact depending on intention.

#### §2062-5. County auditor to make levy within limit. — If any such school district shall return to the county auditor a levy greater than herein permitted, such county auditor shall extend only such amount of taxes as the limitations herein described will permit. (Act Apr. 6, 1935, c. 132, §5.)

Sec. 6 of Act Apr. 6, 1935, cited, provides that the act shall take effect from its passage.

#### §2062-6. Tax levy for certain school districts.— Any special school district organized under a special law and having less than six square miles in area and now having a population of ten, 000 or less, shall be entitled to levy a tax of not to exceed 20 mills for general corporation purposes instead of 25 mills for general corporation purposes. (Act Apr. 17, 1937, c. 260, §5.)

Sec. 4 of Act Apr. 17, 1937, cited, provides that the act shall take effect from its passage.

### §2064. Special census may be taken.

Population of school district as determined by a special school district consists of bonds held by the State of Minnesota, the county auditor each year as the tax levy is made, shall take effect from its passage.

Whether teachers and students are residents of particular school district may be made by the Secretary of State. (Act Apr. 19, 1932.)

The population of school district is determined by the Secretary of State, who, in connection with the federal census to determine the population, such federal census not showing the population of any such district, have the same taken under the direction of the Secretary of State in the manner above provided. (Act Apr. 6, 1935, c. 132, §4.)

Sec. 6 of Act Apr. 6, 1935, cited, provides that the act shall take effect from its passage.

### §2065. Same.—Inconsistent acts repealed. — All acts or parts of acts inconsistent with the provisions of this act are hereby repealed. (Apr. 17, 1937, c. 260, §3.)

Sec. 4 of Act Apr. 17, 1937, cited, provides that the act shall take effect from its passage.

### §2066. Special census may be taken.

Population of school district as determined by a special census is determined by the Secretary of State, who, in connection with the federal census to determine the population, such federal census not showing the population of any such district, have the same taken under the direction of the Secretary of State. (Act Apr. 19, 1932.)

Whether teachers and students are residents of particular school district, have the same taken under the direction of the Secretary of State, who, in connection with the federal census to determine the population, such federal census not showing the population of any such district, have the same taken under the direction of the Secretary of State. (Act Apr. 19, 1932.)

2060. County auditor to fix amount of levy.
The fact that an excessive tax levy has been collected in a school district in the past does not authorize the county board or commission of any successor levy legally made. Op. Atty. Gen., Dec. 22, 1931.

If levy of taxes exceeds 2% of assessed valuation of property in a county or city, such levy must be reduced. Op. Atty. Gen. (481a-4), Dec. 5, 1935.

2060-1. Issue of municipal warrants limited.—That from and after January 1, 1930, no city or village in the State of Minnesota wherein the tax levied in the year 1928 exceeded $100.00 per capita of the population of such city or village, as determined by Chapter 417, General Laws 1921, as amended, [§2061, herein, and §§2062 to 2065, Mason's Minn. St., 1927], shall draw any warrant or order on any fund until there is sufficient money in such fund to pay the same, together with all orders previously issued on such fund. (Act Apr. 16, 1929, c. 208, §1.)

It is not invalid as special law. 178M337, 227NW41.


2060-2. Board not to create indebtedness.—Whenever the expense and obligations incurred chargeable to any part of the school or county auditor to decrease a subsequent levy legally made. Op. Atty. Gen., Dec. 22, 1931.

In a school district in the past does not authorize the county board or commission of any successor levy legally made. Op. Atty. Gen., Dec. 22, 1931.

Exception.—That all moneys received from the use and benefit of such city or village, and included in the sale of said certificates, shall be used for the purpose of paying indebtedness and the interest accruing thereon, and the remaining part of such levy shall be paid into a separate fund or funds and used only for the purpose of paying obligations incurred during the calendar year immediately succeeding the making of such levy, and any balance remaining at the end of any such year may be used in later years in addition to the taxes levied for such year or years, provided that if any such city or village have any taxes issued for indebtedness incurred subsequent to April 21, 1921, and prior to the year 1929, which mature and become payable in the year 1930, such bonds and interest thereon shall have the right to levy pursuant to Chapter 417, General Laws 1921, as amended, [§2061, herein, and §§2062 to 2065, Mason's Minn. St., 1927], over and above the amounts therein authorized to be levied for any and all general and specific purposes, for the purpose of paying indebtedness existing on January 1, 1929, as defined in said Chapter 417, General Laws 1921, as amended, shall be used for the purpose of paying such indebtedness and the interest accruing thereon, and the remaining part of such levy shall be paid into a separate fund or funds and used only for the purpose of paying obligations incurred during the calendar year immediately succeeding the making of such levy, and any balance remaining at the end of any such year may be used in later years in addition to the taxes levied for such year or years, provided that if any such city or village have any bonds issued for indebtedness incurred subsequent to April 21, 1921, and prior to the year 1929, which mature and become payable in the year 1930, such bonds and interest and interest payments on other bonds so issued shall be paid from taxes levied in the year 1929. (Act Apr. 16, 1929, c. 208, §5.)

2060-4. May sell certificates of indebtedness.—At any time after the annual tax levy has been certified to the county auditor and not earlier than October 10, in any year, the governing body of such city or village may, by resolution issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes so levied for any fund named in said tax levy for the purpose of raising money for any such fund, but no certificate shall be issued and be outstanding for any of said separate funds exceeding 50 per cent of the amount of taxes so levied, except as spread by the county auditor, to be collected for the use and benefit of said fund, and no certificate shall be issued to become due and payable later than December 31 of the year succeeding the year in which the tax levy, certified to the auditor, was made, and said certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six per cent per annum; each certificate shall state upon its face for which fund the proceeds of said certificates shall be used, the total amount of said certificates so issued, and the whole amount embraced in said tax levy for that particular purpose. They shall be numbered consecutively and be denominat-ed of the same amount, or a multiple thereof and may have interest coupons attached and shall be otherwise of such form and terms and may be made payable at such place as will best aid in their negotiation, which certificates are declared to be negotiable, and shall be charged as described in the tax assessed and collected, as aforesaid, on account of said fund, and the faith and credit of such city or village shall be irrevocably pledged for the redemption of the certificates so issued. Such certificates shall be paid from the moneys derived from the levy for the year against which such certificates were issued. The money derived from the sale of said certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of such levy. No certificates for any year shall be issued.
issued until all certificates for prior years have been paid, except that any money derived from the sale of certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year, nor shall any certificate be extended. (Act Apr. 16, 1929, c. 208, §4; Apr. 13, 1933, c. 231, §2.)

Sec. 5. That the city may, in the manner now provided by law, except that such bonds may be issued on a vote of the council thereof without a vote of the electors; provided that if any moneys received from taxes levied in 1929 and payable in 1929 or income from investments of the sinking fund, such city or village, within, but not to exceed, in the year of 1939 shall not exceed $52.50 per capita of the population of such city or village; and in the year 1937 shall not exceed $57.50 per capita of the population of such city or village.

2060-5. Bonds may be issued to fund indebtedness.—For the purpose only of paying and discharging its valid indebtedness (except bonds) which existed January 1, 1929, and interest thereon until paid, such city or village may issue its bonds in the manner now provided by law, except that such bonds may be issued on a vote of the council thereof without a vote of the electors; provided that if any moneys received from taxes levied in 1929 and payable in 1929 or income from investments of the sinking fund, the amount thereof that had been used prior to the passage of this act for the retirement of indebtedness existing January 1, 1929, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were so paid. (Act Apr. 16, 1929, c. 208, §5.)

2060-6. Effective date—Inconsistent acts repealed. —This act shall take effect and be in force from and after its passage and all acts and parts of acts inconsistent herewith are hereby repealed and declared to be invalid, and all order or transfer of power or authority herein contained may be inconsistent with this act. (Act Apr. 16, 1929, c. 208, §6.)

Laws 1931, c. 270, authorizes counties with assessed valuation of $10,000,000 to $12,000,000, and population of 25,000 to 30,000, and land area less than 625,000, to levy and collect, and certificates cannot be issued to provide funds for present fiscal year to be taken up with funds from taxes provided for the next fiscal year. Op. Atty. Gen. (59a-51), Nov. 2, 1936.

2060-7. Limitation of act.—This Act shall apply to all villages and cities in the State of Minnesota having a population of more than 10,000 and less than 50,000 inhabitants and having an assessed valuation of taxable property (exclusive of monies and credits) of more than $35,000,000.00. (Act Apr. 6, 1935, c. 134, §1.)

2060-8. Limit of tax levy. —The total amount of taxes levied in the years hereafter designated by or for any such city or village for any and all general and special purposes whatsoever, exclusive of taxes levied for special assessments for local improvements upon property specially benefited thereby, shall not exceed, in the year of 1935, $52.50 per capita of the population of such city or village; in the year 1937 shall not exceed $57.50 per capita of the population of such city or village; in the year 1939 shall not exceed $62.50 per capita of the population of such city or village; and in the year 1941 shall not exceed $67.50 per capita of the population of such city or village.

Provided that if any such city or village subject to the provisions of Laws 1929, Chapter 208, has prior to the calendar year 1929 incurred prior certificates, in excess of its cash on hand, plus any amount in any sinking fund, such city or village, within, but not above, the limits now permitted by law, in addition to the foregoing, may levy sufficient amounts to pay and discharge such excess indebtedness, bonds and interest thereon; but any such additional sum so levied shall be separately levied, and, when collected, shall be paid into a separate sinking fund, and shall be used solely for the purpose of paying such excess indebtedness, bonds and interest thereon. (Act Apr. 6, 1935, c. 134, §2.)

2060-9. Federal census to govern.—For the purposes of this Act the last respective state or federal census of population taken prior to the enactment hereof shall govern and be conclusive in determining the number of the population of any city or village for any purpose for fixing all levies up to and including the levy of the year 1942. For levies subsequent to the year 1942 the last respective state or federal census prior to the calendar year in which any such levy may be made shall govern. Provided, that in the year 1945, and each tenth year thereafter, the council of such city or village may, in case it desires a special census, pass a resolution requesting the taking thereof by the Secretary of State, and shall furnish the Secretary of State a certified copy thereof; whereupon said Secretary of State shall cause such census to be taken under his immediate supervision, and under such rules and regulations as he may prescribe, and shall certify the result thereof to the council which shall use the same within three months from the receipt by him of such certified copy of resolution. The expense of taking such census shall be paid by the city or village for which the same is taken. (Act Apr. 5, 1935, c. 134, §3.)

2060-10. Limitation of levy.—This act shall not authorize nor be construed as in any instance authorizing the levy of total amounts of taxes in any year in excess of the amount allowed by law at the time and place of passage of this act, and that the act shall not be considered an additional limitation. (Act Apr. 6, 1935, c. 134, §4.)

2060-11. County auditor to make levy within limit. —If any such city or village shall return to the county auditor a levy greater than herein permitted, such county auditor shall extend only such amount of taxes as the limitations herein prescribed will permit. (Act Apr. 6, 1935, c. 134, §5.)

Sec. 6 of Act Apr. 6, 1935, cited, provides that the act shall take effect from its passage.

2067. Same. —Where parties were partners and close relationship previously existing remained while activities were in progress to form a partnership, a partnership was formed, and there were fiduciary relations arising from domination and leadership, one of the former partners imposed upon domineering partner a duty with which equitable powers will command compliance, where stock division was entirely based upon property contributed to the partnership by various promoters of the corporation, the partnership was entirely based upon property contributed to the partnership by various promoters of the corporation, the partnership was not a partnership and the existence of partnership was not the object of the formation of the partnership. Keough v. S., 285NW 809, See Dun. Dig. 2113.

Maximum levy for road and bridge purposes is governed by §§172, and not §2068 or §2066. Op. Atty. Gen., Nov. 12, 1929.


Maximum levy for road and bridge purposes is subject to maximum limitations contained in §§2357(b) and 2586(a). Op. Atty. Gen. (519o), Dec. 19, 1936.


2068-3. Certain cities may issue bonds to pay outstanding indebtedness.—The governing body of any city or village of the fourth class in the State of Minnesota and operating under a Home Rule Charter adopted pursuant to Section 36, Article 4, of the Constitution of this State, and which said Charter provides that the annual tax levy upon all the property in said city or village shall not exceed the maximum amount of annual tax levy, levy not to exceed ten mills annually in addition to said 20 mills for the purpose of creating a fund with which to retire out-
standing bonds of any such city prior to July 1, 1929, or any refunding of such bonds. All moneys derived from any such additional levy shall be used for the purchase of such bonds of any such city. (27 c. 267, § 1; Apr. 23, 1929, c. 292.)


By §2116 defendant in action to enforce payment of delinquent real estate taxes had right to attack levies made for water and sewer expenses in excess of the amount of money actually on hand and in process of collection from taxes actually levied. Op. Atty. Gen., Jan. 14, 1929.

2087. Contracts in excess void—Liability of officers.

Cited to the point that Laws 1927, c. 147, is invalid. 171 Minn. 532, 215N. 842. A salary schedule adopted by board of education of Duluth prior to enactment of the Teacher's Tenure Act does not determine the year's salary to be paid its teachers after such act went into effect. The power of the school board is limited to the funds it is authorized to provide for conducting the schools for the same period. Teachers are charged with knowledge of extent of its power to contract. Sutton v. B., 197M128, 284N. 846. See Dun. Dig. 772.


The Village of Kanyak cannot enter into a contract for the construction of a proposed municipal light plant to be paid for out of future revenue, nor can it issue warrants payable from the future, out of future revenue. State v. Keyes, 188M79, 246N. 847.


A municipality may not incur an indebtedness by issuing warrants for water and sewer expenses in excess of the amount of money actually on hand and in process of collection from taxes, whenever finished, relate back to and take effect for the payment of taxes, whenever finished, and be a lien or charge on the property for which the same are levied. City of Marquette v. County Board, 266M187.

2075. Treasurer to be collector.


Treasurer of county in crediting taxes on wrong land cannot defeat the payment of such taxes, and the record thereof may be destroyed. Op. Atty. Gen., June 1, 1930.

Where county treasurer acted as agent or as receiver and director of tax book in which county depositary failed, it was duty both of county treasurer and state to file claim as preferred creditor. Op. Atty. Gen., Mar. 18, 1933.

2076. Treasurer to collect local assessments.

Neighborhood fire service is such as might be provided in connection with the collection of taxes, and have no right to expend moneys for that purpose except as they pay the salaries of the assessors and collectors. Op. Atty. Gen., May 6, 1929.

Neither state nor any governmental subdivision has authority to accept home owner's loan bonds in payment of taxes or assessments. Op. Atty. Gen., Nov. 23, 1942.

2077. Treasurer to collect local assessments.

A county board has no authority to extend the time for payment of taxes without penalty beyond the date fixed by statute. Op. Atty. Gen., Jan. 6, 1932.

A county board has no authority to extend the time for payment of taxes without penalty beyond the date fixed by statute. Op. Atty. Gen., Nov. 23, 1942.

Where county treasurer acted as agent or as receiver and director of tax book in which county depositary failed, it was duty both of county treasurer and state to file claim as preferred creditor. Op. Atty. Gen., Mar. 18, 1933.

2078. Treasurer to collect local assessments.


2079. Township treasurers may not be required to file report.


City has no authority to issue warrants in payment of bonds without money in treasury for their payment or within maximum indebtedness of school district. Op. Atty. Gen., Jan. 6, 1932.

2080. Undivided interest—Payment and receipt.

Warrants drawn on county poor fund must be accepted in payment of so much of taxes as they pay the salaries of the assessors and collectors. Op. Atty. Gen., May 6, 1929.

2081. Orders received for taxes.

Warrants drawn on county poor fund must be accepted in payment of so much of taxes as they pay the salaries of the assessors and collectors. Op. Atty. Gen., May 6, 1929.


2082. Orders received for taxes.

Warrants drawn on county poor fund must be accepted in payment of so much of taxes as they pay the salaries of the assessors and collectors. Op. Atty. Gen., May 6, 1929.

Town treasurer is authorized to accept order drawn on revenue fund in payment of so much of taxes, though such newspaper is located in another county. Op. Atty. Gen., Jan. 1, 1930.

County board has no authority to contract for printing under this section. Op. Atty. Gen., June 3, 1930.

County board has no authority to contract for printing under this section. Op. Atty. Gen., June 3, 1930.


Relief accorded taxpayer as to taxes illegally assessed or collected. 15Minn.LawRev692.
against property of person tendering order as is levied for
and personal property, exclusive of money and credits
 Register of deeds may not pay fees collected into
COUNTING AND DISTRIBUTION OF FUNDS
2082. Settlement between auditor and treasurer
Taxes levied upon real estate in Minneapolis by board
\[\text{Act Apr. 20, 1939, c. 324, §3.}\]
2087-7. Same—Appropriation.—The sum of $4,500
2087-9. Same.—Appropriation.—The sum of $4,500 for the year ending June 30, 1940, and the sum
2087-10. Same.—To be in force for ten years. — This act
DElinquent PERSONAL PROPERTY TAXES
2088. When delinquent.—Penalty.— All unpaid

\[\text{Act Apr. 20, 1939, c. 324, §4.}\]
\[\text{Act Apr. 20, 1939, c. 324, §5.}\]
\[\text{Act Apr. 20, 1939, c. 324, §6.}\]
a penalty of eight per cent shall attach and be charged upon all such taxes; except when the amount of such tax applicable to the sum of the taxes due to the county shall not become delinquent if half thereof is paid prior to March 1st and the remaining half is paid prior to July 1st next following the year assessed; if the first half is paid prior to March 1st next after the tax becomes due and the last half is not paid prior to July 1st following, the unpaid portion of the tax shall thereupon become delinquent on said July 1st and the penalty herein provided for shall attach and become a charge upon and paid said July 1st.

1980. Treasurer to file delinquent list in court—Answer—Trial.—On the fifth secular day of April of each year the county treasurer shall make a list of all personal property taxes remaining delinquent April 1, and shall immediately certify to the clerk of the district court of his county a copy of such list which shall be prima facie evidence that all the provisions of law in relation to the assessment and levy of such taxes have been complied with. On or before the tenth secular day next thereafter, and transmitted in such list may filed with the clerk an answer, verified as pleadings in civil actions, setting forth his defense or objection to the tax or penalty against him. The answer need not be in any particular form, but shall clearly refer to the tax or penalty which such sheriff must make his return under this section. 15MinnLawRev692.


2090. Payment under protest. Relief accorded taxpayer as to taxes illegally assessed or collected. 15MinnLawRev692.


2096. Moneys and credits which were omitted in assessment or collection are not subject to delinquent judgment. Op. Atty. Gen. (390c-1), Aug. 19, 1931.


2098. Sheriff's fees. Sheriff who has collected personal property tax under §2098 may add thereto 8% per mile, as Laws 1931, c. 281, ante, §§234-47, 254-48, does not limit amount which any public officer may charge


2101. Docketing judgment. 


One purchasing at forfeited tax sale in 1930, and assigning to assignee following the sale, the tax lien took the land subject to lien of personal property tax judgments. Op. Atty. Gen., Oct. 1, 1931.


State auditor has no authority to execute a release of judgment outstanding against homestead property, but only in case of judgment lien, a like claim to property of homestead is by attorney general. Op. Atty. Gen. (421a-8), Dec. 15, 1930.


2103. Satisfaction of judgment. 


DELINQUENT REAL ESTATE TAXES

2104. Penalty and interest on real estate taxes.—On June 1 of each year a penalty of three per cent shall accrue and thereafter be charged upon all unpaid taxes on real estate on the current lists in the hands of the county treasurer, and thereafter on the first day of each month, up to and including November 1 following, an additional penalty of one per cent for each month shall accrue and be charged on all such unpaid taxes. Each penalty against any tract or parcel of one dollar, one-half thereof may be paid prior to June 1st, and if so paid no penalty shall attach; the remaining one-half shall be paid at any time prior to November 1 following without penalty, but if so paid then a penalty of eight per cent shall accrue thereon. If one-half of such taxes shall not be paid prior to June 1st the same may be paid at any time prior to November 1st with accrued penalties to the date of payment added, and therupon no penalty shall attach to the remaining one-half until November 1 following, provided, also, that the same may be paid in installments as follows: One-fourth thereof prior to April 1st; one-fourth thereof prior to June 1st; one-fourth thereof prior to September 1st; and the remaining one-fourth thereof prior to November 1st, subject to the aforesaid penalties. Where the taxes delinquent after November 1 against any tract or parcel exceed $25.00, the same may be paid in installments of not less than $5.00 or any part thereof together with all accrued penalties and costs, up to the time of the next tax judgment sale, and after such payment, penalties, interest and costs shall accrue only on the sum remaining unpaid. Any county treasurer who shall make out and deliver to the tax collector an installment certificate not complying with the requirements of the law, or any auditor who shall make out and deliver any statement of delinquent taxes without including all of the foregoing penalties therein, shall be liable to the county for the amount of such taxes. (R. L. '05, §903; G. S. '13, §2092; '23 c. 234; '29 c. 155, §1; Apr. 24, 1931, c. 316, §1; Mar. 27, 1933, c. 121, §1.)


Amount collected under Section 2204 may be applied upon delinquent taxes even though not sufficient to discharge in full, any one year's taxes. Op. Atty. Gen., May 6, 1931.

In the event the first half of the taxes was not paid prior to June 1st, the 3% penalty under the old law and the 4% penalty under the new law attached only. Op. Atty. Gen., June 1st, 1931.


Under Laws 1923, c. 121, if half of current tax is paid by the first Monday in September, then one-fourth before September 1st and one-fourth before November 1st. Op. Atty. Gen. June 8, 1932.

After August 1, 1923 taxes became delinquent and against whom a tax judgment had been issued may pay penalty and interest and costs to date at any time before premises are sold. Op. Atty. Gen. (421a-17), Apr. 2, 1932.

When by check, does not pay the tax unless check is honored at bank, and where check is not paid, it is duty of auditor to put back on tax rolls item marked paid. Op. Atty. Gen. (21f), July 2, 1932.

Receipt for second half of real estate taxes for current year cannot properly be issued until first half of taxes has been paid. Op. Atty. Gen. (474g-1), Aug. 15, 1934.

Payment without penalty may be made on following day when May 21st falls on Sunday. Op. Atty. Gen. (421a-8), May 19, 1935.

Where memorial day falls on Sunday, custom of observing the same following the same shall continue. Op. Atty. Gen. (21f), May 26, 1933.

2104-1. Penalties and interest in certain cases.—The County Auditor and Treasurer of each county in this state are hereby authorized and directed to certify and accept, in part or in full payment and discharge of all real estate taxes and assessments of every kind on any parcel of land which became delinquent prior to the year 1928 and which are held by the state, an amount equal to such taxes and assessments as originally assessed and taxed, without penalty or interest at any time before January 1st, 1930, but no such part payment shall be accepted for less than one year's taxes at one time; and shall pay payment of the amount of a judgment for delinquent taxes, nor of the amount for which a parcel was bid in for the state pursuant thereto, be accepted unless all subsequent delinquent taxes for 1928 and prior years on the parcel are also paid; and all prior delinquent taxes and assessments held by the state have been paid or discharged, they may within such period accept in payment and discharge of taxes and assessments for 1926, 1927 and 1928 the amounts thereof as originally assessed and taxed, without penalty or interest; provided, further, the authority granted to the County Auditor and Treasurer by this act to waive penalties and interest shall not exist before July 1, 1929, and, if before that date the County Board, as to general and special obligations for the district or the governing body of the town or municipality interested, as to other special assessments, shall have adopted a resolution, and filed a certified copy thereof with the County Auditor, fixing a minimum amount of such accrued interest and penalties which shall be accepted, the terms of such resolution shall control with respect thereto. (Laws 1929, c. 117; Apr. 27, 1929, c. 416, §4.)

When taxes payable for 1926, 1927 and 1928 without interest, or penalties. 78M404, 227NW209.

This section continued only until and including Dec. 31, 1934, and thereafter it was of no effect. Op. Atty. Gen. Aug. 16, 1939.

2105. Same.—On the first Monday in January of each year the county treasurer shall return the tax lists in his hands to the county auditor, who shall compare the same with the statements receipted for by the treasurer on file in the auditor's office, and each tracted lot or real property against which the taxes, or any part thereof, remain unpaid, shall be deemed delinquent, and any auditor who shall make out and deliver any statement of delinquent taxes without including therein the penalties imposed by law, and any treasurer who shall receive payment of such taxes without including in such payment all items as shown on the auditor's statement, shall be made liable to the county for the amount of any items omitted. (R. L. '05, §904; G. S. '13, §2093; Apr. 24, 1931, c. 316, §1; Mar. 27, 1933, c. 121, §2.)

DELINQUENCY OF REAL ESTATE TAXES

5. Penalties for non-payment. 

When the original amount of taxes for 1932 taxpayer must also pay additional penalty of 3% with interest at 6% from first day of March, 1932. Op. Atty. Gen., Nov. 21, 1932.

Additional 3% penalty accruing on taxes for first Monday in January was abolished by Laws 1933, c. 121, §2, amending this section. Op. Atty. Gen., Nov. 27, 1933.

Amount of interest to be collected in redemption of land sold under Laws 1935, c. 227, for 1930 taxes in May, 1932, bid in by state and thereafter taxes for 1931, 32, 33, and 34 were not paid, and attached to state's judgment for the 1930 taxes and sold on June 30, 1936, for ¾% of taxes for 1930 to 1934 in-

2105-1. Same.—The rate of interest on delinquent real estate taxes levied in the year 1930 and is hereby fixed at ten per cent per annum and the rate of interest on delinquent real estate taxes levied in the year 1932 and subsequent years is hereby fixed at eight per cent per annum under §2150. This rate is provided by law providing for the calculation of interest at any different rate on delinquent taxes in any notice or proceeding in connection with the payment, collection, sale, or assignment of delinquent taxes, or the redemption from state or redeemed from state or purchased at tax sale, any amount of taxes assessed to correspond herewith. Provided, that in calculating such interest for any fractional part of a year on taxes levied in 1930 it shall be calculated on the basis of five-sixths of one per cent for any month or major fraction thereof, and in calculating such interest for any taxes involved, interest is computed on basis of one-hundred and sixty per cent for any year or major fraction thereof.

Provided, that such interest shall be calculated for the period of March following the year in which the taxes become due and no interest shall be charged on penalties accrued and only on the amount of taxes and costs authorized by law. (Act Apr. 24, 1921, c. 315; Mar. 27, 1933, c. 121, §13.)

In making assignment, which includes taxes bearing different rates of interest for different years, amount of taxes, penalties and interest for such years, should be stated separately. Op. Atty. Gen., Mar. 22, 1932.

No interest for particular month is to be charged if less than major fraction thereof is involved, but if major fraction thereof is involved, interest is computed on basis of one-sixth of one per cent. Op. Atty. Gen., May 8, 1931.

This statute applies to taxes levied in 1930, which became due and payable in 1930, and which became delinquent in 1932, and do not apply to taxes for 1929, which became payable in 1930. Op. Atty. Gen., May 8, 1931.

Interest on original amount of taxes and costs should be computed from the first day of March following the year in which taxes become due and payable in 1931, and which became delinquent in 1932, and do not apply to taxes for 1932, which became payable in 1932. Op. Atty. Gen., May 8, 1931.

In making assignment, which includes taxes bearing different rates of interest for different years, amount of taxes, penalties and interest for such years, should be stated separately. Op. Atty. Gen., Mar. 22, 1932.

No interest for particular month is to be charged if less than major fraction thereof is involved, but if major fraction thereof is involved, interest is computed on basis of one-sixth of one per cent. Op. Atty. Gen., May 25, 1932.


Where judgment is entered for delinquent taxes for 1932, it should include interest on original amount computed from first day of March. Op. Atty. Gen., Aug. 29, 1934.

Amounts paid for taxes for each year included in state assessment and not paid separately, not rate of interest thereon, but statement of amount necessary to redeem taxes for 1932 should be provided for interest from date of sale in May, 1935, on 1928 and 1929 taxes; interest from date of sale, and interest on 1928 and 1931 taxes from such date at rate of 10% per annum, and interest on 1932 and 1933 taxes from such date at rate of 8% per annum. Op. Atty. Gen., Aug. 23, 1935.

Amounts paid for taxes for each year included in state assessment and not paid separately, not rate of interest thereon, but statement of amount necessary to redeem taxes for 1932 should be provided for interest from date of sale in May, 1935, on 1928 and 1929 taxes; interest from date of sale, and interest on 1928 and 1931 taxes from such date at rate of 10% per annum, and interest on 1932 and 1933 taxes from such date at rate of 8% per annum. Op. Atty. Gen., Aug. 23, 1935.

The provisions of this Act shall not apply to the taxes levied for a specific year, and the method and time of payment of which, or the penalties and interest on which, are provided or fixed by any other valid Act. Approved March 27, 1932. (Act Mar. 27, 1932, c. 121, §4.)


Land sold for 1930 taxes is not to be included in delinquent tax list where delinquent tax list included whole section in a single description. Delinquent tax lands of years 1933 to 1935, and judgments thereon. Laws 1929, c. 216, §2.

What taxes included. Where judgment has already been secured on account of 1931 taxes but land has not been sold for taxes, exception provided for in statute is not operative and description of premises should be included in delinquent tax list of 1932 taxes. Op. Atty. Gen., Jan. 17, 1934.

1931 taxes are not to be included in delinquent tax list where judgment has already been secured. Op. Atty. Gen., Jan. 22, 1934.

Description of tract of land against which there is a judgment for 1931 taxes and which was sold for delinquent taxes for 1931, and also a judgment for 1932 taxes and which was sold for delinquent taxes for 1932, is not to be included in delinquent tax list for 1933 delinquent taxes. Op. Atty. Gen. (412a-13), Jan. 23, 1935.

Description of tract of land against which there is a judgment for 1931 taxes and which was sold for delinquent taxes for 1931, and also a judgment for 1932 taxes and which was sold for delinquent taxes for 1932, is not to be included in delinquent tax list for 1933 taxes. Op. Atty. Gen. (412a-13), Apr. 29, 1938.

Amounts paid for taxes for each year included in state assessment and not paid separately, not rate of interest thereon, but statement of amount necessary to redeem taxes for 1932 should be provided for interest from date of sale in May, 1935, on 1928 and 1929 taxes; interest from date of sale, and interest on 1928 and 1931 taxes from such date at rate of 10% per annum, and interest on 1932 and 1933 taxes from such date at rate of 8% per annum. Op. Atty. Gen., Aug. 23, 1935.


The court had no jurisdiction to enforce delinquent taxes levied for 1926, 1927, 1928, 1929 or 1930 and not assessed by state or redeemed and taxes for 1931 became attached to prior sale, it is not necessary to include such parcel in delinquent tax list. Op. Atty. Gen. Jan. 17, 1934.

6. Errors, irregularities or omissions not fatal. Where judgment has been secured on account of 1931 taxes but land has not been sold for taxes, exception provided for in statute is not operative and description of premises should be included in delinquent tax list of 1932 taxes. Op. Atty. Gen., Jan. 17, 1934.

FILING THE LIST

22. Jurisdictional limit. The court had no jurisdiction to enforce delinquent taxes on real estate except as to lands described in filed tax assessment and which are described by state or keys. 188475, 246NW547. See Dun. Dig. c. 3354, 2561.

2108. Bids for publication.
Contract for printing tax list must be special to the county.
Ordered June 3, 1930.

2109. Designation of newspaper.
AAll newspapers in county agreed that only one bid would be for county publication, and this was made known to board, and a higher legal rate was accepted on condition that publication boards be for tax purposes only, publication was approved by
the board in county, bidder was entitled to recover whole
contract price as against claim of county that agreement was fraudulent and illegal.
See Dun. Dig. 8534, 8536.

2110. Publication of notice and list.
AWhere delinquent real estate tax list is published on
February 15 and February 26, judgment cannot be
entered until twenty days after the 25th of February. Op.
Att'y Gen. (412a-23), April 17, 1939.

2111. Publication corrected.
AWhere delinquent real estate tax list is published on
February 15 and February 26, judgment cannot be
entered until twenty days after the 25th of February. Op.
Att'y Gen. (412a-23), April 17, 1939.

2115. What defects jurisdictional.
AWhere delinquent real estate tax list is published on
February 15 and February 26, judgment cannot be
entered until twenty days after the 25th of February. Op.
Att'y Gen. (412a-23), April 17, 1939.

In suit by state to quiet title based upon tax sale, de-
defendant could not collaterally attack judgment and sale
because section of land involved was assessed separately
and for different ownership, by one man, and delinquent
tax list included whole section in a single notice and judgment and sale were based on single description. Id.

2115-1. Publication of delinquent tax list validated.
AWhere delinquent real estate tax list is published on
February 15 and February 26, judgment cannot be
entered until twenty days after the 25th of February. Op.
Att'y Gen. (412a-23), April 17, 1939.

2116. Who may answer-Form.
AWhere delinquent real estate tax list is published on
February 15 and February 26, judgment cannot be
entered until twenty days after the 25th of February. Op.
Att'y Gen. (412a-23), April 17, 1939.
stock for tax purposes. Freeborn County v. F., 199M.

2123. Opening judgment.—The court wherein any tax judgment is entered may, at any time, upon satisfactory proof, vacate and set aside such judgment on the ground that the tax in question was paid before judgment was entered, or that the land in question was not subject to taxation. Application to open such judgment may be summary, upon notice to the purchaser and county auditor as the court may direct; and, if a defense is allowed to be interposed, the case shall be treated all respects as in defended cases. (As amended Apr. 20, 1939, c. 211.)


2125. Clerk's fees.—Clerk of district court is entitled to fee of 15c per deed for listing real estate tax judgments where fees of the clerk are not fixed by special law. Op. Atty. Gen. (144b-15), June 1, 1935.

2126. Payment before judgment.—A taxpayer after 1933 taxes became delinquent and against whom a tax judgment had been issued may pay half of delinquent taxes together with penalties and costs to date at any time before premises are sold. Op. Atty. Gen. (412a-17), Apr. 2, 1935.

DEFENSES OR OBJECTIONS TO TAXES ON REAL ESTATE

2121—1. Defense or objection to tax on land—Service and filing.—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, or that such 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 his claim, defense or objection determined in the manner provided by the district court. (2) That there is probable cause to believe that the tax may be determined to be less than 50 per cent of the amount levied, and (3) that it would work a hardship upon petitioner to pay 50 per cent of such taxes, the court may permit the petition to be filed without such payment, or may fix a lesser amount as a condition precedent to the right to file the same. Payment of the amount so fixed shall be endorsed on the order by the county treasurer. The court shall allow the filing of the petition for such additional payment, one be paid, then the matter shall stand for trial without further payment. In all other cases, if the proceedings instituted by the filing of such petition have not been completed before November 1st next following the filing of such petition, the petitioner shall pay 50 per cent of the remaining unpaid taxes for the current year or 50 per cent of the remaining unpaid taxes based upon the probable value of said property, if such value has been found by the court upon application as aforesaid. Failure to make payment of such additional amount shall be deemed a dismissal of the petition and all proceedings thereunder unless such payment is waived by an order of the court upon application as hereinafter provided. The petition, upon 10 days' notice to the county auditor and to the county treasurer, given at least 10 days prior to said November 1st, may apply to the court for an order waiving the requirement of such additional payment upon the same grounds as set forth herein for relief from the requirement to pay the original 50 per cent of such taxes, except that he must show that the tax may be determined to be less than 75 per cent of the amount levied. The county treasurer shall issue duplicate receipts for such additional payment, one of which shall be filed by the petitioner in such proceeding.

2126—4. Treasurer must stamp tax lists.—Upon the filing of such petition the treasurer shall write or cause to be written on each parcel of land opposite the office of the clerk of the district court, or the clerk of the district court on or before the first day of June of the year in which such tax becomes payable. (Act Apr. 25, 1935, c. 300, §1.)

This statute merely emphasizes the necessity of uniformity and non-discrimination, which factors are not inconsistent with determination of value on a market value basis, and as most it is a mandate to the assessor and the board to give due weight to market value of land comparable in character, quality and location, so there will be uniformity in the values. State v. Federal Reserve Bank, (DC-Minn), 24FSupp14.

Lesses obligated by lease to pay all taxes may petition and claim invalidity of tax, and it is not necessary to make landowner parties. See Farmers Co. v. County, (DC-Minn), 24FSupp. 217. See also Sup. Ct. Minn., Dec. 20, 1938.

2126—2. Form petition—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. (Act Apr. 25, 1935, c. 300, §2.)

2126—3. Payment of portion of tax.—Before filing such petition as a condition precedent thereto, the petitioner shall pay to the county treasurer not less than 50 per cent of the tax levied for said year against the property involved, unless permission to file such petition without such payment is obtained as herein provided, which payment shall be endorsed by the county treasurer on the original petition before the same may be filed. The attorney general may, at any time, upon such petition without such payment may be 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 said 1st day of June, may apply to the court for permission to file said petition without such 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 per cent of the amount levied, and (3) that it would work a hardship upon petitioner to pay 50 per cent of such taxes, the court may permit the petition to be filed without such payment, or may fix a lesser amount as a condition precedent to the right to file the same. Payment of the amount so fixed shall be endorsed on the order by the county treasurer.

The court shall allow the filing of the petition for such additional payment, one be paid, then the matter shall stand for trial without further payment. In all other cases, if the proceedings instituted by the filing of such petition have not been completed before November 1st next following the filing of such petition, the petitioner shall pay 50 per cent of the remaining unpaid taxes for the current year or 50 per cent of the remaining unpaid taxes based upon the probable value of said property, if such value has been found by the court upon application as aforesaid. Failure to make payment of such additional amount shall be deemed a dismissal of the petition and all proceedings thereunder unless such payment is waived by an order of the court upon application as hereinafter provided. The petition, upon 10 days' notice to the county auditor and to the county treasurer, given at least 10 days prior to said November 1st, may apply to the court for an order waiving the requirement of such additional payment upon the same grounds as set forth herein for relief from the requirement to pay the original 50 per cent of such taxes, except that he must show that the tax may be determined to be less than 75 per cent of the amount levied. The county treasurer shall issue duplicate receipts for such additional payment, one of which shall be filed by the petitioner in such proceeding.

(Act Apr. 25, 1935, c. 300, §3; Apr. 26, 1937, c. 483, §1.)

2126—5. Trial of issues.—Such petition, without an answer, return or other pleading thereto, shall stand for trial at any general term in session when the same is filed, or if the court be not then in session, then at the next general or special term appointed to be held in said county; and if no such term be appointed to be held within 30 days thereafter, then the same shall be brought to trial at any general term appointed to be held within the judicial district upon ten days' notice. The county attorney of the county in which such tax is levied shall be entitled to take over the case and prosecute such proceedings, but the county board may employ any other attorney to assist him. At the term at which such petition comes on for trial it shall take precedence of any other unpaid unpaid taxes for the same year.

The court shall without delay summarily hear and determine the claims, objections or defenses made by said petitioner and shall direct judgment accordingly, and in the trial thereof shall disregard all technicalities and matters of form not affecting the substantial merits.

Any time after the filing of such petition and before the trial of the issues raised thereby, when the defense or claim presented is that the property has been
2126-6. Other statutes to apply.—Mason's Minnesota Statutes of 1927, Sections 2119, 2120, 2122, 2124, 2125 and 2126, shall apply insofar as the same are applicable thereto, except as herein otherwise provided. References in said sections to "answers" shall be understood as referring to petitions, and references to the "delinquent list" or "list" as referring to the tax list filed with the county treasurer. (Act Apr. 25, 1935, c. 300, §5; Apr. 26, 1937, c. 483, §2.)

2126-7. Judgment—amount—Costs—Judgment shall be for the amount of the taxes for the year as the court shall determine the same, less the amount paid thereon, if any. If the tax is sustained in full levied, costs and disbursements shall be taxed and allowed. (Act Apr. 25, 1935, c. 300, §6.)

2126-8. Penalties and interest.—If the tax be sustained in full as levied, the judgment shall include any penalties and/or interest which have accrued thereon for failure to pay the same, or any part thereof, at the time required by law. If the tax be reduced, no penalties and/or interest shall be included in the judgment because of the failure to pay such reduced tax prior to the entry thereof. Such judgment shall be subject to such interest and/or penalties as would under the law attach to the tax embraced therein after the entry thereof. (Act Apr. 25, 1935, c. 300, §8.)

2126-9. Certified copies to auditor and treasurer. —Upon entry of judgment a certified copy thereof shall be sent to the auditor and the tax list filed with the county auditor. If the tax list be still in the treasurer's possession, who shall correct the tax list and assessment rolls in accordance with the judgment, writing or stamping opposite to such parcel in the tax list a notation "Judgment entered" and the date thereof. (Act Apr. 25, 1935, c. 300, §9.)

2126-10. To be entered in judgment book.—If such judgment has not then been paid, the auditor shall enter the same in the certified copy of the real estate tax judgment book received by him pursuant to Mason's Minnesota Statutes of 1927, on the 1st day of January, for the year for which such taxes were levied with the same effect as if judgment had been entered in said proceedings, adding thereto any interest and/or penalties that have accrued to the date of such entry, and waiving any of the claims, defenses or objections set forth in such petition and such proceeding shall continue as if such payment had not been made. (Act Apr. 25, 1935, c. 300, §10.)

2126-11. May pay full tax.—Where a petition has been filed as herein provided, the taxes levied or any balance thereof may be paid without waiving any of the claims, defenses or objections set forth in such petition and such proceeding shall continue as if such payment had not been made. (Act Apr. 25, 1935, c. 300, §11.)

2126-12. Refunds of over-payment.—If upon final determination the petitioner has paid more than the amount so determined to be due, judgment shall be entered in favor of said petitioner for such excess, and upon filing a copy thereof with the county auditor he shall forthwith draw a warrant upon the county treasurer for the payment thereof provided that, with the consent of the petitioner, the county auditor may, in lieu of drawing such warrant, issue to the petitioner a certificate stating the amount of such judgment, which amount may be used to apply upon any other lien or to become a part of the estate of the person whose taxes or assessments are reduced (or their successors in the event that a reorganization or reincorporation of any such taxing district). In the event the auditor shall issue a warrant for refund or certificates as hereinbefore provided he shall charge the amount thereof to the state and other taxing districts in proportion to the amount of their respective taxes included in said levy and deduct the same in the subsequent distribution of any tax proceeds to the state or such taxing districts, and upon receiving any such certificate in payment of other taxes, the amount thereof shall be distributed to the state and other taxing districts in proportion to the amount of their respective taxes included in said levy provided that if in said judgment the levy of one or more said districts be found to be illegal, to the extent that the tax levied is reduced or declared illegal, the amount to be charged back as aforesaid shall be charged to said districts and the amount thereof deducted from any distributions thereafter made to them. (Act Apr. 25, 1935, c. 300, §12.)

2126-13. Judgment to be final.—The judgment entered in such proceedings, except for the right of review on appeal, shall be final and conclusive as to the taxes involved therein. No no defense or objection which might have been interposed by proceedings hereunder shall be interposed in delinquent tax proceeding except the defense that the taxes levied have been paid or that the property is exempt from the taxes so levied. (Act Apr. 25, 1935, c. 300, §13.)

2126-14. Effective January 1, 1936.—This act shall not become effective until January 1, 1936, and shall not affect any delinquent tax proceeding then pending. (Act Apr. 25, 1935, c. 300, §14.)

TAX SALES

2127. Mode of sale. —It is not policy of law that any man should forfeit his property because of the taxes due thereon, or even neglect, he has failed to meet the tax engagements punctually. Rather, for the welfare of the public and the individual who pays his taxes, it is for the welfare of every community that the law should favor the citizen in all reasonable measures for the preservation of his estate against losses which might result from his misfortunes or his faults, consistent with justice to others and to a proper regard for interest of property. State v. Hubbard, 203 Minn., 280 N.W. 9. See Dun. Dig. 9368.

2130. Policy of court to construe strictly any proceeding which divests a landowner of his title, and this policy manifests itself particularly in decisions involving tax

2128. Public vendue.
1. Conduct of generally.
A separate notice should be given on account of land or bid in for the state 'in the same manner as if the state may pay the amount of such taxes at the annual May sale following the date they become delinquent. Any purchaser or assignee paying such taxes shall, if he that the tax certificate of sale notify the county auditor prior to the

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Mason's Minnesota Statutes of 1927, as amended. Such sale shall commence at the county seat on the second Monday of August of each year and shall continue for three days or three calendar days, subject to continuation for one additional day if required pursuant to the provisions of laws of the state for taxes for the year 1926 or 1927. Op. Atty. Gen., July 27, 1935.

Such sale made under this section as amended by Laws 1925, c. 415, § 1, the holder of a certificate for taxes for 1925, or prior years, for one-third of the total taxes remaining unpaid for 1925 and prior years, as originally assessed; and (2) all parcels, not in such first or second class, but bid in for the state for taxes for the year 1925 or prior years, for one-third of the total taxes remaining unpaid for 1925 and prior years, as originally assessed; and (3) all parcels, not in such first or second class, but bid in for the state for taxes for the year 1926 or prior years, for one-half of the total taxes remaining unpaid for 1925 and prior years, as originally assessed.

In the event that the taxes upon any parcel for 1930 or any part thereof have been bid in for and are held by the state, the county auditor is authorized and directed to dispose of the same together with all the interest of the state in such parcel and all taxes, assessments, interest and penalties attached thereto or thereon, except taxes not yet attached to a judgment by an assignment thereof for an amount not less than one-half of the total taxes and assessments against it, as originally assessed and taxed.

In the event that the taxes for 1926 and all prior years against any parcel of land have been paid or sold or assigned to a purchaser other than the state, but the taxes for 1927 or 1928, or any part thereof have been bid in for and are held by the state, the county auditor is authorized and directed to dispose of the same together with all the interest of the state in such parcel and all taxes, assessments, interest and penalties attached thereto or thereon, except taxes not yet attached to a judgment by an assignment thereof for an amount not less than four-fifths of such taxes and assessments as originally assessed.

Subd. (c). Provided, further, that where any parcel subject to sale under the provisions of sections 2133 and 2140, contains as a part of said tax the full amount or a portion of the lien for the construction of any county or judicial ditch, or the full amount or a portion of any special assessment for local improvements levied under municipal authority by the county board, in case of such ditch lien, or the governing body of the municipality, in case of such special assessment, may, by ordinance or resolution, determine and fix the minimum amount of such ditch lien or assessment to be included in addition to the amount hereinafter provided as the minimum for which any such parcel may be sold; provided that the resolution of the county board shall be adopted or a copy of such resolution or ordinance of the municipality describing each tract and fixing such minimum amount shall be served upon the county auditor at least 30 days before the date of sale, provided, further, that if such resolution of the county board shall not be adopted, or if such governing body of any such municipality fails to cause to be certified to said county auditor, at least 30 days before such date of sale, the minimum amount of such assessment to be included with the other taxes on any parcel, said county auditor shall include such ditch lien or special assessment with the other taxes on said parcel, to be sold on the same basis as such taxes thereon.

Provided, the minimum amounts of ditch liens or assessments to be so included in the sale of lands within...
the Red Lake Game Preserve shall be the full amounts of such ditch liens and assessments.

Subd. (a). 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 sale. The auditor and treasurer of the county shall attend such sale, the former to make a record of all sales thereof, and the latter to receive all moneys paid on account thereof. The proceeds of the sale of any parcel of land at any such sale, for whatever amount sold, shall be credited to the taxing district in which the portion of the county shall attend such sale, 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 sale. The auditor and treasurer of the county shall attend such sale, the former to make a record of all sales thereof, and the latter to receive all moneys paid on account thereof. The proceeds of the sale of any parcel of land at any such sale, for whatever amount sold, shall be credited to the taxing district in which the portion of the


The sheriff is not to hold moneys until a full year's taxes have been paid. This section must be written so as to turn it over to the county treasurer when he receives it. Op. Atty. Gen., July 10, 1931.

Where sheriff has collected rent under Laws 1929, c. 266, but not enough to pay taxes for any one year the owner has no right to sell tenant's part of the money from the sheriff to be used in the purchase of land at forfeited tax sale, but such owner having purchased the land at forfeited tax sale, may then sell it to the county auditor for the amount of rent paid. Op. Atty. Gen., Aug. 28, 1931.

Where taxes for 1923 to 1924 are delinquent and held by the state, and taxes for 1935 and 1936 were sold to private purchasers, and taxes for 1927, 1928 and 1929 are delinquent and held by the state, the discount rate applicable to the taxes for the years 1915 to 1924, inclusive, and to the taxes for 1927, 1928 and 1929 are one-fifth of the taxes as originally assessed, if paid within thirty days from the date of the receipt of notice of sale. This act was intended to be construed in such manner as to prevent frauds and should be so construed. Op. Atty. Gen., June 18, 1935.
Sale provided for by Laws 1925, c. 387, is not a tax judgment

Where real estate was bid in for the state for the 1930 taxes and taxes for all prior years have been paid or the owner has tendered them rather than taxing, and no state assignment certificate had been issued for the
property which has been bid in, the state may still acquire interest in the land for four-fifths of the 1930, 1931, 1932, and 1933 taxes, as originally assessed, Op. Atty. Gen. (425c-2), July 27, 1935.

Lands bid in for the state for taxes for 1926 and subsequent years can be disposed of separately and assigned under the provisions of Laws 1935, c. 387, as to interest held by the state for taxes for 1925, unless other disposition is made of the interest held by the state at the time the land is sold. Op. Atty. Gen. (425c), July 2, 1935.

Lands bid in for the state for taxes for 1925 and prior years are sold at the annual sale authorized by Laws 1935, c. 387, assuming that no action has been taken pursuant to such act, before July 1, 1936, is entitled to certain special benefits. Op. Atty. Gen. (425c), July 27, 1935.


Where taxes for year 1927, and years 1928 to 1933 are delinquent and unless otherwise defined and further limited by state assignment certificate covering all of such taxes for an amount not less than three-fifths of such taxes at original assessment for subsequent years, for tax sales under Laws 1935, c. 278, amending this section. Op. Atty. Gen. (425c-15), July 24, 1935.

Under Laws 1935, c. 387, where a parcel of land has been bid in for taxes for 1926, and taxes are delinquent for all subsequent years, land must be offered for sale first for taxes for 1925 and prior years and, if there is no higher bid, can be sold for not less than one-half of the total taxes remaining unpaid for 1925 and prior years as originally assessed, and unless this sale is first affected, or if a higher bid is given for taxes for 1926 and prior years can be no disposition of such parcel for taxes for 1926 and subsequent years under the reduced rates provided, such parcel may be sold at tax sale for 1926 and prior years and state assignment certificate has been sold at the sale, county auditor may sell the parcel for tax sale for 1926 and prior years at a lower rate under Laws 1935, c. 387, than the basis on which the adjustment was made. Op. Atty. Gen. (425c-5), July 2, 1935.

Where lands which were bid in by the state for taxes for 1925 and prior years are sold at sale held pursuant to Laws 1925, c. 387, the twelve-month notice of expiration of redemption provided for in Laws 1925, c. 387 is not given. Op. Atty. Gen. (425c-14), Aug. 20, 1935.

Where taxes have not been paid from 1922 to 1933 and subsequent years for 1926 or any part thereof, and owner has been notified of delinquent taxes for 1926 and subsequent years, both sales to be made to the highest cash bidder, under Laws 1925, c. 387, may be made at a lower rate under Laws 1935, c. 387, than the basis on which the adjustment was made. Op. Atty. Gen. (425c-17), Sept. 1, 1935.

A twelve-month notice of expiration of redemption must be given as required by Laws 1925, c. 386, where provisions of law for the state for sale of land for taxes for 1925 and prior years has been sold at delinquent tax sale, and owner has been informed of the sale under second Monday in August sale. Op. Atty. Gen. (425c-1), Aug. 20, 1935.


Under Laws 1925, c. 387, where taxes are unpaid and in the order for the state and unassigned for years 1929 to 1934, inclusive, owner cannot pay his taxes for 1929, 1930 and 1931 and prior years and no assignment certificate has been issued for the property which has been bid in, the state may still acquire interest in the land for four-fifths of the 1930, 1931, 1932, and 1933 taxes, as originally assessed, Op. Atty. Gen. (425c-7), June 3, 1935.

If taxes for 1926 and all prior years have been paid or the owner has tendered them rather than taxing, and no state assignment certificate had been issued for the property which has been sold by state, owner may purchase taxes at tax sale for 1926 and prior years without assignment at discount rate provided for in Laws 1925, c. 387, provided purchases are made prior to expiration of period of redemption. Op. Atty. Gen. (413a-5), June 17, 1936.

County auditor may sell or assign trust fund lands in state for neither delinquent nor for an assignment contract. A parcel of land sold at tax sale, pursuant to Laws 1936, c. 387, but purchaser or assignee acquires the parcel of land only until redemption is held by bond holder. Op. Atty. Gen. (709d-1), July 18, 1935.

Laws 1935, c. 387, does not provide for payment of taxes at a discount, and no person who makes such payment is entitled to an assignment of taxes for 1930 and subsequent years pursuant to such act, before July 1, 1936, is entitled to certain special benefits. Op. Atty. Gen. (420c-9), June 18, 1936.

(a) Under Laws 1935, c. 387, a parcel is subject to sale at discount rates at any time after sale opens unless there is present a person offering to pay more than such discount rates. Op. Atty. Gen. (420c-9), June 18, 1936.


Where taxes for year 1927, and years 1928 to 1933 are delinquent and unless otherwise defined and further limited by state assignment certificate covering all of such taxes for an amount not less than three-fifths of such taxes at original assessment for subsequent years, for tax sales under Laws 1935, c. 278, amending this section. Op. Atty. Gen. (420c-15), Sept. 13, 1935.

Each parcel of land bid in for state for taxes for 1932 at usual time and not assigned to a purchaser or re-
amount equal to one-half of the total taxes and assessments against it, as originally assessed and taxed.

In the event that the taxes for 1928 and all prior years against any parcel of land have been paid, or sold or assigned to a purchaser other than the state, but the taxes for 1927 or 1928, or any part thereof, remain delinquent and held by the state, the county auditor and treasurer are authorized and directed to accept in full payment and discharge of all taxes and assessments and interest and penalties thereof, or for an assignment thereof, an amount equal to three-fifths of such taxes and assessments as originally assessed and taxed, without penalty or interest.

In the event that the taxes for 1928 and all prior years against any parcel of land have been paid, or sold or assigned to a purchaser other than the state, but the taxes for 1929 or 1930 or any part thereof remain delinquent and held by the state, the county auditor and treasurer are authorized and directed to accept in full payment and discharge of all taxes and assessments and interest and penalties thereof, or for an assignment thereof, an amount equal to four-fifths of such taxes and assessments, as originally assessed and taxed.

The authority of the county auditor and treasurer to accept payment of such taxes or assessments or to assign the same under the terms set forth in this section shall exist only where such payment or assignment is made on or prior to December 31, 1933.

Subd. (d) The authority granted to the county auditor and treasurer by this Act to accept payment, waive penalties or interest, or to assign taxes at the rates provided for in this section shall not exist before January 1, 1934, and, if before that date the county auditor and treasurer by this Act to accept payment, waive penalties or interest, or to assign taxes at the rates provided for in this section shall exist only where such payment or assignment is made on or prior to December 31, 1933.

1931, c. 129, §2; Apr. 22, 1935, c. 414, §1.

Laws 1931, c. 129, and Laws 1933, c. 414, are invalid insofar as they provide that taxes not current or meadowland taxes or ditch assessments may be assigned in full by payment of a fraction of amount originally assessed. State v. Lundgren, 191 Minn. 20, 248 NW 699. See Dun. & Bradstreet, 72 Minn. 473. The bargain sale does not apply to 1930 taxes at all except, insofar as this section applies to such taxes, and one who failed only to pay for the year 1925 could not pay his 1926 taxes on the basis of one-half of the original tax. Op. Atty. Gen., June 18, 1931.

The provisions of this section do not apply where 1926 taxes are delinquent and held by the State. Op. Atty. Gen., July 18, 1931.

Where taxes are delinquent for the years 1925 to 1929 and the 1929 taxes unpaid, question whether the 1925 tax be paid in full or paid on the 60% basis, or otherwise, depend on whether the owner interested may, within one year from the date of application to the tax commissioner for reduction of taxes and interest on real estate taxes and ditch assessments was not abridged by resolutions under section prohibiting reduction of penalties and interest on real estate taxes and ditch assessments. Op. Atty. Gen. (4070), Nov. 10, 1934.

A notice of expiration of redemption issued in 1933 upon certificate for sale for taxes for 1925, subsequent delinquent taxes not having been assigned by the state, should set forth separately in exact amount the taxes for the each subsequent year, including penalties and interest paid in full, and it was held that notice to discount under Laws 1933, c. 414. Op. Atty. Gen. (4203), Dec. 29, 1934.


All sales of land for taxes for 1925 and prior years made pursuant to Laws 1933. c. 414, after previous proceedings had or to be had in connection with such sales for purpose of perfecting tax title are valid as against successors in interest where such statute is unconstitutional in part. Op. Atty. Gen. (426-18), July 24, 1935.

Validity of "tax bargain" statutes. 183 Minn. LRev. 449.


Where real estate taxes for 1926 to 1929 are paid at discount rate before June 1, 1934, the proceeds had or to be had in connection with such sales for purpose of perfecting tax title are valid as against successors in interest where such statute is unconstitutional in part. Op. Atty. Gen. (426-18), July 24, 1935.

2139-2. Attacking validity of sales.—Any person interested may, within one year from the date of any tax sale hereafter held, apply to the court on notice to the county auditor and to the purchaser at the tax sale, if any, for a refund of the taxes, penalties, interest and costs remaining unpaid on such parcel, set aside or reduced and the court on such application may sustain, modify, or set aside the judgment and sale or his assigns shall be entitled to refundment of the excessive amount paid by him, with interest, as in other cases of refundment. Provided, further, that no action, defense or application, attacking the validity of the sale of any parcel at an annual delinquent tax sale shall be entertained unless brought, inter alia, or made within one year from such sale. "27, Not Notice right to discount under Laws 1933, c. 414. Op. Atty. Gen. (4203-12), Dec. 14, 1934.

Power of county board to recommend granting of application for tax at discount; power of treasurer to accept payment for such taxes and to assign taxes at the terms set forth in this section prohibiting reduction of penalties and interest on real estate taxes and ditch assessments.

Section 2164-1 extending time for redemption from delinquent tax sale and requiring notice of expiration of time, tax sale, if any, for a refund of the taxes, penalties, interest and costs remaining unpaid on such parcel, set aside or reduced and the court on such application may sustain, modify, or set aside the judgment and sale or his assigns shall be entitled to refundment of the excessive amount paid by him, with interest, as in other cases of refundment. Provided, further, that no action, defense or application, attacking the validity of the sale of any parcel at an annual delinquent tax sale shall be entertained unless brought, inter alia, or made within one year from such sale. "27, Notice right to discount under Laws 1933, c. 414. Op. Atty. Gen. (4203-12), Dec. 14, 1934.

Editorial note.—Sec. 2 of Act Apr. 20, 1929, cited, providing that the sales at discount shall not be held or made within one year from such sale. 21, 119, §3; Apr. 27, 1929, c. 415, §3; Apr. 20, 1939, c. 342.


A notice of expiration of redemption issued in 1933 upon certificate for sale for taxes for 1925, subsequent delinquent taxes not having been assigned by the state, should set forth separately in exact amount the taxes for each subsequent year, including penalties and interest paid in full, and it was held that notice to discount under Laws 1933, c. 414. Op. Atty. Gen. (4203), Dec. 29, 1934.

Where land is not sold for delinquent taxes, owner cannot pay 1925 and subsequent taxes at discount rates. Op. Atty. Gen. (412a-20), Apr. 9, 1936. All sales of land for taxes for 1925 and prior years made pursuant to Laws 1933. c. 414, after previous proceedings had or to be had in connection with such sales for purpose of perfecting tax title are valid as against successors in interest where such statute is unconstitutional in part. Op. Atty. Gen. (426-18), July 24, 1935.

Validity of "tax bargain" statutes. 183 Minn. LRev. 449.
Notice required to be attached to delinquent tax list pursuant to this section shall not be hereafter omitted on account of §310-1. Op. Atty. Gen., Jan. 17, 1934.


No notice of expiration of redemption can be served by state under Laws 1935, c. 206, as for taxes for 1925 or any prior year, and since taxes for 1926 and subsequent years do not attach to a judgment for taxes for 1925 or any prior year, stated period of redemption for taxes for 1926 or any subsequent year will not expire until five years after a separate judgment is entered for taxes for 1925 or any subsequent year, and such taxes are sold at a tax sale. Op. Atty. Gen. (472c-7), May 30, 1934.

It is not duty of county attorney and county board to institute actions of forcible entry and unlawful possession for taxes levied and assessed under this section. Op. Atty. Gen. (421a-12), April 27, 1938.

Notice of expiration of redemption may be served so as to expire in May, 1940, and for lands sold in May, 1939, exact time be- come absolute forfeited to state, under provisions of this section, but if sale is made at a tax sale. Op. Atty. Gen., Dec. 23, 1931.


It is not duty of county attorney and county board to institute actions of forcible entry and unlawful possession for taxes levied and assessed under any judgment entered on default of answer to a complaint filed in any action brought for the recovery of delinquent taxes. Op. Atty. Gen. (421a-12), April 27, 1938.

Notice of expiration of redemption of land sold for delinquent taxes for 1932, bid in for state at annual tax judgment sale in 1934, and not redeemed or assigned, shall be made by county auditor to determine property rights or quiet title and pay expenses of such proceedings, of lands which have been foreclosed and sold for delinquent taxes, but village should secure order from tax commis- sioner cancelling all taxes. Op. Atty. Gen. (464b-15), Nov. 30, 1936.


Full when final payment is made. All partial payments of such taxes whether made before or after entry of judgment for real estate taxes under existing law shall be credited to the clerk of the district court and entries thereof made on the delinquent tax list or in the real estate tax judgment book, in the manner as provided by law, and the judgment shall be reduced accordingly. (Act Mar. 20, 1933, c. 98, §2, repealed; Apr. 20, 1935, c. 337, §2.)

Where there are judgments for both 1931 and 1932 taxes, 1931 tax may be paid without also paying the 1932 tax. All subsequent taxes and any taxes made due after Jan. 1, 1932, in installments until after tax judgment sale for such 1931 tax on the second Monday in May, 1935. Op. Atty. Gen. (412a-13), Jan. 23, 1935.

5. Penalties and interest.—In case more than 50 per cent of said real estate taxes to which no defense or objection as hereinbefore provided shall have been interposed shall remain unpaid on January 1, 1934, the amount remaining due shall be subject to and there shall be charged thereon and thereafter collected a penalty of 10 per cent, together with interest from January 1, 1934, at the rate of 10 per cent per annum, but in case 50 per cent or more of such taxes shall be paid on or before January 1, 1934, the remainder thereof shall not be subject to penalty or interest, except as hereinafter provided. Any such taxes remaining unpaid on January 1, 1934, may be sold by authorized and directed to accept payment thereof any time prior to the tax judgment sale, in installments of not less than twenty-five per cent of the original amount, provided that there shall be included and paid with the first installment of such penalties, if any, and interest then accrued, and with each subsequent installment all interest then accrued; provided that upon any of such original taxes remaining unpaid on January 1, 1935, upon which no penalty is accrued on January 1, 1934, there shall be charged a penalty of ten per cent interest thereon after said date at the rate of ten per cent per annum. (Act Mar. 20, 1933, c. 98, §3, repealed; Apr. 20, 1935, c. 337, §3.)


Amount which will have to be paid to redeem the 1931 taxes, no part of which were paid prior to Jan. 1, 1934, on account of §310-1, shall be paid, together with interest from Jan. 1, 1934, at the rate of 10 per cent per annum. (Act Mar. 20, 1933, c. 98, §3, repealed; Apr. 20, 1935, c. 337, §3.)

Penalties and interest.—In case more than 50 per cent of said real estate taxes to which no defense or objection as hereinbefore provided shall have been interposed shall remain unpaid on January 1, 1934, the amount remaining due shall be subject to and there shall be charged thereon and thereafter collected a penalty of 10 per cent, together with interest from January 1, 1934, at the rate of 10 per cent per annum, but in case 50 per cent or more of such taxes shall be paid on or before January 1, 1934, the remainder thereof shall not be subject to penalty or interest, except as hereinafter provided. Any such taxes remaining unpaid on January 1, 1934, may be sold by authorized and directed to accept payment thereof any time prior to the tax judgment sale, in installments of not less than twenty-five per cent of the original amount, provided that there shall be included and paid with the first installment of such penalties, if any, and interest then accrued, and with each subsequent installment all interest then accrued; provided that upon any of such original taxes remaining unpaid on January 1, 1935, upon which no penalty is accrued on January 1, 1934, there shall be charged a penalty of ten per cent interest thereon after said date at the rate of ten per cent per annum. (Act Mar. 20, 1933, c. 98, §3, repealed; Apr. 20, 1935, c. 337, §3.)


Amount which will have to be paid to redeem the 1931 taxes, no part of which were paid prior to Jan. 1, 1934, on account of §310-1, shall be paid, together with interest from Jan. 1, 1934, at the rate of 10 per cent per annum. (Act Mar. 20, 1933, c. 98, §3, repealed; Apr. 20, 1935, c. 337, §3.)

Penalties and interest.—In case more than 50 per cent of said real estate taxes to which no defense or objection as hereinbefore provided shall have been interposed shall remain unpaid on January 1, 1934, the amount remaining due shall be subject to and there shall be charged thereon and thereafter collected a penalty of 10 per cent, together with interest from January 1, 1934, at the rate of 10 per cent per annum, but in case 50 per cent or more of such taxes shall be paid on or before January 1, 1934, the remainder thereof shall not be subject to penalty or interest, except as hereinafter provided. Any such taxes remaining unpaid on January 1, 1934, may be sold by authorized and directed to accept payment thereof any time prior to the tax judgment sale, in installments of not less than twenty-five per cent of the original amount, provided that there shall be included and paid with the first installment of such penalties, if any, and interest then accrued, and with each subsequent installment all interest then accrued; provided that upon any of such original taxes remaining unpaid on January 1, 1935, upon which no penalty is accrued on January 1, 1934, there shall be charged a penalty of ten per cent interest thereon after said date at the rate of ten per cent per annum. (Act Mar. 20, 1933, c. 98, §3, repealed; Apr. 20, 1935, c. 337, §3.)
assignment certificate which was issued prior to passage of this act, interest and penalty on 1931 taxes should be computed in manner provided by this act, but the statute is not applicable where 1931 taxes were included in a state assignment certificate issued prior to statute. Op. Atty. Gen., June 16, 1933.


2130-9. Sale to be held in May, 1933.—At the regular delinquent real estate tax sale to be held on the second Monday in May, 1935, there shall be sold by the County Auditor, in addition to all other parcels of land then required by law to be sold, all parcels of land against which a default judgment has been entered for taxes or any part thereof, levied and assessed for the year 1931, and which taxes then remain unpaid, together with interest and penalties as provided by this act. (Act Mar. 20, 1933, c. 98, §4, repealed; Apr. 20, 1933, c. 337, §4.)

1931 taxes should not be included in delinquent tax list published in 1933, where description of land involved was included in delinquent tax list published in 1933 and before judgment was entered against them prior to passage and approval of this act. Op. Atty. Gen. (412a-13), Jan. 24, 1935.

Amount of interest and penalty included in original judgment entered by default should be disregarded and penalty provided for under the provisions of this act for 1931 and costs together with penalty and interest assessed by §2139-8. Op. Atty. Gen. (412a-9), Mar. 5, 1935.


Amount for which parcel was sold in May, 1935, for 1931 taxes should bear interest at rate of 10% per annum from date of sale. Op. Atty. Gen. (425b-9), June 3, 1935.

Amounts paid for taxes for each year included in state assignment certificate issued for state to redeem for taxes or rate of interest thereon, but statement of amount necessary to redeem for interest from date of sale in May, 1935, on 1928 and 1929 taxes at rate of 12% per annum, and interest on 1931 and 1932 taxes from due date at rate of 10% per annum, and interest on 1928 and 1929 taxes at rate of 10% per annum, and interest on 1931 and 1932 taxes from due date at rate of 5% per annum. Op. Atty. Gen. (425b-12), Aug. 23, 1935.

Time of redemption for land sold in May 1933, for 1929 taxes which are not paid shall be six years after date of actual sale. Op. Atty. Gen. (412a-23), Sept. 28, 1937.

2130-10. Penalties and interest hereofore made to be refunded.—In the event any penalty or interest of the 1931 real estate taxes payable in 1932 shall have been paid, whether such taxes have attached to a tax judgment sale to the state for prior taxes or to lands bid in for the state for taxes for either of the years 1929 to 1932 to an actual purchaser prior to its passage, in accordance with the provisions contained in Section 1 of this Act and in such cases the County Auditor and County Treasurer are hereby authorized and directed to accept in full payment and discharge of all taxes and assessments and interest and penalties thereon 50% of the amount which would otherwise be due, provided, however, that the warrant issued by the County Auditor therefor shall be valid only in payment of 1931 or 1932 taxes paid in 1933 or any parcel of land in the same county, which fact shall be stamped on its face and the same shall be accepted by the County Treasurer for that purpose only, when properly endorsed. (Act Mar. 20, 1933, c. 98, §5, repealed; Apr. 20, 1933, c. 337, §5.)

Refund of penalties paid on 1930 tax of real estate is permissible, and refund warrants are transferable. Op. Atty. Gen., Nov. 8, 1933.


2130-11. Taxes to include assessments.—That the term "taxes" as referred to in this chapter shall include such assessments as have been certified to the County Auditor for collection and included in such taxes for the year 1931, but penalties and interest added to such assessments prior to the same being certified to the County Auditor shall not be abated or extinguished. (Act Mar. 20, 1933, c. 98, §6, repealed; Apr. 20, 1933, c. 337, §6.)

2130-12. Law repealed.—That Chapter 98, Laws of 1935 [sic], be and the same hereby is repealed. (Act Mar. 20, 1933, c. 98, §7, repealed; Apr. 20, 1933, c. 337, §7.)

All sales of land for taxes for 1933 and prior years may be made pursuant to law without the necessity of any proceedings had or to be had in connection with such sales for purpose of perfecting or confirming any claim that statute is unconstitutional, though statute is unconstitutional in part. Op. Atty. Gen. (425c-16), July 24, 1936.}
2139-15. Classification as conservation or non-conservation—Matters and data considered—Reclassification—Sale to municipalities—Of tax-forfeited lands.

(a) All parcels of land becoming the property of the state in trust under the provisions of any law, wherein such parcels lie, and such parcels may be reappraised whenever the county board deems it necessary to carry out the intent of this act; provided that in such reappraisal the value of the land and any standing timber thereon shall be separately determined, and, provided further, that before any parcel of land is sold the approval of the governor or his designee is necessary as to the classification of such lands, the county board may designate the tracts as assessed and acquired, or may by resolution provide for the subdivision of such lands into smaller units and the grouping of several of such tracts into one tract when such subdivision or grouping is deemed advantageous for the purpose of sale, but each such smaller tract or larger tract must be classified and appraised as such before being offered for sale.

(b) Supervision of conservation lands—Use by counties—Approval by conservation commissioner—Lands classified as conservation lands, unless reclassified as non-conservation lands, or sold to a governmental subdivision of the state, as hereinbefore provided, will be held under the supervision of the county board of the county within which such parcels lie.

Provided, however, that the said county board may by resolution duly adopted remove any such land classified as conservation lands shall be devoted to conservation uses and may submit such resolution to the commissioner of conservation together with a request for his cooperation in the development and management of such lands.

(c) Sale of non-conservation lands—Appraisal and reappraisal—Timber—Separating or grouping tracts.

(d) Conduct of sale—Terms and conditions—Interest—Possession.

(e) Certificate to purchaser—Default—Cancellation—Resale or lease—Trespass.

(f) Reports to tax commission—Defaults by purchasers.
ords if the sale is on terms; and not later than October 31 of each year the county auditor shall submit to the tax commission a statement of all liens whereon any payment of principal, interest or current taxes on lands held under certificate, due or to be paid during the preceding years, are still outstanding at the time such certificates [sic] is made. When the tax commission determines that the purchaser and assignee is in default, the tax commission may instruct the county board of the county in which the land is located to take possession of such land, and notify the assignee and the state, if any, in writing, that the land may be sold at the place or places at which such lands are located, but shall not continue in possession, and may resort to ejectment. Op. Atty. Gen. (425c-10), May 4, 1938.

(p) Commencement and continuance of sales—Order of offers—Annual addition to sale list—Bids—Assessment upon sale—Said land shall be sold at public sale herein provided for shall commence at such time as the county board of the county wherein such parcels lie, shall direct. The county auditor shall offer the parcels of land in the order in which they appear in the notice of sale, and shall sell them to the highest bidder, but not for less than the appraised value, until all of the parcels of land shall have been offered for sale. Persons other than former owner purchasing parcels to anyone offering to pay the appraised value thereof. Said sale shall continue until all such parcels are sold or until the county board shall order a reappraisal or shall withdraw any or all such parcels from sale. Such list of lands may be added to annually by publishing the descriptions and appraised values of such parcels of land as shall have become forfeited and classified as non-conservation since the commencement of any prior sale and such parcels as shall have been reappraised, or such parcels as shall have been reclassified as non-conservation, in the same manner as hereinafter provided for the publication of the original list. Provided that any parcels added to such list shall first be offered for sale to the highest bidder before they are sold at appraised value. All parcels of land not offered for immediate sale, as well as parcels of such land as are offered and not immediately sold shall continue to be held in trust by the state for the taxing districts interested in each of said parcels, under the supervision of the county board, and such parcels may be used for public purposes until sold, as the county board may direct. (Act Apr. 29, 1936, c. 386, §1; Jan. 27, 1936, Ex. Sess., c. 105, §1; Apr. 20, 1939, c. 328, §1.)

(q) Form of conveyance—Registration of state tax forfeited lands—Validation of sales of tax forfeited land—Laws 1929, c. 509.

Classification of state owned tax forfeited lands into agricultural and non-agricultural. Laws 1932, c. 250. Classification of state lands and within state forests of reforestation and flood control purposes. Laws 1929, c. 530.

In view of this section, §12139-21, 540L-130b, 540L-131d with respect to title of 1939 act. The title does not give a precise description of the scope and contents of the amendatory act.

Validation of sales of tax forfeited land. Laws 1929, c. 509.

Classification of state owned tax forfeited lands into agricultural and non-agricultural. Laws 1932, c. 250. Classification of state lands and within state forests of reforestation and flood control purposes. Laws 1929, c. 530.

In view of this section, §12139-21, 540L-130b, 540L-131d with respect to title of 1939 act. The title does not give a precise description of the scope and contents of the amendatory act.


Proceeds of sale of land and hay and rentals are to be handled by county treasurer; county may appoint a land commissioner to assist auditor in leasing and sale of land. Op. Atty. Gen. (425).


There is no way city may acquire title to tax forfeited lands except at a sale held under provisions of this act. Op. Atty. Gen. (425), Oct. 9, 1938.
County board is not authorized to employ one of its members as auctioneer. Op. Atty. Gen. (455c), Nov. 1, 1933.

One purchasing a lot upon which appraisal card showed a house, which was in fact located upon another lot, was not notified at least without a court order. Op. Atty. Gen. (424a-10), Nov. 12, 1938.

Where lands were sold under contract and purchasers desire to give up their contracts, a quitclaim deed should be granted to the state and the land shall then remain in the same status they had at time of sale, and should be included in notice of next sale. Op. Atty. Gen. (4250), Feb. 24, 1939.


Where land was sold on installment plan under laws 1935, c. 386, prior to amendment by laws 1939 c. 328, and default in payment, cancellation is governed, as to terms, by the resolution of the county board fixing the terms of the sale of such parcels of land and a copy of the resolution and appraised value may be omitted in the discretion of the county board. Op. Atty. Gen. (328b-3), Aug. 21, 1939.

A weekly advertisement must be published in an official newspaper of the county for not less than one week for two weeks in an official newspaper of the county. Op. Atty. Gen. (425c), Sept. 21, 1939.

Power of county board to classify land and to subordinate classification of land. Id.

The power of the county board to classify land and to subordinate classification of land and lease lands Repairs or improvements Demolition of buildings—Partition of undivided interest.—(a) The county auditor may sell any stumpage and lease lands—Repairs or improvements—Partition of buildings—Partition of undivided interests. The county auditor may sell any stumpage and lease lands—Repairs or improvements—Partition of buildings—Partition of undivided interests.

1939-17. Limitations in use of lands.—There may be attached to the sale of any parcel of forested land, under section 2 hereof or otherwise, if in the judgment of the county board it seems advisable, conditions limiting the use of the parcel so sold and/or the public expenditures that shall be made for the benefit of said parcel and/or otherwise safeguarding against the sale and occupancy of said parcel to any person other than the former owner of tax forfeited lands to purchase until a parcel had been sold. Such sale of hay stumpage and timber products or lease of tax-forfeited lands shall be made for cash at not less than the appraised value determined by the county board to the highest bidder after not less than one week's published notice in an official paper within the county. Provided that any hay stumpage, timber or leases offered at such public sale and not sold may thereafter be sold at private sale by the county auditor at not less than the appraised value determined by the county board. If the appraised value of the timber and the forestry practices to be followed in the cutting of said timber shall be approved by the commissioner of conservation. Non-conservation lands may be leased for not to exceed...
ceed one year, and any subsequent sale of such leased lands shall be subject to the provisions of any valid existing agreements.

(b) Until after the sale of a parcel of forfeited land the county auditor may, with the approval of the county board of commissioners, provide for the repair and improvement of any building or structure located on such parcel, if it is determined by the county board that such repairs or improvements are necessary for the operation, use, preservation and safety thereof. Such county auditor may, with the approval of the county board, provide for the demolition, removal and disposal of any building or structure, which area is determined by the county board to be within the purview of Section 5661, Mason’s Minnesota Statutes of 1927, and for the sale of salvaged materials therefrom. The net proceeds from any sale of such salvaged materials shall be deposited in the forfeited tax sale fund.

(c) Where an undivided portion of any parcel of land is forfeited to the state for taxes, the owner or owners of the portions of said parcel not forfeited, may, in the manner provided by Chapter 52, Mason’s Minnesota Statutes of 1927, maintain an action for the partition of said parcel, making the state a defendant in said action. If the state is made a defendant in said action, the summons shall be served upon the attorney general, in which the state auditor and tax commissioner shall be served, and the county attorney shall appear for the state.

(46) Taxes may not be abated after property has been forfeited to the state for nonpayment of taxes for 1926, 1927, 1928, 1929, 1930, and 1931. After forfeiture of land to state all ditch liens are cancelled as soon as tax delinquent lands become forfeited to the state trust fund lands, for nonpayment of taxes for 1926, 1927, 1928, 1929, 1930, and 1931, but such ditch liens shall not be cancelled as soon as tax delinquent lands become forfeited to the state trust fund lands, for nonpayment of taxes for land sold for taxes under certificate of sale, for 1926, 1927, 1928, 1929, 1930, and 1931, but such ditch liens shall be cancelled as soon as tax delinquent lands become forfeited to the state trust fund lands, for nonpayment of taxes for land sold for taxes under certificate of sale, for 1932, 1933, 1934, and 1935, and for nonpayment of taxes for land sold for taxes under certificate of sale, for 1936, 1937, 1938, and 1939.

(47) After forfeiture of land to state all ditch liens are cancelled, whether delinquent or otherwise. The title of Act Apr. 20, 1939, c. 328, to amend the description of the tax sale fund, so as to include taxes, tax liens and special assessments should be cancelled as soon as tax delinquent lands become forfeited to state trust fund lands for nonpayment of taxes for land sold for taxes under certificate of sale, for 1932, 1933, 1934, and 1935, and for nonpayment of taxes for land sold for taxes under certificate of sale, for 1936, 1937, 1938, and 1939.

(48) Any unpaid city assessments in an assessment district, the partition of which is approved by the attorney general, where rights of purchaser are subject to such limited rights county auditor may exercise for state's tax delinquent lands, shall be cancelled as soon as tax delinquent lands become forfeited to the state trust fund lands, for nonpayment of taxes for land sold for taxes under certificate of sale, for 1932, 1933, 1934, and 1935, and for nonpayment of taxes for land sold for taxes under certificate of sale, for 1936, 1937, 1938, and 1939.

(49) Any unpaid city assessments in an assessment district, the partition of which is approved by the attorney general, where rights of purchaser are subject to such limited rights county auditor may exercise for state's tax delinquent lands, shall be cancelled as soon as tax delinquent lands become forfeited to the state trust fund lands, for nonpayment of taxes for land sold for taxes under certificate of sale, for 1932, 1933, 1934, and 1935, and for nonpayment of taxes for land sold for taxes under certificate of sale, for 1936, 1937, 1938, and 1939.

[Additional text not fully transcribed due to incomplete document.]
2139-27b. Classification and appraisal of forfeited lands within conservation areas—Sale.—All parcels of land becoming the subject of provisions of the 1938 Supplement to Mason’s Minnesota Statutes of 1927, Section 2139-2, and acts amending thereof or supplementary thereto, situated within any conservation or reforestation area created under the provisions of the 1938 Supplement to Mason’s Minnesota Statutes of 1927, Sections 4635-1 to 4653-10, inclusive, 4652-12, 4652-13, or Sections 4031-75 to 4031-83, inclusive, shall be classified by the county board of the county wherein such parcels lie as agricultural or non-agricultural, which classification shall be approved by the conservation commissioner before any lands are offered for sale. The county board of the county wherein such parcels lie shall determine the appraised value of all lands classified and approved as agricultural and may re-appraise annually if in their judgment it be deemed necessary to carry out the intent of this act. Provided, further, that any merchantable timber on such agricultural land shall be appraised separately, and such appraisal approved by the conservation commissioner. All such parcels of land, classified as agricultural, shall be sold by the state at public sale, as hereinafter provided, whenever it shall be determined by the county board of the county wherein such parcels lie, that it is advisable so to do. Provided, however, that no parcels of land shall be sold by the board of county commissioners without the approval of the conservation commissioner. All sales of land shall be made in accordance with the subdivisions thereof by the United States surveyors unless the same shall have been subdivided into smaller parcels or lots, but no land shall be sold in larger quantity than 160 acres. (Act Apr. 20, 1939, c. 320, §1.)

The conservation and approval land may be leased by conservation commissioner for such short term as may be necessary to protect interest of state, but such lease must be subject to classification of land. Op. Atty. Gen. (983m), May 2, 1939.


Conservation commissioner’s approval of classification, the sale, and the appraisal of merchantable timber should all be obtained before the sale, and preferably before publication of notice is commenced. Id.

Approval of conservation commissioner is not required as to appraisal of lands bearing no merchantable timber, but his approval is required for classification and sale. Id.

2139-27c. Same—Sales, how conducted—Terms—Contract for deed—Report to state auditor—Restoration to tax rolls.—The county auditor of the county wherein such parcels lie shall be sold to the highest bidder but not for less than the appraised value. Such sales shall be for cash or on the following terms: The appraised value of all merchantable timber on such agricultural lands shall be paid for in full at the date of sale. At least 15 per cent of the purchase price of the land shall be paid in cash at the time of purchase, and the balance in not to exceed 20 equal annual installments with interest at the rate of four per cent per annum on the unpaid balance each year, both principal and interest to become due and payable on December 31st each year following that in which the purchaser was made. The purchaser may pay any number of installments of principal and interest on or before their due date. When the sale is on terms other than for cash in full the purchaser shall receive from the county treasurer a contract for deed, in such form as shall be prescribed by the attorney general. The county auditor shall make a report to the state auditor and to the commissioner of conservation not more than 30 days after each public sale, showing the lands sold at such sales.

All lands sold pursuant to the provisions hereof shall, on the first day of May following the date of such sale, be restored to the tax rolls and become subject to taxation in the same manner as the same were assessed and taxed before becoming the absolute property of the state. (Act Apr. 20, 1939, c. 320, §2.)

A purchaser may not receive down payment less than 15% and may require unpaid balance to be paid in any number of annual installments not exceeding 20. Op. Atty. Gen. (425), July 22, 1939.


2139-27d. Same—Public sale—Notice. All lands so classified and appraised and remaining unsold shall be offered for sale at a public sale to be held by the county auditor on the third Monday in August of each year. Notice of such sale shall be given as provided in Mason’s Minnesota Statutes of 1927, Section 2139, in substantially the following form:

NOTICE OF SALE OF AGRICULTURAL LANDS

"Notice is hereby given that I shall sell to the highest bidder at my office in the courthouse in the city or village of , in the county of , the following described parcels of land forfeited to the state for nonpayment of taxes, which have been classified and appraised as provided by law. Said sale will be conducted at o'clock A. M., on the day of . . . ., 19 and will commence at o'clock A. M., on the day of . . . ., 19. . . .

Description Appraised Value Appraised Value
Subdivision Sec. Twy. Range $ $ of Timber
Lot Block

Given under my hand and seal this . . . . day of . . . ., 19 . . . .

County Auditor . . . . County, Minnesota." (Act Apr. 20, 1939, c. 320, §3.)

First 1939, c. 320, §3.

Each annual sale must be held and completed on designated day, unless it would be impossible to offer all parcels of land for sale on the first day, in which case sale may be adjourned and continued from day to day so long as may be reasonably necessary, but no longer. (Act Apr. 20, 1939, c. 320, §4.)

2139-27e. Same—Default—Cancellation of contracts.—If the purchaser shall default in the payment of any installment or of any interest when due, or shall fail to pay before they become delinquent all taxes that may be levied upon the lands so purchased, the contract shall be cancelled in the manner now or hereafter provided for the cancellation of certificates of sale of lands forfeited to the State for delinquent taxes, and thereupon the land described in the contract shall be subject to disposition as hereinafter provided. (Act Apr. 20, 1939, c. 320, §5.)

2139-27f. Same—County Auditor to lease lands.—Until after the sale of any parcel of forfeited land, classified as agricultural, the county auditor may lease such land, as directed by the county board. (Act Apr. 20, 1939, c. 320, §5.)

2139-27g. Same—County treasurer to collect payments—Special fund—Compensation of county board members—Payment to state auditor.—The county treasurer may receive payments due on account of the cancellation of certificates of sale of lands forfeited to the State under this act, and hold the same in a special fund and shall report all collections to the state auditor. There shall be transferred from such special fund to the revenue fund of the county the cost of giving the notices herein required, and there shall be paid from such fund to the members of the county board upon warrant of the county auditor Three Dollars per day for each day necessarily continued in the classification and appraisal of lands under this act, and mileage at the rate of five cents per mile for necessary travel. The net amount remaining in said fund shall be transmitted by the county treasurer to the state auditor at the times pro-
vided for tax settlements, and shall be disposed of as provided by the laws governing the funds derived from the revenue areas in which the lands sold were situated. (Act Apr. 20, 1939, c. 320, §6.)

County board may not appoint a land commissioner to make allotments or make any expenditures not provided for. Op. Atty. Gen. (420), July 22, 1925.

2139-27h. Same—Reservation of minerals.—Any sale of such forfeited lands shall be subject to exceptions and reservations in all minerals and mineral rights. (Act Apr. 20, 1939, c. 320, §7.)

2139-27l. Same—Survey and description. — Whenever, prior to the passage of this act, the forfeiture to the state for taxes of any parcel of land heretofore sold pursuant to Laws 1935, Chapter 320, §9.) the force and effect of a patent from the state. (Act Apr. 20, 1939, c. 328, §9.)

2139-27m. Same—Provisions severable.—If any section or part of this act shall be declared to be unconstitutional or invalid for any reason, the remainder of this act shall not be affected thereby. (Act Apr. 20, 1939, c. 329, §10.)

2139-27n. State may quiet title.—Torrens title.—That in all cases where a prospective purchaser advances the expense therefor said county auditor may employ a special attorney to act for the state of Minnesota in prosecuting to judgment an action to quiet title and a proceeding to register title of any tract of land which said prospective purchaser is interested in purchasing when the state shall have first procured a Torrens Certificate of title therefor; or for the proceeding of procuring a new certificate of title in favor of the state of Minnesota by the necessary proceeding for that purpose where the title to the land is already registered under the Torrens System. (Act Apr. 20, 1939, c. 328, §10.)

2139-27o. Provisions severable.—The provisions of this act are hereby declared to be severable and if any section or part thereof shall be declared to be unconstitutional or invalid, the remainder of this act shall not be affected thereby. (Act Apr. 20, 1939, c. 329, §11.)

2139-28. Period of redemption extended to July 1, 1936.—The period of redemption of lands sold for the taxes of the years 1926, 1927, 1928, and 1929 which were bid in for the State and have not been assigned is hereby extended to July 1, 1936. (Act Apr. 29, 1935, c. 387, §3.)


2139-29. Application of part payments.—Any person who has paid any sum or sums of money for the payment of taxes under Chapter 414, Laws of 1933 (§§2139-29, 29, 1935, 320, §9.) which, for any reason cannot be applied in full or in part payment of the taxes on the parcel of land on which said taxes were purported to have been paid, such person, his heirs, executors, administrators or assigns shall be entitled to application to the county auditor to have said sum of money applied as a credit upon the purpose of an assignment of the State's interest, in any, and in the said parcel of land upon which said taxes were purported to have been paid. (Act Apr. 29, 1935, c. 387, §4.)

Money paid under Laws 1932, c. 414, may be used as a credit in part payment of state assignment certificates of the same land. Op. Atty. Gen., June 18, 1935.


2139-30. Provisions separable.—The provisions of the act shall be separable and if any provision hereof or the application of any provision hereof, in any case shall be declared invalid, it shall not affect the validity or application of the provisions hereof, otherwise so far as it is practicable to maintain the same in force. (Act Apr. 29, 1935, c. 387, §6.)

2139-31. Inconsistent acts repealed.—All acts and parts of acts inconsistent herewith are hereby amended, modified or repealed in so far as they are inconsistent with this act. (Act Apr. 29, 1935, c. 387, §6.)

2139-32. Tax payments made under unconstitutional act validated.—In every case where the proper public officials acting under and pursuant to Laws 1931, Chapter 129, or Laws 1933, Chapter 414 (§§2139-15, 2139-13, 2139-14, 1935, 320, §9.) of or from an applicable statute, have heretofore certified and accepted in full payment and discharge of any taxes and assessments and penalties, interest and costs, pursuant against assessment of lands or for an assignment thereof, an amount which was less than the full amount of such taxes and assessments and penalties, interest and costs, but not less than the amount fixed
by said laws, the said amount for which receipt in full or assignment was given shall constitute payment in full of such taxes and assessments and penalties, interest and costs in so far as the state and any of its subdivisions are concerned; and any and all liens or other instruments conveying such parcel of land on account of such taxes and assessments and penalties, interest and costs are hereby released and discharged. Such payment shall have the same force and effect for all purposes as if the said taxes and assessments and penalties, interest and costs had been paid in full. Where any assignment has been given pursuant to said laws, and upon payment therefore of an amount not less than the amount fixed thereby, the instrument conveying such parcel of land shall affect any action now pending to determine the validity of any instrument validated hereunder. (Jan. 24, 1936, Ex. Sess., c. 77, §2.)

2144. County auditor to collect fee. Fees of county auditor under §2144 and §2322 are controlled by Laws 1937, c. 491, §14, in counties covered by the state and its subdivisions. A tax deed, and all subsequent conveyances thereof, as well as any fees collected from such source over and above the amount fixed by §2140 as being the limit of compensation, except mileage and expenses. Op. Att'y Gen. (23d), July 20, 1939.

2145-1. Cancellation of certificates; on request of holder. Upon request of the holder of a real estate tax judgment sale certificate or forfeited tax sale certificate and surrender of the same, whether notice of expiration of time of redemption has been issued and served or not, the county auditor shall cancel the same, making an entry in the proper copy real estate tax judgment book opposite the description of land covered by the certificate, "Cancelling by surrender of certificate." (July 16, 1937, Sp. Sess., c. 71, §1.)

2145-2. Same—Expiration of time for redemption not given within six years. The county auditor shall annually, as soon as practicable after the second Monday of May, cancel of record all real estate tax judgment sale certificates, state assignment certificates and forfeited tax sale certificates upon which notice of expiration of time of redemption has not been given within a period of six years next following the date of issuance of the certificate by making an entry in the proper copy real estate tax judgment book opposite the description of land covered by such certificate, "Cancelling by limitation." (July 16, 1937, Sp. Sess., c. 71, §2.)

2145-3. Same—Judicial order. Upon the petition of any person interested in the land covered by a real estate tax sale certificate, state assignment certificate or forfeited tax sale certificate, and upon the giving of such notice to the holder of such certificate as may be ordered, the district court, in the proceedings resulting in the judgment upon which a real estate tax judgment sale certificate, state assignment certificate or forfeited tax sale certificate is based, may order the cancellation of any real estate tax judgment sale certificate, state assignment certificate or forfeited tax sale certificate upon notice of expiration of time of redemption has been issued when the certificate or a deed issued thereon has not been recorded in the office of the register of deeds or filed in that of the register of titles, if the land is registered, within seven years after the date of the issuance of such certificate or forfeiture tax sale certificate, state assignment certificate or forfeiture tax sale certificate and surrender of the description of the land. (July 16, 1937, Sp. Sess., c. 71, §3.)

2145-4. Same—Effective date. This act shall take effect and be in force from and after January 1, 1938. (July 16, 1937, Sp. Sess., c. 71, §4.)

2148. Invalid certificate. Certificate, act, or deed, or any part thereof, issued in violation of laws, §2140a-1, May 2, 1938. Such a certificate is void. (July 16, 1937, Sp. Sess., c. 71, §5.)

Holder of invalid tax title is entitled to lien for all subsequent taxes, penalties, interest and costs paid by him, even though a prior tax title was validated by an assignment certificate which he had surrendered for cancellation, assuming the title under his prior certificate. Warroad Co-op Crematory Co. v. H., 182M17S, 223M824. See Dun. Dig. 9539 (52).
§2148-1  Refundment to tax sale purchaser where notice of sale invalid; limitation; reassessment.—

Whenever any sale of land held pursuant to Section 2127, Mason's Minnesota Statutes of 1927, shall have been conducted by the county auditor, without two weeks' public notice of said sale having been first given as required by said section, the purchaser of any parcel of land at said sale or the purchaser or holder, or the assigns or representatives of said purchasers or holder, of a state assignment certificate of any parcel at said sale may be entitled to refundment of the amount paid for such parcel, without interest, upon production and surrender to the county auditor of the certificate of sale, and evidence of the assignment thereof. If any, by issuance and payment of the warrant of the county auditor or the county treasury therefor; provided, however, that the right to refundment shall be exercised within six years from the date of such tax sale, and the amounts paid shall be charged to the proper funds, and extended against the respective parcels of land with the current taxes, and collected herewith. (July 15, 1937, Sp. Sess., c. 61.)

§2149. Indorsement before record.

The holder becomes complete on the endorsement of a certificate of nonredemption, and he cannot thereafter have the tax cancelled under §2132, though he may recover the amount so paid from the county auditor and he shall not be entitled to refundment of the amount paid for such parcel. (Op. Atty. Gener. July 7, 1930.)

§2150. Lands bid in for the state—Attachment of rents, crops, etc.—When any parcel of land is bid in for the state, until its rights be assigned or the land be redeemed, the state shall operate as a payment of the amount for which the same is sold, but at any time after such sale the county auditor may make and file with the clerk where the judgment is entered an affidavit stating the date of the sale, the amount for which such parcel was bid in for the state, and the amount of all subsequent delinquent taxes, that its right has not been assigned, that there has been no redemption, and that the state has produced in whole or in part, rent, and produced rent and given the names of the persons paying rent. Upon presentation of such affidavit, the judge or court commissioner for the county shall issue thereon an order directing an attachment to issue to the sheriff to attach to and bind all of the grass, hay and crops of said premises as determined by the court. Such application must, however, be made within five days after the filing of the affidavit, order of allowance, writ, and return. (Op. Atty. Gener. July 7, 1930.)

In case any unplatted land is bid in for the state and is cropped upon a share agreement with the owner or person entitled to such possession, the county auditor may give to the owner or person entitled to such possession the excess of such crops over and above the owner's or landlord's share of the grass, hay and crops of said premises as determined by the court. Such application must, however, be made within five days after the filing of the affidavit, order of allowance, writ, and return. (Op. Atty. Gener. July 7, 1930.)

The sheriff shall serve such writ by serving a copy thereof on each tenant or person in possession of such land paying rent thereof, or for any part thereof, and such service shall operate as an attachment of all rents accruing from the land taxed, and from such land, the sheriff may sell such rents and the proceeds of such sale, and pay the county the amount collected. No payment of rents by any person so served after such service, or prior thereto for the purpose of defeating such attachment, shall be valid against such attachment. The sheriff shall be allowed for serving the writ and collecting the money the same fees as are allowed by law upon an execution in a civil action, and, if he brings suit, such additional compensation as the court may allow, not exceeding one-half of the fees allowed by law for like services in ordinary cases.

Provided further, that at any time while the sheriff is collecting such rent the lease upon said property shall expire, or, if the sheriff has previously commenced to collect such rent and said property becomes vacant, the county auditor may seize said property upon five days' notice to the owner, subject to the approval of the district court.

Provided further, that at any time while the sheriff is collecting the rent under any lease, no modification of the lease between the owner and the tenant shall be valid unless approved by the district court upon five days' notice to the county auditor.

Provided further, that the collection of such rent under court statute shall not be valid unless made by the county auditor assigning said taxes to an actual purchaser, or selling the land at a forfeited tax sale under the present laws or any laws hereafter enacted.

In case any unplatted land is bid in for the state and is cropped upon a share agreement with the owner or person entitled to such possession, the county auditor may give to the owner or person entitled to such possession the excess of such crops over and above the owner's or landlord's share of the grass, hay and crops of said premises as determined by the court. Such application must, however, be made within five days after the filing of the affidavit, order of allowance, writ, and return. (Op. Atty. Gener. July 7, 1930.)

In case any unplatted land is bid in for the state and is cropped upon a share agreement with the owner or person entitled to such possession, the county auditor may give to the owner or person entitled to such possession the excess of such crops over and above the owner's or landlord's share of the grass, hay and crops of said premises as determined by the court. Such application must, however, be made within five days after the filing of the affidavit, order of allowance, writ, and return. (Op. Atty. Gener. July 7, 1930.)
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ing by reason of the condition, cost of upkeep of the property, or other cause, undue hardship upon such owner and/or detriment to such property. Provided, further, that the provisions of this law affecting unplatted lands shall not apply to lands or real estate actually used or occupied by the owner thereof.

The county Auditor shall furnish works hire to the county auditor or his work in making such leases which leases shall be made in the name of the county and the said county shall have the right to bring suit for unpaid rents under such leases and bring actions to secure evictions of tenants to whom it has leased.

Rentals, and proceedings issued and made pursuant to this law shall not be deemed unfinished business but may be collected by the sheriff by attachment of his term as provided by Mason's Minnesota Statutes of 1927, Section 913.

The right of the county auditor to assign the taxes on any unplatted lands to a current purchaser, or to sell the land to said purchaser, by order to make it taxable, shall continue until all delinquent taxes described in the writ of attachment are paid. Any other provision of this chapter shall not be invalid. The remaining parts and provisions of this section shall be valid.

The county Auditor may take over properties consisting of unplatted lands or buildings, together with the necessary heating plant, and may act somewhat in nature of a receiver, but without such complete authority.


If sheriff fails to pay amount assessed to owner, as required by section 2136, that amount may be paid by the county Auditor. Op. Att'y. Gen. (412a-102), May 8, 1936.

The word "may" as used in Laws 1935, c. 246, with reference to the county auditor, in each case permissive and not mandatory. Op. Att'y. Gen. (21j), July 9, 1936.


Rent of state lands sold under contract for deed are subject to attachment by counties for delinquent taxes. Op. Att'y. Gen. (426g), July 18, 1935.


County auditor is without authority to rescind action causing attachment, but may proceed to attachment on showing that same works hardship. Op. Atty. Gen. (474-4), Nov. 14, 1935.

Proceedings 2151 is applied to return on writs of attachment made under this section.

Amounts collected under writ of attachment should be turned over to county treasurer as soon as collected.


Attachment of rents under §2151 will not prevent confession and entry of judgment under §2176-11, but will suspend collection of interest accumulations until subsequent to attachment on delinquent taxes should be collected under attachment proceedings subsequent to attachment of rents. Op. Atty. Gen. (412a-27), July 5, 1934.

Attachment of rents does not prevent confession and entry of composite judgment under §2176-11, but confession and entry of judgments prevents collection under attachment proceedings until default occurs under §2180. Rents collected should be applied on delinquent taxes before confession and entry of judgment. Op. Atty. Gen. (412a-25), May 8, 1936.


Where owner of business property falls to pay taxes, interest accrues and is due from the date of the delinquency to the time of sale as provided by Mason's Minnesota Statutes of 1927, Section 913.

Where rents are attached on two lots, the sheriff may sell one lot. Op. Atty. Gen. (412a-27), July 23, 1934.


Where, on default of purchaser state reatfied and reserved trust fund land for sale, and land was not sold, that purchaser failed also to pay taxes paid by the county Auditor to give notice of expiration of redemption and to the auditor on tax-delinquent land.

Where, on default of purchaser state reatfied and reserved trust fund land for sale, and land was not sold, that purchaser failed also to pay taxes paid by the county Auditor to give notice of expiration of redemption and to the auditor on tax-delinquent land.

REDEMPTION FROM TAX SALES 2151. By whom—When. Owners of lands sold for taxes for years 1932 and 1927, are given option of repurchase, etc. Laws 1933, c. 467.
§2152. Amount payable.

5. In general. Certificates holder cannot be deemed to have paid any delinquent taxes unless he has paid them in the manner required by law. The owner of the whole of a tract which has been sold for taxes as one tract is not entitled to redeem a part of it in 1924 and 1925 and in different tracts after that. The owner of the whole of a tract which has been sold for taxes as one tract is not entitled to redeem a part of it in 1924 and 1925 and in different tracts after that. The owner of the whole of a tract which has been sold for taxes as one tract is not entitled to redeem a part of it in 1924 and 1925 and in different tracts after that. The owner of the whole of a tract which has been sold for taxes as one tract is not entitled to redeem a part of it in 1924 and 1925 and in different tracts after that.

3. When may be made. Time of redemption for land sold in May 1929 for taxes for 1927 and 1928 taxes at rate of 12% per annum and interest on amount of such taxes at rate of 12% per annum.

4. Intercut. Amounts paid for taxes for each year included in state assignment certificate need not be stated separately, nor need interest thereon. Amounts due and interest thereon as required by this section, though the most appropriate way might be to state them as required by law, and no interest is to be charged on penalties which have accrued and face amount of penalties only is included in amount required to be paid for redemption. Op. Atty. Gen. (425c-9), March 6, 1938.

2153. Auditor's certificate.

1. Authority to issue certificate. The auditor's certificate may be issued by state auditor, county auditor, or any other person authorized by law to issue the certificate.

2. Form of certificate. The certificate shall state the name of the person entitled to receive the certificate, the address of the person entitled to receive the certificate, and the date of the certificate.

3. When certificate is issued. The certificate shall be issued within 30 days after the date of the certificate.

4. Amount of certificate. The amount of the certificate shall be the total amount of taxes due and penalties for the year or years for which the certificate is issued.

5. How to enforce. The certificate may be enforced by suit in any court of competent jurisdiction.

6. Translation. The certificate shall be translated into English if the person entitled to receive the certificate is not a citizen of the United States and the certificate is to be issued by a county auditor.

2161. Taxpayer may pay taxes on part. Manner of obtaining discount in taxes under Laws 1931, c. 129, where a number of lots were assessed as one tract, and 1932, where there was an error in amount charged for each tract in different tracts after that date, discussed. Op. Atty. Gen., Aug. 21, 1931.

2165. Notice of expiration of redemption—To whom given—Form of notice. See §2164.

Laws 1931, c. 156, validates titles acquired where notice of expiration of time for redemption did not properly state the time for redemption, but did not substantially impair any contract for redemption under Laws 1935, c. 278, Mason's Minn. Stat., Supp. 1938, §2164-5, while different from the words "sixty days", and should not be served until four years after sale, which took place in 1934. Op. Atty. Gen., Aug. 4, 1939.


5. Notice of expiration of redemption from sales of land for 1927, subsequent to and after 1931 taxes, but delinquent 1927 taxes, subsequent to and after 1931 taxes, but delinquent 1927 taxes, should be served in manner provided by §2163, except that words "twelve months" should be substituted for words "sixty days", and should not be served until four years after sale, which took place in 1934. Op. Atty. Gen. (423c), May 20, 1933.

6. Notice of expiration of redemption from sale of land for 1927 taxes, subsequent to and after 1931 taxes, but delinquent 1927 taxes, subsequent to and after 1931 taxes, but delinquent 1927 taxes, should be served in manner provided by §2163, except that words "twelve months" should be substituted for words "sixty days", and should not be served until four years after sale, which took place in 1934. Op. Atty. Gen. (424h)-4, May 20, 1933.

7. Notice of expiration of redemption from sale of land for 1927 taxes, subsequent to and after 1931 taxes, but delinquent 1927 taxes, subsequent to and after 1931 taxes, but delinquent 1927 taxes, should be served in manner provided by §2163, except that words "twelve months" should be substituted for words "sixty days", and should not be served until four years after sale, which took place in 1934. Op. Atty. Gen. (424h)-4, May 20, 1933.

8. Notice of expiration of redemption. Notice of expiration of redemption from sale of land for 1927 taxes, subsequent to and after 1931 taxes, but delinquent 1927 taxes, subsequent to and after 1931 taxes, but delinquent 1927 taxes, should be served in manner provided by §2163, except that words "twelve months" should be substituted for words "sixty days", and should not be served until four years after sale, which took place in 1934. Op. Atty. Gen. (425f)-7, May 27, 1937.


Act is applicable to all tax sales to state or to private individuals where title had not passed prior to date when act became operative. Op. Atty. Gen., May 18, 1933.
Where premises were sold to state for 1926 taxes and purchaser failed to make assignment of said purchase, the act, obligation to serve notice of expiration of time of redemption falls upon assignee. Op. Atty. Gen., June 6, 1933.
Expiration of time for redemption of land sold for taxes of 1926 at time of enactment of Laws 1928, c. 414, and was not assigned to a purchaser, notice of expiration of time for redemption should be served so that month's redemption period would expire at same time as necessary for 12-month period allowed for redemption. Op. Atty. Gen., June 5, 1933.
Purchaser of land in 1926 for taxes of 1927 must give a notice of expiration of redemption, but notice of expiration of time for redemption must wait until end of 6 years from date of sale as long as notice will not be served after expiration of 5-year period is up. Op. Atty. Gen., Dec. 28, 1938.
Notice required to be attached to delinquent tax list under which such property is sold should not be omitted on account of this act. Op. Atty. Gen., Jan. 17, 1934.
Notice of expiration of redemption should not be required to be served if required time is one year or less. Op. Atty. Gen., Mar. 1, 1934.
Notice of expiration of redemption may be served so that twelve-month period required by Laws 1933, c. 366 will expire simultaneously with or shortly after the five-year period allowed for redemption. Op. Atty. Gen. (412a-2), June 6, 1938.
Notice of expiration of redemption from sale of land on May 12, 1930, for delinquent taxes for 1928 should state that time for redemption will expire 12 months after service of notice and proof thereof has been filed in office of county auditor. Op. Atty. Gen., May 18, 1934.
Purchasing a certificate of tax judgment sale dated May 2, 1922, covering land sold for delinquent taxes for 1921, and paying taxes for 1922 and subsequent years; but such notice cannot now be given. Op. Atty. Gen. (425c), June 8, 1936.
Notice of expiration of redemption from sale of land on May 8, 1928, for delinquent taxes for 1926 and subsequent years; but such notice cannot now be given. Op. Atty. Gen. (425c), June 8, 1936.
Notice of expiration of redemption from sale of land on May 8, 1928, for delinquent taxes for 1926 and subsequent years; but such notice cannot now be given. Op. Atty. Gen. (412a-22), Sept. 3, 1936.
such recording may be more than seven years after the date of such tax judgment sale, and when so recorded, the same shall have the same effect as if duly recorded on or before the date of such tax judgment sale; and the validity of such tax certificate or tax deed, or the record thereof, shall not be questioned by reason of any of the aforesaid irregularities. (Act Apr. 24, 1935, c. 277, §1.)

2164-4b. Not to affect pending actions.—This act shall not affect any action at law or in equity which is now pending or which may be commenced within three months after the passage of this act. (Act Apr. 24, 1935, c. 277, §2.)

2164-4c. Judgment for delinquent taxes on land bid in by state between passage of 1933 and 1985 acts.—Where lands bid in for the State for delinquent taxes between the passage of Chapter 366, Laws of 1933 (§§2164-1, 2164-2), and the passage of Chapter 278, Laws of 1935 (§§2164-5 to 2164-18), have not been assigned to actual purchasers, the county board of the county in which such lands are located may adopt a resolution instructing the county auditor to list such lands for delinquency for taxes for 1935 and following years and serve notice of delinquency with the clerk of the district court as though said taxes for 1935 were the first delinquent taxes against said lands and judgment shall be entered on such delinquency certificate. In all cases, the expiration of redemption for the year 1935 constituted the first instance of real estate delinquency with respect thereto; provided, however, that nothing herein contained shall impair the right of the State to foreclose the same in its favor which has accrued by reason of the delinquency or nonpayment of taxes for any year prior to the year 1935. (Act Apr. 20, 1935, c. 310.)

2164-5. Stated period of redemption.—The term "stated period of redemption" as used in this act shall mean the period of time specified in this act or any other law for redemption of lands from any tax judgment sale, including any extension of the period originally-prescribed, but not including any further time allowed for redemption on account of requirements for giving notice of expiration. (Act Apr. 24, 1935, c. 278, §1.)


Of such lands as though the delinquent taxes for the year 1935 constitute the first instance of real estate delinquency with respect thereto; provided, however, that nothing herein contained shall impair the right of the State to foreclose the same in its favor which has accrued by reason of the delinquency or nonpayment of taxes for any year prior to the year 1935. (Act Apr. 24, 1935, c. 278, §2.)

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2164-6. Period of redemption extended to July 1, 1956.—(a) The stated period of redemption of all lands bid in for the state at tax judgment sales heretofore held for taxes for the years 1926, 1927, 1928, 1929, 1932, and 1933, where such lands have not been sold or assigned to actual purchasers, is hereby extended to and including July 1, 1936, provided, that if any parcel of such land is actually occupied on said date by any person, who has any crop then growing thereon, or thereon, or thereon the right to remove which crop has not expired by the date of such parcel for the purpose of removing such crop, until and including December 1, 1936.

(b) Except as provided in Subdivision (a) of this section, the stated period of redemption of all lands sold to actual purchasers or bid in for the state at tax judgment sales heretofore held shall be as provided by existing laws.

Expiration of redemption of all lands sold to actual purchasers or bid in for the state at tax judgment sales heretofore held shall be as provided by existing laws.


until the expiration of the time allowed for redemption after the giving of notice of expiration as provided by law. Upon the expiration of such time absolute title to such parcel, if not theretofore redeemed, shall vest in the state, the purchaser, or his or its assigns, as the case may be. (Act Apr. 24, 1935, c. 278, §3.)

Time for redemption expires one year after giving of notice of expiration as provided in this section. If any parcel of land has been sold at tax sale during any year following date of forfeiture, but may be classified as the case may be. (Act Apr. 24, 1935, c. 278, §5.)

Judgment cannot be confessed after period of redemption has expired. (Act Apr. 24, 1935, c. 278, §6.)


Where no taxes have been extended against state lands, no notice of expiration can be issued or served. Op. Atty. Gen. (412a-5), May 28, 1937.


If sale of land for 1931 taxes was held before enactment of Laws 1935, c. 387, twelve months notice of expiration of the time for redemption of such parcel as provided in this section was held after enactment of that statute, sixty days notice is required. Op. Atty. Gen. (412a-5), July 5, 1935.

County auditor to give notice. (a) In case any parcel of land bid in for the state at any tax judgment sale hereafter held, or bid in for the state at any such sale and thereafter assigned to an actual purchaser, shall be given and served as provided by Mason's Minnesota Statutes of 1927, Section 2163. Such notice may be issued and served at any time not earlier than 60 days before the expiration of the stated period of redemption of such parcel from the state.

The time for redemption of any such parcel from such sale shall expire 60 days after the service of such notice and the filing of proof thereof in the office of the county auditor. (Act Apr. 24, 1935, c. 278, §7.)


Where no taxes have been extended against state lands, no notice of expiration can be issued or served. Op. Atty. Gen. (412a-5), May 28, 1937.


If sale of land for 1931 taxes was held before enactment of Laws 1935, c. 387, twelve months notice of expiration of the time for redemption of such parcel as provided in this section was held after enactment of that statute, sixty days notice is required. Op. Atty. Gen. (412a-5), July 5, 1935.

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If sale of land for 1931 taxes was held before enactment of Laws 1935, c. 387, twelve months notice of expiration of the time for redemption of such parcel as provided in this section was held after enactment of that statute, sixty days notice is required. Op. Atty. Gen. (412a-5), July 5, 1935.

County auditor to give notice. (a) In case any parcel of land bid in for the state at any tax judgment sale hereafter held, or bid in for the state at any such sale and thereafter assigned to an actual purchaser, shall be given and served as provided by Mason's Minnesota Statutes of 1927, Section 2163. Such notice may be issued and served at any time not earlier than 60 days before the expiration of the stated period of redemption of such parcel from the state.

The time for redemption of any such parcel from such sale shall expire 60 days after the service of such notice and the filing of proof thereof in the office of the county auditor. (Act Apr. 24, 1935, c. 278, §7.)


Where no taxes have been extended against state lands, no notice of expiration can be issued or served. Op. Atty. Gen. (412a-5), May 28, 1937.
386 (§§2139-15 to 2139-27), and Laws 1933, c. 407 thereof in office of county auditor, unless parcel shall of notice of expiration of redemption and filing of proof thereof; but if not redeemed within sixty days from the date thereon, such parcel may be sold for delinquent taxes for the year 1936. The judgment sale in 1934, and not redeemed or assigned, should not be served until four years after date lands were bid in for state, and time for redemption would not expire until one month thereafter. Op. Atty. Gen. (412a-23), Apr. 27, 1938.


Faced notice of expiration of redemption is fatally defective unless signed and sealed by county auditor, but service of notice on occupants may be made within a reasonable time. You are hereby notified that the parcels of land hereinafter described, situated in the County of . . . , State of Minnesota, were bid in for the state on the . . . , day of . . . , 19 . . . at the tax judgment sale of land for delinquent taxes for the year 19 . . . ; that the descriptions of said parcels and the names of the persons to whom the same are assessed, respectively, are as follows:

Description . . . 
Person from whom assessed . . .

That the time for redemption of said lands from said sale will expire 60 days after service of notice and filing of proof thereof in my office as provided by law.

Witness my hand and official seal this day of . . . , 19 . . .

(Official Seal)

Such notice shall be posted by the auditor in his office, subject to public inspection, and shall remain so posted until at least one week after the date of the last publication of notice as hereinafter provided. Proof of such posting shall be made by the certificate of the auditor, filed in his office.

(c) As soon as practicable after the posting of the notice prescribed in subdivision (b) of this section the county auditor shall be published for three successive weeks in the official newspaper of the county a notice in substantially the following form:

Notice of Expiration of Redemption
Office of the County Auditor
County of . . . , State of Minnesota

You are hereby notified that the parcels of land hereinafter described, situated in the County of . . . , State of Minnesota, were bid in for the state on the . . . , day of . . . , 19 . . . at the tax judgment sale of land for delinquent taxes for the year 19 . . . ; that the descriptions of said parcels and the names of the persons to whom the same are assessed, respectively, are as follows:

Description . . . 
Person from whom assessed . . .

That the time for redemption of said lands from said sale will expire 60 days after service of notice and filing of proof thereof in my office as provided by law.

Witness my hand and official seal this day of . . . , 19 . . .

(Official Seal)

Such notice shall be posted by the auditor in his office, subject to public inspection, and shall remain so posted until at least one week after the date of the last publication of notice as hereinafter provided. Proof of such posting shall be made by the certificate of the auditor, filed in his office.

(c) As soon as practicable after the posting of the notice prescribed in subdivision (b) of this section the county auditor shall be published for three successive weeks in the official newspaper of the county a notice in substantially the following form:

Notice of Expiration of Redemption
Office of the County Auditor
County of . . . , State of Minnesota

You are hereby notified that the parcels of land hereinafter described, situated in the County of . . . , State of Minnesota, were bid in for the state on the . . . , day of . . . , 19 . . . at the tax judgment sale of land for delinquent taxes for the year 19 . . . ; that the descriptions of said parcels and the names of the persons to whom the same are assessed, respectively, are as follows:

Description . . . 
Person from whom assessed . . .

That the time for redemption of said lands from said sale will expire 60 days after service of notice and filing of proof thereof in my office as provided by law.

Witness my hand and official seal this day of . . . , 19 . . .

(Official Seal)

Such notice shall be posted by the auditor in his office, subject to public inspection, and shall remain so posted until at least one week after the date of the last publication of notice as hereinafter provided. Proof of such posting shall be made by the certificate of the auditor, filed in his office.

(c) As soon as practicable after the posting of the notice prescribed in subdivision (b) of this section the county auditor shall be published for three successive weeks in the official newspaper of the county a notice in substantially the following form:

Notice of Expiration of Redemption
Office of the County Auditor
County of . . . , State of Minnesota

You are hereby notified that the parcels of land hereinafter described, situated in the County of . . . , State of Minnesota, were bid in for the state on the . . . , day of . . . , 19 . . . at the tax judgment sale of land for delinquent taxes for the year 19 . . . ; that the descriptions of said parcels and the names of the persons to whom the same are assessed, respectively, are as follows:

Description . . . 
Person from whom assessed . . .

That the time for redemption of said lands from said sale will expire 60 days after service of notice and filing of proof thereof in my office as provided by law.

Witness my hand and official seal this day of . . . , 19 . . .

(Official Seal)
otherwise provided by law, the sheriff shall receive from the county, in addition to his other compensation prescribed by law, such fees and mileage for service on persons in the possession as are prescribed by law for such service in other cases, and shall also receive such compensation for making investigation and return as to vacant and unoccupied lands as the county board may fix, subject to appeal to the district court as in other cases. (c) All such service in other cases, and shall also receive such fees and mileage for service in cases of other claims against the county. (d) The time for redemption of any parcel of land as to which notice of expiration has been given as provided in Subdivisions (b) and (c) of this section shall expire 60 days after the giving of such notice and the filing of proof thereof with the county auditor, unless such parcel shall therefore be assigned to an actual purchaser as hereinafter provided. (e) The cost of giving notices as provided by Subdivisions (b) and (c) of this section shall be paid by the county. (f) After the time for redemption of any lands shall have expired after notice given as provided in Subdivisions (b) and (c) of this section, the county auditor shall execute a certificate describing the lands, specifying the tax judgment sale at which the same were bid in for the state, and stating that the time for redemption thereof has expired as provided by law and that absolute title thereto has vested in the state. Such certificate shall be recorded in the office of the register of deeds and thereafter filed in the office of the county auditor, except that in case of registered land such certificate shall be referred to the office of the registrar of titles and a duplicate filed in the office of the county auditor. Such certificate and the record thereof shall be prima facie evidence of the facts therein stated, but failure to execute or record or file such certificate shall not affect the validity of any proceedings hereinafter provided under respecting such lands or the title of the state thereto. (Act Apr. 24, 1935, c. 278, §3.)

Defects in posting legal. Laws 1930, c. 217. Taxes are offered for sale after passage of this act, or April 24th, 1935. (Act Apr. 24, 1935, c. 278, §3.)


A year's notice must be given in all cases except where notice are offered for sale after passage of this act, or April 24th, 1935. (Act Apr. 24, 1935, c. 278, §3.)

"Forthwith" means within such reasonable time after the expiration of date of period for redemption as work of preparing necessary notices can be completed by reasonable exertion. Op. Atty. Gen. (423c), July 17, 1935.

It is mandatory that notice be given. Id.


A person is entitled to possession of all of a large tract of land and actually uses part of it, but he would probably not be held to be in possession of the entire tract while it is in the state's possession; it is not conclusive that the existence of the tract is continuous, but if part of the tract is contiguous with occupied tract, sheriff must use all reasonable means to determine that it has no purpose by the owner or tenants. Op. Atty. Gen. (412a-23), June 18, 1935.

In case of a second investigation to determine that it remains unoccupied on date he makes his return. Id.

A person conducting logging operation is in possession of that fact, he is logging, but finding cutting timber on the land but not living on it is not in possession, but person cutting timber for the owner of a second investigation to determine that it remains unoccupied on date he makes his return. Id.

Person conducting logging operation is in possession of that fact, he is logging, but finding cutting timber on the land but not living on it is not in possession, but person cutting timber for the owner of a second investigation to determine that it remains unoccupied on date he makes his return. Id.

A person who has completed his operations and who under his contract has no further right to possession cannot be considered in possession. Id.

Where owner living in his home takes in roomers, landlord should be served. Id.

Where owner rents first floor of building to storekeeper and rents office on second floor and apartment to third floor, storekeeper, but not his clerks, must be served, persons renting offices, but not their employees, need be served, and tenants and their subtenants on third floor should be served. Id.

A transient guest in a hotel need not be served, but permanent guests should be served. Id.

In absence of special acts applicable to county, sheriff is entitled to be paid for serving notice of expiration of redemption same rate of mileage as for service of a summons in civil action. Op. Atty. Gen. (390e-12), Nov. 30, 1935.


A person living in his own home takes in roomers, landlord should be served. Id.

A second investigation to determine that it remains unoccupied on date he makes his return. Id.

A second investigation to determine that it remains unoccupied on date he makes his return. Id.

In absence of special acts applicable to county, sheriff is entitled to be paid for serving notice of expiration of redemption same rate of mileage as for service of a summons in civil action. Op. Atty. Gen. (390e-12), Nov. 30, 1935.
All costs of service, investigation and return including not only mileage and service fees if land is occupied, but also mileage and other compensation therein indicated with respect to the service of notice of expiration of redemption on the land, should be included in amount required to redeem. Op. Atty. Gen. (423c), July 17, 1935.

A county attorney who is appointed by sheriff of Ramsey County under Laws 1931, c. 258, is insufficient in number to make investigation of redemption or to make investigation and return required by law, sheriff has power to appoint a sufficient number of deputies, and such deputies shall be compensated for such duties, through a federal project. Op. Atty. Gen. (412u-23), Aug. 8, 1938.


Cancellation of certificates of forfeiture that have been erroneously recorded and filed. Laws 1935, c. 312, § 3.

Where registered land forfeits to state certificate referred to in Laws 1935, c. 278, § 8, should be entered by registrar of titles on records, but when erroneously recorded or purchased land under Laws 1937, Ex. Sess. c. 88, it is not necessary that such certificate be indexed in the office of the Register of Deeds to the State, or if entered in the office of the Register of Deeds, the provisions of §§ 3581 or 3516 be complied with. Op. Atty. Gen. (412a-2b), Aug. 6, 1938.

Cancellation of certificates of forfeiture which have been erroneously recorded and filed. (Act 20, 1939, c. 312, § 1.)

Cancellation of certificates of forfeiture which have been erroneously recorded and filed. Where a certificate of forfeiture required by Laws of 1935, Chapter 278, Section 8, Subdivision 1, describing lands which were exempt from taxation under the Laws of the United States in the year upon which the supposed forfeiture is based, or which were exempt from taxation under the Laws of the State of Minnesota or some department or subdivision thereof at the time the supposed forfeiture took place or lands which, because of defective service of the notice of forfeiture or other reason, the certificate does not in fact forfeit to the State, have been erroneously recorded or filed, such certificate may be canceled by the Minnesota Tax Commission and the County Auditor of the county in which said lands are located in the manner herein provided. (Act 20, 1939, c. 312, § 1.)

Cancellation of certificates of forfeiture which have been erroneously recorded and filed. (Act 20, 1939, c. 312, § 1.)

Cancellation of certificates of forfeiture which have been erroneously recorded and filed. The owner at the time of forfeiture or someone authorized to act in his or its behalf shall file an application for cancellation with the County Auditor submitting therewith a statement of the facts and the satisfactory proof that such lands were exempt from taxation in the year upon which the supposed forfeiture was based, or that the lands were owned by the State of Minnesota or some department or subdivision thereof at the time the supposed forfeiture took place or lands which, because of defective service of the notice of forfeiture or other reason, the certificate does not in fact forfeit to the state, have been erroneously recorded or filed, such certificate may be canceled by the Minnesota Tax Commission and the County Auditor as in the case of application under Section 383 of Mason's Minnesota Statutes of 1927, and shall thereafter be submitted to the Minnesota Tax Commission and the County Auditor. The Tax Commission shall consider said application and if it determines that the conditions above referred to exist, it shall order the County Auditor to record and file in the manner in which the original certificate of forfeiture was recorded and filed, a certificate of cancellation which shall refer to said original certificate, the provisions of this section and the proceedings taken pursuant hereto and state that the original certificate is void because the lands described therein were exempt from taxation under the Laws of the United States during the year upon which the supposed forfeiture was based, or because such lands were owned by the State or some subdivision or department thereof at the time the supposed forfeiture took place or that such title did not in fact forfeit to the State because the service of the notice of forfeiture was defective or other reason. If the lands described in such certificate became subject to taxation in any year subsequent to the year upon which the supposed forfeiture was based, the tax for such subsequent year or years was not levied or assessed against said lands, if not levied and assessed have been cancelled, taxes shall be levied and assessed against said lands as in the case of omitted taxes and all cancelled taxes shall be reinstated as the case may require; and in the case of non-exempt lands any cancelled taxation shall be reinstated. Taxes for the years subsequent to the supposed forfeiture shall be levied and assessed as in the case of omitted taxes. (Act Apr. 20, 1938, c. 312, § 2.)

2164-15. Land subject to assignment.—Every parcel of land heretofore bid in for the state at any tax judgment sale and not heretofore sold or assigned to an actual purchaser, and every parcel of land hereafter bid in for the state at any tax judgment sale and not heretofore sold or assigned to an actual purchaser, and every parcel of land hereafter bid in for the state at any tax judgment sale and not heretofore sold or assigned to an actual purchaser, shall be subject to any sale or assignment for the taxes for such subsequent year or years. (Act Apr. 24, 1935, c. 278, § 9.)

2164-16. Determination of period of redemption.—Where a certificate of forfeiture required by Laws of 1935, Chapter 278, Subdivision 1, which describes lands that were owned by the United States in the year upon which the supposed forfeiture was based, or which describes lands that were owned by the State of Minnesota or some department or subdivision thereof at the time the supposed forfeiture was recorded and filed, a certificate of cancellation with the County Auditor submitting thereto shall be considered by the County Board of Commissioners and if it determines that the conditions above referred to exist, it shall order the County Auditor to record and file the manner in which the original certificate of forfeiture was recorded and filed, a certificate of cancellation which shall refer to said original certificate, the provisions of this section and the proceedings taken pursuant hereto and state that the original certificate is void because the lands described therein were exempt from taxation in the year upon which the supposed forfeiture was based, or that the lands were owned by the State of Minnesota or some department or subdivision thereof at the time the supposed forfeiture was recorded and filed, such certificate may be canceled by the Minnesota Tax Commission and the County Auditor as in the case of application under Section 383 of Mason's Minnesota Statutes of 1927, and shall thereafter be submitted to the Minnesota Tax Commission and the County Auditor. The Tax Commission shall consider said application and if it determines that the conditions above referred to exist, it shall order the County Auditor to record and file in the manner in which the original certificate of forfeiture was recorded and filed, a certificate of cancellation which shall refer to said original certificate, the provisions of this section and the proceedings taken pursuant hereto and state that the original certificate is void because the lands described therein were exempt from taxation under the Laws of the United States during the year upon which the supposed forfeiture was based, or because such lands were owned by the State or some subdivision or department thereof at the time the supposed forfeiture took place or that such title did not in fact forfeit to the State because the service of the notice of forfeiture was defective or other reason. If the lands described in such certificate became subject to taxation in any year subsequent to the year upon which the supposed forfeiture was based, the tax for such subsequent year or years was not levied or assessed against said lands, if not levied and assessed have been cancelled, taxes shall be levied and assessed against said lands as in the case of omitted taxes and all cancelled taxes shall be reinstated as the case may require; and in the case of non-exempt lands any cancelled taxation shall be reinstated. Taxes for the years subsequent to the supposed forfeiture shall be levied and assessed as in the case of omitted taxes. (Act Apr. 20, 1938, c. 312, § 2.)


Cancellation of certificates of forfeiture that have been erroneously recorded and filed. Under Laws 1935, c. 387, § 2(c), discount rates provided for are not applicable to ditch items and assessments against lands assigned to a purchaser other than the state. Laws 1935, c. 387, did not modify or repeal Laws 1935, c. 278, § 5, as far as it limits time in which assignment of tax-deficient land may be made. Id.

Cancellation of certificates of forfeiture that have been erroneously recorded and filed. Annual sale containing provisions for sale at discount rates specified in Laws 1935, c. 387, will apply to ditch liens and special assessments for local improvements included in taxes for year 1925 and subsequent years in same manner as such discount rates will apply to general taxes unless county board in case of a ditch lien, or governing body of municipality in case of special assessment for local improvements shall have provided otherwise by Resolution or Ordinance. Id.

Notice of expiration of redemption is necessary where taxes are assigned after giving of notice by county auditor. Laws 1935, c. 387, § 27, in so far as it limits time in which assignment of tax-deficient land may be made. Id.

 extends provisions of this section to the state of a parcel of land sold at annual forfeiture sale provided for in Laws 1935, c. 387, of a parcel of land bid in for and held by state for taxes for 1925 or any subsequent year for which the delinquent taxes for 1925 and all subsequent years have been paid or assigned to a purchaser other than the state, the tax for which is required by law to be levied and assessed against said lands as in the case of omitted taxes and all cancelled taxes shall be reinstated as the case may require; and in the case of non-exempt lands any cancelled taxation shall be reinstated. Taxes for the years subsequent to the supposed forfeiture shall be levied and assessed as in the case of omitted taxes. (Act Apr. 20, 1938, c. 312, § 2.)

2164-14. Titles to be held in trust by the state.—Except as provided by Laws 1929, Chapter 258, §§ 4642-1 to 4642-13, Laws 1933, Chapter 402, §§ 4031-75 to 4031-88, or as otherwise provided by law.
the title to every parcel of land acquired by the state as provided by this act shall be held by the state in trust for such taxing districts interested in the taxes, assessments, penalties, interest, and costs accrued against such parcel at the time of such acquisition, in proportion to the respective interests of such taxing districts therein. (Act Apr. 24, 1935, c. 278, §1.)


Subsequent land was condemned for state highway and state warrants for damages were issued jointly to owner and county, and thereafter land became liable to foreclose to state, county auditor not indorse warrants to private owners until ordered to do so by court. Op. Atty. Gen. (450f-6), Aug. 30, 1937.


Law repealed.—Laws 1929, Chapter 415, Section 3, to be contained in the notice attached to the delinquent tax list shall not hereafter be included in such notice. (Act Apr. 24, 1935, c. 278, §11.)


Law repealed.—Laws 1923, Chapter 366 [(§418-1, 2164-2), is hereby repealed except so far as hereinbefore expressly continued in force. All acts and parts of acts repealed, superseded, modified, or amended by said Chapter 366 are hereby revived and restored to full force and effect in so far as they would now be in force if said Chapter 366 had not been enacted, subject, however, to the provisions of this act and to any other applicable laws not inconsistent herewith. (Act Apr. 24, 1935, c. 278, §12.)


Inconsistent acts repealed.—All existing laws relating to the subject matter of this act shall apply to the matters governed by this act, so far as applicable and not inconsistent herewith. All acts and parts of acts repealed, superseded, modified, or amended by said Chapter 366 are hereby revived and restored to full force and effect in so far as they would now be in force if said Chapter 366 had not been enacted, subject, however, to the provisions of this act and to any other applicable laws not inconsistent herewith. (Act Apr. 24, 1935, c. 278, §13.)

Provisions severable.—The provisions of this act shall be separable, and if any provision hereof or the application of any provision hereof in any case shall be declared invalid, it shall not affect the validity or application of the provisions hereof otherwise so far as it is practicable to maintain the same in force. (Act Apr. 24, 1935, c. 278, §14.)

Proceedings validated.—Any proceedings heretofore taken for the acquisition of title to real property on behalf of the state under the laws of this State relating to taxation are hereby legalized and the title acquired thereby validated when such proceedings were in all respects properly taken and conducted except that in complying with the requirements of the notice and the notice provided by Laws 1935, Chapter 278, Section 8, instead of a single posted notice for all parcels, the Auditor made up separate posted notices, and there being so large a number of notices that it would have been impracticable to affix them to a wall, post, or bulletin board, the Auditor posted the said notices in his office by placing them in loose leaf binders, and by keeping and maintaining the said loose leaf binders on a counter, in his office, in plain view of the public, and open to all who desired to have access. (Act Apr. 13, 1939, c. 237, §1.)
and there is no lien on the land, nor can state acquire title by reason of such taxes, or subsequent taxes paid by the owner, under §2170; because the certificate appears to be void under §2170, although this does not conclusively and incontrovertibly appear from county auditor's records, and county auditor should in such case make report to the department of revenue for determination of value, and approved thereby may, within ten days following the filing thereof, appeal to the District Court of the county wherein such land is situated, by filing written notice of such appeal and proof of service thereof, to the clerk of said court. (Act Apr. 15, 1933, c. 274, §2.)

Owner has option to repurchase land sold for taxes.—The owner of any land sold for the taxes of either of the years 1926 or 1927 which shall become forfeited to the state for taxes shall have the option to repurchase said land from the state at any time within one year from the date of such forfeiture for one-half the amount of the taxes accrued against said land at the date of such forfeiture, less penalties, interests and costs, with interest upon said sum from the date of such forfeiture at the rate of four per cent per annum, provided that no owner shall repurchase more than one-third of the ex-announced lots not exceeding one-third of an acre in area in any city, village, or borough, in any county unless the same were actually occupied by him or his tenant at the time of the forfeiture. (Act Apr. 22, 1933, c. 407, §1.)


Audit making a certificate of delinquent taxes pursuant to §2165, should not include taxes included in a certificate of tax judgment sale, a state assignment certificate, or a certificate issued to an actual purchaser at a forfeited tax sale, where more than six years have expired since the date of such certificate, or the date of expiration of redemption has been issued within six years of the period of history of state when service of notice of expiration of redemption was unnecessary. Op. Atty. Gen. (409a-1), May 6, 1938.


Redemption, when expires.—The holder becomes entitled to the endorsement of a certificate of nonredemption, and he cannot thereafter have the tax cancelled under §2152, though his name has been removed from any source and he has not recorded his certificate. Op. Atty. Gen. July 7, 1930.

Time for redemption from tax sale extended in certain cases.—That whenever at the time fixed by law for the forfeiture of a parcel of land heretofore or hereafter bid in for the State and not assigned or disposed of by the State, pursuant to Mason's Minnesota Statutes of 1927, Sections 2129-2, affecting amendatory thereof and supplementary thereto, the period of redemption and service upon persons in possession of the United States, proceedings in eminent domain affecting such parcel, and such eminent domain proceedings shall have been pending more than two years prior to the said date of forfeiture, the said time of forfeiture of such parcel shall be and is postponed and continued until the expiration of one year after the final determination of such eminent domain proceedings; and the owner of such parcel, regardless of whether such parcel is included within the boundaries of any game preserve, reforestation project, or conservation area, or any person having an interest therein may discharge the delinquent taxes and assessments against such parcel and redeem such parcel, or portion thereof, from such sale to the State and encumbered by such proceedings, as so extended, upon payment of the portion of such unpaid taxes and assessments permitted by any law in effect during the pendency of such condemnation proceedings. Such redemption and discharge of delinquent taxes and assessments may be so made regardless of any or no determination of value or other action by the county board or the Minnesota Tax Commission. (Act Apr. 15, 1933, c. 274, §1.)

Redemption, when expires.—That whenever any tract less than the whole parcel designated for taxation and bid in for the state shall be taken or encumbered by such eminent domain proceedings, the tract so taken or encumbered may be redeemed and the delinquent taxes and assessments thereon charged, as provided in this act, without redeeming or discharging the delinquent taxes and assessments on the entire parcel so bid in for the State. When only part of the parcel bid in for the State shall be redeemed and discharged from taxes and assessments, the amount to be paid for such redemption and discharge from delinquent taxes and assessments shall be computed by the Auditor of the county wherein such land is situated, and shall be such a part or proportion of the amount designated by any such law permitting redemption and discharge on payment of a fraction or percentage of the total amount due, as provided in this act, as the said tract taken or encumbered by said proceedings and so redeemed bears to the value of such entire parcel bid in for the State, and of which it forms a part. And in any such partial redemption proceeding, the determination of value, and approved thereby may, within ten days following the filing thereof, appeal to the District Court of the county wherein such land is situated, by filing written notice of such appeal and proof of service thereof, to the clerk of said court. (Act Apr. 15, 1933, c. 274, §2.)

Redemption, when expires.—The holder becomes entitled to the endorsement of a certificate of nonredemption, and he cannot thereafter have the tax cancelled under §2152, though his name has been removed from any source and he has not recorded his certificate. Op. Atty. Gen. July 7, 1930.

Redemption, when expires.—That whenever at the time fixed by law for the forfeiture of a parcel of land heretofore or hereafter bid in for the State and not assigned or disposed of by the State, pursuant to Mason's Minnesota Statutes of 1927, Sections 2129-2, affecting amendatory thereof and supplementary thereto, the period of redemption and service upon persons in possession of the United States, proceedings in eminent domain affecting such parcel, and such eminent domain proceedings shall have been pending more than two years prior to the said date of forfeiture, the said time of forfeiture of such parcel shall be and is postponed and continued until the expiration of one year after the final determination of such eminent domain proceedings; and the owner of such parcel, regardless of whether such parcel is included within the boundaries of any game preserve, reforestation project, or conservation area, or any person having an interest therein may discharge the delinquent taxes and assessments against such parcel and redeem such parcel, or portion thereof, from such sale to the State and encumbered by such proceedings, as so extended, upon payment of the portion of such unpaid taxes and assessments permitted by any law in effect during the pendency of such condemnation proceedings. Such redemption and discharge of delinquent taxes and assessments may be so made regardless of any or no determination of value or other action by the county board or the Minnesota Tax Commission. (Act Apr. 15, 1933, c. 274, §1.)

Redemption, when expires.—That whenever any tract less than the whole parcel designated for taxation and bid in for the state shall be taken or encumbered by such eminent domain proceedings, the tract so taken or encumbered may be redeemed and the delinquent taxes and assessments thereon charged, as provided in this act, without redeeming or discharging the delinquent taxes and assessments on the entire parcel so bid in for the State. When only part of the parcel bid in for the State shall be redeemed and discharged from taxes and assessments, the amount to be paid for such redemption and discharge from delinquent taxes and assessments shall be computed by the Auditor of the county wherein such land is situated, and shall be such a part or proportion of the amount designated by any such law permitting redemption and discharge on payment of a fraction or percentage of the

No form of receipt for installment of repurchase price is prescribed by law, but such receipt may show date and amount of payment of each installment of repurchase price under which payment is made. Op. Atty. Gen. (412a-17), Oct. 29, 1926.

Owner need to pay only one-tenth of 9% of the amount of the accrued taxes as of date of forfeiture, and interest thereon, computed from the date of such forfeiture and for purpose of recording deed unpaid installments on other tract are not deemed taxes. Op. Atty. Gen. (425c-15), May 15, 1927.


Where state acquired title to land November 26, 1926, by foreclosure of mortgage of June 8, 1927, tax commissioner was holding unrecorded deed before date of such forfeiture which he could not record the deed upon payment only of 1926 taxes, and was not eligible to purchase from to forfeit or for the purpose of recording deed unpaid installments on other tract are not deemed taxes. Op. Atty. Gen. (425c-15), May 21, 1937.

Lease made pursuant to §2175-10 is subject to option of former owner to repurchase and obtain immediate possession under §2175-2. Op. Atty. Gen. (425g), July 9, 1937.

Former owner is entitled to immediate possession after sale, and person purchasing land from former owner shall be evicted by any public authority from premises when so forfeited. (Act Apr. 22, 1933, c. 407, §3.)

If former owner repurchases before May 1, of any year, title cannot be lost by any reason that owner should be paid. Op. Atty. Gen. (425c-15), June 22, 1937.

2176-5. Termination of option.—Such option to repurchase may be exercised by former owner on failure of said owner to make payment of any or all installments of said repurchase price and interest within sixty days after the anniversary date upon which the same becomes due and shall likewise terminate upon the failure of said owner to pay the current taxes for any year prior to the first Monday of January in the year following that in which they become payable. (Act Apr. 22, 1933, c. 407, §4.)

2176-6. Conveyance of land by state.—On payment in full of said repurchase price, appropriate conveyance in fee, in such form as may be prescribed by the Attorney General, shall be issued by the Minnesota Tax Commission, and conveyance shall have the force and effect of a quitclaim deed from the state. (Act Apr. 22, 1933, c. 407, §4.)


2176-7. Occupants not to be evicted, when.—No person shall be evicted by any public authority from lands forfeited to the state by reason thereof within two years from the time such forfeiture takes place whether the option to repurchase is exercised or not, provided that he was an actual occupant of the premises when so forfeited. (Act Apr. 22, 1933, c. 407, §5.)

2176-8. Application of act.—Provided that this Act shall not apply to the Game Preserve established by the laws of 1929, Chapter 258 [§§5620-1 to 5620-3] or conservation areas established by laws 1931, Chapter 407 [§§6452-1 to 6452-13], or any other conservation area or state forest, which the state Legislature has heretofore established or may hereafter establish on which the state pays a proportionate share of the indebtedness. (Act Apr. 22, 1933, c. 407, §6.)

2176-11. Confession of judgment for delinquent taxes and payment in installments without penalties and interest—offer and waiver by owner—payments to be made—judgment.—Form of.—Delinquent taxes upon any parcel of real estate for 1926 and prior years which, prior to the adoption of this Act have been bid in for and held by the state and not assigned
by it, together with taxes for the year 1935, and prior years upon which judgment has been entered, under the assumption of liens, may be divided into any one item or amount by confession of judgment for the entire amount of all such taxes and costs, excluding penalties and interest, as hereinafter provided: provided that no such taxes upon lands classified as 

of or above an assessed value equal to 40% of the full and true value, shall be divided into any such judgment or payable in the manner provided by this act.

The owner of any such parcel, or any person to whom the right to pay taxes has been given by statute, mortgage, or other agreement, may, on or before November 1, 1938, make and file with the clerk of the district court of the county wherein said parcel is located a writ offer to pay the current taxes each year before they become delinquent, or within 30 days after the entry of final judgment in proceedings to contest such taxes under Laws 1935, Chapter 300 [§§ 2126-1 to 2126-14], and confess judgment for the amount of such delinquent taxes and costs, but excluding penalties and interest, as certified by the county auditor, and shall thereby waive all irregularities in connection with the tax proceedings affecting such parcel and any defense or objection which he may have thereto, and shall thereby waive the requirement of a period of 30 days for the payment of any installment or interest to become due pursuant to the composite judgment to be so entered, and shall tender therewith one-tenth of the amount of such delinquent taxes and costs, and agree therein to pay the balance in nine equal annual installments, with interest at the rate of four per cent per annum payable annually, on the installments remaining unpaid from time to time, on or before the anniversary dates of such judgment, which offer shall be substantially as follows:

"To the clerk of the district court of county, I, owner of the following described parcel of real estate situate in county, Minnesota, to-wit: upon which there are delinquent taxes for the year 1936 and prior years, as follows: (here insert year of delinquency and the total amount of delinquent taxes and costs, exclusive of penalties and interest); do hereby offer to confess judgment in the sum of $., and hereby waive all irregularities in the tax proceedings affecting such taxes and any defense or objection which I may have thereto, and direct judgment to be entered in the amount of the offer, hereby confess judgment in the sum of $., hereby tendered, being one-tenth of the amount of said taxes and costs, I agree to pay the balance of said judgment in nine equal annual installments with interest at the rate of four per cent per annum, payable annually, on the installments remaining unpaid from time to time, said installments and interest to be paid on or before the respective anniversary dates of said judgment and current taxes each year before they become delinquent, or within 30 days after the entry of final judgment in proceedings to contest such taxes under Laws 1935, Chapter 300.

Dated this .

At the time of filing such offer he shall pay any 1936 taxes which, on the first Monday in January, 1937, had not attached to a judgment, and any subsequent delinquent taxes, with accrued interest, penalties, and costs.

Upon the filing of said offer and payment of the sums herein required, the said clerk is hereby authorized to enter judgment in the amount of the offer, and to suspend collection of such rents-interest accruing subsequent to attachment and entry of judgment under attachment proceedings.

Upon entry of said judgment the clerk shall make and file with the county auditor of said county a certified copy of said judgment and shall make and file with the county treasurer a like certified copy therefor, and the county auditor shall cause a certified copy of said judgment to be recorded; and the county auditor shall certify a copy of said judgment to the owner of the parcel in which said taxes are located.

Confession of judgment for delinquent taxes and the payment of certain taxes in installments. Laws 1935, c. 72.

Confession of judgment for delinquent taxes and the payment of certain taxes in installments. Laws 1935, c. 72.

Confession of judgment for taxes for years prior to 1933 where 1933 taxes have been paid in full. Op. Atty. Gen. (412a-10), May 4, 1936.

Confession of judgment for delinquent taxes and the payment of certain taxes in installments. Laws 1935, c. 72.

Confession of judgment for delinquent taxes and the payment of certain taxes in installments. Laws 1935, c. 72.

Confession of judgment for delinquent taxes and the payment of certain taxes in installments. Laws 1935, c. 72.
§2176-12. CH. 11—TAXES

Taxes included in confessed judgment must be paid before deed can be recorded. Op. Atty. Gen. (3735-9(e)), Oct. 27, 1937.


After taxpayer has confessed judgment, current taxes must be paid on deed before deed can be recorded. Op. Atty. Gen. (412a-10), Aug. 4, 1937.


After 1935 taxes have gone to judgment they cannot be re-reinstated if judgment taken on 1934 taxes, and prior years under laws of 1937, c. 486, but must be paid for full amount of filing offer. Op. Atty. Gen. (412a-10), Nov. 10, 1937.

Judgment for 1935 taxes may not be confessed under Laws 1936, c. 486. There are no other prior delinquent taxes. Id.


Where other payments are complete but deed has not been recorded, judgment may not be confessed. Op. Atty. Gen. (412a-10), Mar. 10, 1938.


Commission is authorized to grant applications for reduction or abatement of taxes on parcels of land covered by confession of judgment entered pursuant to Laws 1935, c. 72, ex. ses., c. 72, May 4, 1938.

Judgment may not be confessed after land has been forfeited to state. Op. Atty. Gen. (412a-20), May 12, 1938.


Where attaching rent under §2156 must pay amount collected at once to county treasurer, and owes no duty to owner to confess judgment under §2176-11. Op. Atty. Gen. (412a-38), March 1, 1939.

Confession of judgment under this act is not equivalent to payment of taxes as required by §2111. Op. Atty. Gen. (420c-2), April 7, 1939.

Where landowner confessed judgment for 1934 and 1925 delinquent taxes under laws 1935, 1936, ex. ses., c. 72, and paid annual tenth pursuant to such confession but failed to pay costs as required by record of judgment, default may be reinstated with penalties and interest, and forfeiture proceedings may again be prosecuted. Op. Atty. Gen. (412a-10), April 29, 1939.

Confession of judgment for delinquent taxes under laws 1939, c. 31, but he must pay up in full amount due under judgment and 15 cents each for the entry and full or partial release of judgment which shall be paid for by the party or parties making such confession of judgment. (Jan. 24, 1939, Ex. Ses., c. 72, §5.)


Fee of §56 is for two certified copies, and not for each certified copy. Id.

§2176-15. Application and effect of Laws 1935, c. 278—Laws 1935. Chapter 278 [§§2164-5 to 2164-18], shall remain in full force and effect save and except wherein an applicant takes advantage of the provisions of this act. In the event of default occurring after the payment of taxes on a parcel of land, where judgment entered pursuant hereunder, the penalties and interest waived under the terms of this section [§2176-12], hereof shall be reinstated and the lands described in such confession of judgment shall thereupon be subject to foreclosure according to Laws 1935, Chapter 275. (Jan. 24, 1935, Ex. Ses., c. 72, §5.)


Where notices of expiration of redemption of land bid in for delinquent taxes for years 1935, 1927, 1926 have not been published and time for redemption will expire on October 1, 1935, judgment cannot be entered for 1926 unless notice of expiration of redemption and 15 cents each for the entry and full or partial release of judgment which shall be paid for by the party or parties making such confession of judgment. Op. Atty. Gen. (412a-10), Feb. 24, 1936.

Taxpayer who confesses judgment and thereafter defaults in payment of taxes may not receive judgment and 15 cents each for the entry and full or partial release of judgment which shall be paid for by the party or parties making such confession of judgment. Id.


§2176-16. Separability of provisions.—If any section or part of this act shall be declared to be unconstitutional or invalid for any reason, the remainder of this act shall not be affected thereby. (Jan. 24, 1936, Ex. Ses., c. 72, §6.)

§2176-16a. Confession of judgment for delinquent taxes.—Delinquent taxes upon any parcel of real estate for 1936 and prior years, which have been bid in for and are held by the state and not assigned by it to the holder with the tax for the year 1937, which shall have become attached to a prior judgment, or delinquent taxes upon any parcel of real estate upon which a prior judgment for taxes has heretofore been declared void by a court of competent jurisdiction and upon which a new judgment for delinquent taxes shall have been entered in 1939, and which shall have been bid in for and shall be held by the state and not assigned by it, may be composed into one item or amount by confession of judgment prior to Novem-
enber 1, 1939, for the entire amount of all such taxes and costs, excluding penalties and interest, and there-
after, until November 1, 1940, for the entire amount of all such taxes and costs, excluding the
penalties and interest, but plus a penalty of ten (10) per cent of the amount of such taxes as originally
assessed, as hereinafter provided: provided that no such taxes upon lands classified for assessment at an
amount equal to one-tenth of the amount of such taxes, assessed value exceeding 40 per cent of the 
full and true value, shall be composed into any such judg-
ment or be payable in the manner provided by this
act.

The owner of any such parcel, or any person to
whom the right to pay taxes has been given by stat-
ute, mortgage or other agreement, may make and file with the county auditor of the county wherein
said parcel is located a written offer to pay the cur-
tent taxes each year before they become delinquent,
or within 30 days after the entry of final judgment
in proceedings to contest such taxes under Laws 1935,
Chapter 300, as amended by Laws 1937, Chapter 486
(483), Section 1 (§§2126-1 to 2126-14), and agree to
confess judgment for the amount of such differ-
cent taxes, costs and penalty, if any, as hereinbefore
provided, as determined by the county auditor, and
shall thereby waive all irregularities in connection with the tax proceedings affecting such parcel and any
defense or objection which he may have thereto, and
shall thereby waive the requirements of any notice
of default in the payment of any installment or in-
terest to become due pursuant to the composite judg-
ment to be so entered, and shall tender therewith the
amount of the amount of such delinquent taxes,
costs, and penalty, if any, and agree therein to pay
the balance in nine equal annual installments, with
interest at the rate of five per cent per annum, pay-
able annually, on the installments remaining unpaid
from time to time, on or before the anniversary date
of such judgment, which offer shall be substantially as
follows:

"To the clerk of the district court of .......... county, Minnesota, to-wit:

upon which there are delinquent taxes for the year
and prior years, as follows: (here insert year of
delinquency and the total amount of delinquent
taxes, costs, and penalty, if any,) do hereby offer
to confess judgment in the sum of .......... amount
of delinquent taxes, costs, and penalty, if any, in the tax
proceedings affecting such taxes and any defense or ob-
jections which I may have thereto, and direct judg-
ment to be entered for the amount hereby confessed,
less the sum of .......... hereby tendering payment of
one-tenth of the amount of such delinquent taxes,
costs, and penalty, if any. I agree to pay the balance of said judgment in nine equal annual installments, with
interest at the rate of five per cent per annum, pay-
able annually, on the installments remaining unpaid
from time to time, said installments and interest to be
paid on or before the respective anniversary dates of
said judgment and current taxes each year before
they become delinquent, or within 30 days after the
entry of judgment in proceedings to contest such taxes under Laws 1935, Chapter 300, as amend-
ed by Laws 1937, Chapter 486, Section 1.

Dated this .......... 19 ....

At the time of such offer he shall pay any delin-
quent taxes which have not attached to a judgment
for prior years, with accrued interest, penalties and 
costs.

Upon the receipt of said offer and payment of the
sum herein required, the said and/or he shall note
the same upon his records and shall forthwith file said
offer and confession of judgment with the clerk of
the district court of the county who is hereby directed
to enter judgment in accordance with said offer
and confession of judgment. If such judgment is
not to be included in judgment, but cost of service of
notice of expiration on 1935 taxes is to be included.

Certificate holder of state trust fund land has right
to confess judgment. If certificate holder of state
land certificate has been issued for default or equity of
the party or parties therein and shall be
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judgment in rem. (Act Mar. 25, 1939, c. 91, §1.)
2176-16f. Only one confession to be made.—Not more than one confession of judgment and agreement to pay taxes for said year or years shall be made for any parcel of land, affecting the same taxes or any portion thereof may be made by or on behalf of any owner of any particular right, title, interest in, or lien upon, any given parcel of land, his heirs, representatives or assigns. (Act Mar. 28, 1939, c. 91, §7.)

Where landowner confessed judgment for 1934 and 1935 delinquent taxes under Laws 1935, c. 85, Ex. Sess., c. 72, §6, and for taxes due and payable in any succeeding year, the county auditor may require such landowner to make any further confessions of judgment. (Feb. 9, 1937, c. 20, §2.)

2176-16g. Provisions severable.—If any section or part of this act shall be declared to be unconstitutional or invalid for any reason, the remainder of this act shall not be affected thereby. (Act Mar. 28, 1939, c. 91, §7.)

2176-17. Additional clerical assistance for county auditor.—The county board of each county having a delinquency at the end of the preceding calendar year in the payment of current real estate taxes due and payable during the preceding calendar year to the county in full amount due shall be authorized to appropriate a sum not in excess of $1,500, for additional clerical assistance in the office of the county auditor and for other expenses incident to the administration of an act relating to the confession of judgment for delinquent taxes and providing for the payment of certain taxes in installments passed by the extra session of the legislature in January, 1936. Such appropriation may be made notwithstanding that the effect thereof may be to exceed the expenditure limitations imposed on such county by other statutes. (Jan. 27, 1936, Ex. Sess., c. 102.)

2176-18. Redemption from tax sales where property is homestead.—In any case in which real property consisting of a platted lot or platted lots with a dwelling house thereon, which is a homestead and located in a village or city, has become forfeited to the state under the provisions of any existing law, declaring the forfeiture of lands to the state for delinquent taxes, when such forfeiture has resulted solely because of delinquent taxes on such property for the year 1928, the taxes thereon for prior years and all subsequent taxes including general taxes for the year 1928 and penalties accrued thereon, or the owner of record of such property at the time of forfeiture, may redeem such property from such sale upon payment, within 60 days from the passage of this act, of the amount of the tax thereon for the year 1928 and penalties accrued thereon as stated in the notice of expiration of redemption from such tax sale, together with interest upon that amount from the date of such notice at the rate of 10% per annum. (Feb. 9, 1937, c. 20, §1.)

2176-19. Same.—Auditor to issue certificate of redemption.—When redemption is made by an owner pursuant to the provisions of section one of this act, the county auditor under his hand and seal of office shall deliver to such redeeming owner a certificate of such redemption, and shall record the same in the office of the register of deeds in the county in which such redeemed property is situated. (Feb. 9, 1937, c. 20, §2.)

2176-21. Repurchase of lands to which state has acquired absolute title.—The former owner of any land which has been sold for the taxes for either of the years 1928 or 1929, and to which the state shall have acquired absolute title under such tax sale, may re-purchase such land from the state, if still held by it, upon the following conditions:

(a) He shall have been the owner of said land at the time of the forfeiture thereof to the state; (b) He shall have paid taxes for said year or years shall have been due to mistake or oversight; (c) Prior to such forfeiture he shall have paid taxes against said land for at least two of the years subsequent to 1929; (d) He shall make application for such repurchase to the county auditor of the county in which the land is situated on or before December 31, 1937, supported by affidavit as to the existence of the facts above set forth, and by receipt of certificate of the County Auditor or County Treasurer showing the payment of taxes for the subsequent years hereinabove referred to.

(c) At the time of filing such application he shall pay the County Treasurer of said county the full amount of the taxes accrued against the land to the date of such forfeiture with interest, penalties and costs which have attached thereto. (Apr. 26, 1937, c. 485, §1.)

County may proceed under Laws 1935, c. 385, to sell lands, and it is not necessary to delay such sales until after December 31, 1937, though former owner has right to repurchase any time before sale is made. (Op. Atty. Gen. 412a-9, April 29, 1939.)

2176-22. Same—Application to Minnesota Tax Commission.—Upon such application being filed, the County Auditor shall transmit the same with the accompanying papers and with the County Treasurer's receipt showing the payment of the amount required to be paid hereunder, to the Minnesota Tax Commission. (Apr. 26, 1937, c. 485, §2.)

2176-23. Same—Minnesota Tax Commission to make conveyance.—Upon approval of the application as complying with the conditions hereof by the Minnesota Tax Commission, the Chairman and Secretary thereof shall execute and deliver a conveyance from the State of Minnesota to such owner in form approved by the Attorney General, which conveyance shall have the force and effect of a quitclaim deed from the state. (Apr. 26, 1937, c. 485, §3.)

2176-24. Same—Grounds for repurchase.—Such former owner may also re-purchase such land from the state in the manner provided herein, if instead of establishing the fact that the land was acquired by the state under judgment reinstated by his default prior to forfeiture, he shall establish by affidavit accompanying his application that

(a) Through error of the assessing officers improvements on said tract were wrongly assessed as being on an adjoining tract or tracts also owned by him, which adjoining tract or tracts have not been forfeited to the state.

(b) That his failure to pay the taxes for said years 1928 and 1929 upon such tract was due to his being misled by the error of the assessing officers, as set forth in Sub-section (a) of this section, and that had it not been for such error he would have paid the taxes for said years upon such tract.

(c) He shall accompany such affidavit with a certificate of the County Auditor to the fact that such error had been made by the assessing officers.

(d) In cases under this section it shall not be necessary that the application be accompanied by certificate or receipt against said property as of the last day of the period of redemption plus the 1936 taxes and current assessments, if instead of establishing the conditions set forth in Section 1, Sub-section
affidavit accompanying his application that special assessments payable in 1937 shall be paid in full at time of forfeiture, less interest and penalties, and not by this act.

(b) He was not in fact personally served with a notice of the expiration of the period of redemption.

(c) The sheriff's return does not show service upon him of the notice of the expiration of redemption.

(d) In cases under this section, it shall not be necessary to have the application be accompanied by certificate or recipt showing the payment of taxes for any subsequent year.

(e) Notice of the expiration of redemption issued and served pursuant to Session Laws 1936, c. 88, §§2139-15 to 2139-27, or other laws, shall be paid at the time and manner in which they would have been paid if land had not been forfeited to state. Op. Atty. Gen. (423a-23), Sept. 11, 1937.

(f) This act is not a special assessment statute, but a repurchase statute, and is not unconstitutional for cancellation of liens, because ditch liens were cancelled by §1139-21, and by this act.

2176-26. Repurchase after forfeiture—price—special assessments reinstated—interest.—The owner at the time of forfeiture of any parcel of land claimed by the state to have been forfeited to the state for the nonpayment of taxes for one or more of the years 1927, 1928, 1929, and 1930, or his heirs or representatives, may repurchase the same prior to March 1, 1938, for three-fifths of the aggregate of all taxes and assessments accrued against said parcel, including interest and penalties, but including costs, unless prior to the passage of this act such parcel of land shall have been sold as provided by law. Upon such repurchase, any special assessments payable in 1937, and thereafter, on said parcel therefore canceled under Laws 1935, Chapter 566 (§§2139-15 to 2139-27), or other law, shall be reinstated, and the auditor shall forthwith levy and assess against said parcel any special assessment which would have been levied and assessed payable in 1937, and thereafter, except for such forfeiture, and any such special assessment so reinstated or levied shall be paid at the time and manner in which said special assessment would have been payable except for the forfeiture, and the special assessments payable in 1937 shall be paid in full, without penalty or interest, at the time of said repurchase. An owner so repurchasing a parcel of land shall pay interest upon the sum for which the parcel became forfeited, at the rate of four percent per annum from the date of forfeiture. (July 23, 1937, Sp. Sess., c. 88, §1.)

Sale of lands repurchased by heirs. Laws 1939, c. 84. Repurchase of forfeited homestead lands by owner or heirs until November 1, 1939. Laws 1929, c. 290. Act is constitutional. State v. Hubbard, 203 Minn. 111, 280 NW.

Where service of notice to terminate right of redemption was invalid, mandamus was proper remedy to landowner to secure from county auditor official certificate of ownership, which was recorded without payment of remaining installments. See Ditch Liens statute (Ex. Sess. Laws 1926, c. 57, as amended) and repurchase statute (Ex. Sess. Laws 1927, c. 81) did not deny to taxpayer to part of delinquent taxpayer to compel with notice of expiration of redemption issued and served pursuant to Laws 1927, c. 81, inasmuch as taxpayer made no effort to bring himself within this act. Ex. Sess. Laws 1922, c. 30, §§1 to 5. (July 23, 1937, Sp. Sess., c. 88, §1.)

Confession of judgment statute (Ex. Sess. Laws 1926, c. 57, as amended) and repurchase statute (Ex. Sess. Laws 1927, c. 81) did not deny to taxpayer to compel with notice of expiration of redemption issued and served pursuant to Laws 1927, c. 81, inasmuch as taxpayer made no effort to bring himself within this act. Ex. Sess. Laws 1922, c. 30, §§1 to 5. (July 23, 1937, Sp. Sess., c. 88, §1.)

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No right to repurchase by former owner of trust land unless sold by trustee within period of time prescribed by law. Ex. Sess. 1981, c. 84, §1. (July 23, 1937, Sp. Sess., c. 88, §1.)


Where service of notice to terminate right of redemption was invalid, mandamus was proper remedy to landowner to secure from county auditor official certificate of ownership, which was recorded without payment of remaining installments. See Ditch Liens statute (Ex. Sess. Laws 1926, c. 57, as amended) and repurchase statute (Ex. Sess. Laws 1927, c. 81) did not deny to taxpayer to part of delinquent taxpayer to compel with notice of expiration of redemption issued and served pursuant to Laws 1927, c. 81, inasmuch as taxpayer made no effort to bring himself within this act. Ex. Sess. Laws 1922, c. 30, §§1 to 5. (July 23, 1937, Sp. Sess., c. 88, §1.)

Only owner at time of forfeiture is permitted to repurchase, and shall pay the balance in ten equal annual installments, with the privilege of paying the unpaid balance in full at any time, with interest at the rate of four percent per annum on the balance remaining unpaid each year, both principal and interest to become due and payable on December 31, of each year thereafter until fully paid. He shall pay the current taxes, each year thereafter, before the same shall become delinquent up to the time when he shall pay the repurchase price in full. (July 23, 1937, Sp. Ses., c. 88, §4.)

Where lands are forfeited to the state and owner repurchases under Laws 1937, c. 88, Ex. Ses., and county buys land for a public purpose, unpaid installments are not due and payable, but state is to be reimbursed by county from proceeds of sale. Op. Atty. Gen. (412a-23), Aug. 8, 1938.

Where registered land forfeits to state certificate referred to in Laws 1935, c. 273, §2, should be entered by registrar of titles or filed as reference to former owner purchased land under Laws 1937, Ex. Ses., c. 88. It is not necessary that a new certificate be issued or that provisions of §§8813 or 8316 be complied with. Op. Atty. Gen. (412a-23), Aug. 8, 1938.

Tax commission can only act on facts that are before it and the only information it acquires is certification of county auditor pursuant to this section, as affecting right of heirs. Op. Atty. Gen. (412a-23), Sept. 19, 1938.


Proceeds from sales should not be credited to forfeiture of any land claimed to be forfeited to the state for taxes for 1929 may secure a reconveyance of such land from the state if still held by it, upon the following conditions:

(a) That such land was acquired by said corporation by deed executed and delivered in the year 1929, after May 15th in said year, and that ever since said land shall have been the property of and in possession of said corporation, subject to said claim of forfeiture, and shall have been used by said corporation for religious or charitable purposes; that said land has been expressly exempted from taxation by reason of such use for 1930 and subsequent years, and shall not be subject to pay taxes for 1939, or any part thereof, or to apply for exemption therefrom, was due to mistake, inadvertence, or oversight.

(b) Such corporation shall make application for reconveyance to the Iraucn in the name of the county in which the same is situated on or before December 31, 1939, supported by affidavit as to the
existence of the conditions hereinafore set forth. (Act Apr. 15, 1939, c. 276, §1.)

2176-39. Application to be sent to Tax Commissioner.—Upon the filing of such application, the county auditor shall transmit the same, with the accompanying papers, and with his certificate as to the exemption of such land from taxation and any other pertinent facts, to the Minnesota Tax Commission or its successor in authority. (Act Apr. 15, 1939, c. 276, §2.)

2176-37. Commission to execute deed.—Upon approval of the application as complying with the conditions hereof, the commission or its successor in authority shall execute and deliver a conveyance of such land from the State of Minnesota to such corporation, in form approved by the attorney general, who aggregately shall have the land or any part thereof, a quitclaim deed from the state, free and clear from the lien of any taxes for 1929 and other liens, if any, wherever such forfeiture was based. (Act Apr. 15, 1939, c. 276, §5.)

2176-38. Owner may repurchase homestead lands after forfeiture.—The owner at the time of forfeiture or his heirs or representatives, may repurchase any parcel of land claimed by the state to be forfeited to the state for taxes, which was occupied by such owner at the time of forfeiture and which continues to be occupied by such owner or his heirs or representatives, as a homestead or as land for a homestead, and the meaning of Mason's Minnesota Statutes of 1927, Chapter 66, when the application to repurchase is made, if such repurchase is made prior to November 1, 1939, unless prior to the time repurchase is made such parcel shall have been sold by the state as provided by law, for a sum equal to the aggregate of all delinquent taxes and assessments computed as provided by section 3 of this act, without penalties or costs, and four per cent from the time the taxes or assessments were or would have been delinquent. (Act Apr. 15, 1939, c. 283, §1.)

Sale to highest bidder under Laws 1929, c. 386, cannot be canceled because of some irregularity at sale or either of the bids, if it was uncontested and no other person appeared at auditor's office and was told that there was no law permitting him to repurchase, auditor being ignorant of passage of Laws 1929, c. 282. Op. Att'y Gen. (412a-23), May 28, 1939.

This act does not prevent procedure under Laws 1935, c. 386, and right to repurchase exists only until such time, when land may have been sold by state. Op. Att'y Gen. (412a-23), August 10, 1939.

2176-39. Amount required to be paid.—Application to county board.—Hearing and determination.—The owner at the time of forfeiture or his heirs or representatives, or any person to whom the right to pay taxes was given by statute, mortgage or other agreement, may repurchase any parcel of land claimed by the state to be forfeited to the state for taxes at any time prior to November 1, 1939, for a sum equal to the aggregate of all delinquent taxes and assessments computed as provided by Section 3 of this act, without penalties or costs, with interest at four per cent from the time the taxes or assessments were or would have been delinquent. (Act Apr. 15, 1939, c. 283, §3.)

(a) The applicant for the privilege to repurchase shall present a verified petition to the county board asking the approval of such board for such repurchase.

(b) The applicant in said petition shall allege that he was the owner at the time of forfeiture, or that he is the heir or representative of such owner, or other person to whom the right to pay taxes was given by statute, mortgage or other agreement, that the failure to pay taxes which caused the forfeiture was due to oversight or error on his part, or the part of someone acting for him, or by his failure or the failure of someone acting for him, to understand and comprehend the effect of the law, or by the oversight or error of some official charged with the duty of administering the law.

(c) Upon the filing of such petition the county board shall set a date for hearing and at such hearing may require such evidence as it deems necessary to enable it to ascertain the truth of the allegations in the petition.

The county board shall set a date for hearing and at such hearing, if after reviewing the evidence in support of the petition, and any other evidence it may receive, the board is satisfied that the allegations and the petition are true, that the failure to pay taxes was not in wilful disregard of law, and that it would be unfair and inequitable to the applicant to be permitted to repurchase the property, it may adopt a resolution briefly reciting the relevant facts, authorizing the sale of such property to such former owner for the amount of all delinquent taxes including special assessments, without penalties and costs, with interest at four per cent, computed as provided in section 3 of this act. It shall also determine in said resolution whether such sale shall be for cash or on terms. Upon the adoption of such resolution the former owner may within 30 days thereafter give a notice to the state, that on or before the 15th November, 1939, repurchase such land in the manner provided by this section. (Act Apr. 15, 1939, c. 283, §2.)

2176-40. Special assessments restored.—Addition to purchase price of special assessments.—General taxes subsequent to forfeiture; "Delinquent taxes".—Upon repurchase of land pursuant to section 1 of this act any special assessments heretofore cancelled under Laws of 1935, Chapter 386 [§§2139-15, 2139-16], or any other law, shall be reinstated by the county auditor and any such special assessments so reinstated which are payable in the future shall be paid at the time and in the manner said special assessments would have been payable except for forfeiture, except that special assessments payable in 1939 shall be paid in full at the time of repurchase. The sum of such special assessments that would except for forfeiture have been levied and assessed against such land between the date of forfeiture and January 1, 1939, and payable before such date, shall be computed by the county auditor and included in the purchase price hereunder. When an application to repurchase a parcel of land under this act is made the county auditor shall compute and determine as in the case of regular taxes, upon the date of application to repurchase is made such parcel in effect at the time of forfeiture, the amount of all delinquent taxes including special assessments, without penalties or costs, with interest at four per cent, shall be included in the purchase price hereunder.

When an application to repurchase a parcel of land under this act is made the county auditor shall compute and determine as in the case of regular taxes, upon the date of application to repurchase is made such parcel in effect at the time of forfeiture, the amount of such parcel in effect at the time of forfeiture, the amount of taxes that would have been levied and assessed against such parcel between the date of forfeiture and the date of repurchase, and the amount of special assessments that would have been levied and assessed against such parcel between the date of forfeiture and the date of repurchase, computed by the county auditor in the manner provided by this section. (Act Apr. 15, 1939, c. 283, §3.)


2176-41. Terms of purchase.—An owner repurchasing under section 1 of this act, or a person authorized by resolution adopted by the county board pursuant to section 2 of this act to repurchase on terms, shall pay at the time of repurchase not less than one-fifth of the amount of all delinquent taxes on the parcel and the balance in ten equal annual installments, with the privilege of paying the unpaid balance in full at any time, with
interest at the rate of four per cent on the balance remaining unpaid each year, the first installment of principal and interest to become due and payable on December 31 following the year in which the repurchase was made, the remaining installments to become due and payable on December 31 each year thereafter until fully paid. He shall pay the current taxes each year thereafter before the same shall become delinquent up to the time when he shall pay the repurchase price in full. (Act Apr. 15, 1939, c. 283, §4.)

2170-42. Lands to be subject to lease.—All parcels of land sold under the provisions of sections 1, 2, and 3 of this act shall be subject to lease under the provisions of chapter 386, Laws of 1935, as amended (§§2139-15 to 2139-17), until repurchased, and any sale of such land shall be subject to the provisions of any such existing lease. (Act Apr. 15, 1939, c. 283, §5.)

2170-43. Payments to be made to County Treasurer.—All payments under this act shall be made to the county treasurer of the county in which the parcel of land upon which such payments are made is located. Such payments shall be deposited by the county treasurer to the credit of the tax sale fund and shall be distributed in the manner in which other moneys in said fund are distributed. (Act Apr. 15, 1939, c. 283, §6.)

2170-44. Issuer to issue receipt.—The purchaser shall receive from the county auditor at the time of repurchase a receipt, in such form as may be prescribed by the attorney general. When the purchase price of a parcel of land shall be paid in full, the following facts shall be certified by the county auditor to the Minnesota tax commission: the description of the land, the date of sale, the name of the purchaser or his assignee, and the date when the final installment of the purchase price was paid. Upon payment in full of the purchase price, the purchaser or his assignee shall receive a quitclaim deed from the state, to be executed by the tax commission. Failure to pay any of the deferred installments, with interest and current taxes, on any parcel before they become delinquent, shall constitute default and upon such default the title and interest of the purchaser or his heirs, representatives or assigns in such parcel shall be determined by the county auditor in accordance with the provisions of chapter 386, Laws of 1935, as amended (§§2139-15 to 2139-27), and sales made under this section may be made pursuant to the same terms and subject to the same conditions as sales are made under said Chapter 386, the applicable provisions of which shall apply to sales made pursuant to this section. (Act Apr. 15, 1939, c. 283, §7.)

2170-45. Application of act.—This act shall not apply to lands within the game preserve established by Laws of 1929, Chapter 258 (§§6620-1 to 6620-13), or conservation areas established by Laws of 1931, Chapter 407 (§§6452-1 to 6452-13), or by Laws of 1933, Chapter 402 (§§4031-75 to 4031-88), which included in the sum for which said lands were forfeited any ditch assessments, or to any lands classified as conservation lands under the authority of any existing law. (Act Apr. 15, 1939, c. 283, §8.)

2170-46. Timber not to be removed until paid in full.—When any forfeited lands are repurchased, as provided for in this act, no timber or timber products shall be cut and removed until the purchase price has been paid in full. (Act Apr. 15, 1939, c. 283, §9.)

2170-47. Owner may repurchase homestead or other land at appraised value.—Appraisal.—Subdivision 1. The county auditor of any county shall permit the owner at the time of forfeiture, or his heirs or representatives, to repurchase in the manner provided by this section any parcel of land owned by such owner at the time of forfeiture as a homestead within the meaning of Chapter 66, of Mason's Minnesota Statutes of 1927, and still occupied by him or his heirs as such a homestead, for the appraised value of such parcel of land at any time before it is sold by the state to a purchaser under Laws of 1935, Chapter 286, as amended (§§2139-15 to 2139-27), if such person or his heirs or representative files a written request to purchase such property with the county auditor of the county where such land is located on or before November 1, 1939, provided that the written request is filed or within 30 days after such written request is filed or within 30 days after such appraisal is completed and filed with the auditor, whichever date is later, and in any event not later than July 1, 1940.

Subdivision 2. The county auditor of any county shall, if a resolution authorizing such repurchase has been adopted by the county board, permit the former owner of any parcel of land claimed by the state to be forfeited to the state for taxes or any person to whom the right to pay taxes on such parcel was given at the time of forfeiture by state, mortgage, or other agreement to purchase such parcel at the appraised value at any time before it is sold by the state to a purchaser under Laws of 1935, Chapter 286, as amended (§§2139-15 to 2139-27), if such owner or other person files a written request to purchase such property at the appraised value with the county auditor of the county where such land is located on or before November 1, 1939, provided that such sales made hereunder must be made within 30 days after such written request is filed or within 30 days after such appraisal is completed and filed with the state, and such sale and the date when the final installment of the purchase price was paid. (Act Apr. 15, 1939, c. 283, §9.)

2170-48. Provisions severable.—If any section or part of this act shall be declared to be unconstitutional or invalid for any reason, such portion shall not be affected thereby. (Act Apr. 15, 1939, c. 283, §11.)

2170-51. Sale of lands by heirs.—That in all repurchases by an heir or heirs, or the representative of the deceased owner, of lands forfeited to the state for the nonpayment of taxes for one or more of the years 1928, 1929, and 1930, pursuant to the provisions of Chapter 88 of the Laws of Minnesota for 1937, Extra Session, approved July 23, 1937, such repurchasing heir or heirs, or the repurchasing representative, as the case may be, may cause such repurchased land to be sold under and in accordance with the provisions of law relating to the sale of the real estate of deceased owners in the probate court, at any time after the appointment and qualification of a representative of the estate of such deceased owner. (Act Mar. 25, 1939, c. 84, §1.)

2170-52. Purchaser may complete contract with state.—That upon receiving the deed from the representative of the estate, after such sale shall have been made, or by the probate court, purchaser shall succeed to all of the rights of the repurchaser from the state under and by virtue of said Chapter 88, and may then, upon complete such repurchase by paying the remaining unpaid installments thereon, if any, and upon fully complying in all respects with the terms of such initial repurchase, and furnishing the County Auditor for transmission to the Tax Commission the original or a certified copy of his repurchase from the representative, he shall be entitled to title in his own right, provided for by said Chapter 88. (Act Mar. 25, 1939, c. 84, §2.)
2177. On sale or assignment, when allowed. 
Act June 7, 1937, Sp. Ses., c. 1, validates payment of 1937 taxes paid by legal representative of deceased, with interest penalty, and authorizes refundment of penalties paid on such date.

Refundment of taxes erroneously paid on land forfeited under Laws 1935, c. 278, Laws 1939, c. 216. 
State v. Erickson, 151M63, 215NW293; note under §2132-3. 
Assessments and interest held voluntarily paid, notwithstanding protest, 171M350, 213NW16. 
Interest and installments of assessments voluntarily paid could not be recovered. 171M350, 213NW16. 

This section applies the exclusive cases in which a purchaser at a tax sale may have a refundment. 174M431, 213NW16. 

Rule of caveat emptor applies to purchaser at tax sale. 174M431, 213NW16. 

Said purchaser is entitled to note answer of owner of real property alleging excessive overvaluation, and judgment of the court thereof upon said answer. 174M431, 213NW16. 
The court fixed assessment at reduced amount previously determined. §§2177, 2179 and 2185 were properly applied. 
County of Hennepin v. L, 1882/3, 246NW357. See Dun. Dig. 546. 

Payment under protest of taxes attempted to be assessed and levied against Chippewa Indian allotment holder of an invalid certificate for taxes paid by him. 
Trask v. R., 193M213, 218NW54; note under §2128. 

Where a discount sale is made under §2138 as amended by Laws 1939, c. 231, §1, and presented to the Minnesota Tax Commission within two years.—No such refundment shall be granted unless an application therefor shall be duly approved and presented to the Minnesota Tax Commission within two years from the date of such tax certificate or state assignment certificate. (Apr. 24, 1937, c. 443, §2.) 

Sec. 4 of Act Apr. 24, 1937, cited, provides that the Act shall take effect from its passage. 

ACTIONS INVOLVING TAX TITLES 

2185. Tax judgment or sale set aside.—Icdn. 174M431, 219NW545; note under §§2138, 2129, 2147, 2177. 
County of Hennepin v. H, 1882/3, 246NW357; note under §2184. 
In a proceeding under §2185, plaintiff's tax title being found defective, a lien was adjudged against premises and judgment entered, execution issued, and sale made to plaintiff pursuant thereto, held, no confirmation of sale was necessary under §§2185, 2138, and an unlawful Baxter action was proper action to recover possession during existence of defendant's life estate, which was subject to specific lien of tax judgment. 
Trask v. R, 193M213, 218NW54; note under §2138. 

2186. Who may purchase. 
Trask v. R, 193M213, 218NW54; note under §2185. 

2188. Action to quiet title. 
Trask v. R, 193M213, 218NW54; note under §2185. 
Mason's Minn. Stat., §2188, providing that 12 per cent interest shall be allowed on taxes paid by the holder of an invalid certificate for taxes paid by him, amended by Laws 1939, c. 121, §3 (§2165-1), Pratru v. S, 205M461, 218NW809. See Dun. Dig. 9351. 

1900-1. Action to try title.—County auditor's certificate to be prima facie evidence.—The county auditor's certificate of forfeiture filed as provided by the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 2164-12, subdivision (f), and acts amendatory thereof or supplementary thereto, or by any other law hereafter enacted providing for the filing and recording of such a certificate or a certified copy of such certificate or of the record thereof, shall, for all purposes, be prima facie evidence that all requirements of the law respecting the taxation and forfeiture of the lands thereof, were complied with, and that at the date of the certificate absolute title to such lands had vested in the state by reason of forfeiture of delinquent taxes as set forth in the certificate. 
(Act Apr. 29, 1938, c. 841, §1.) 

1900-2. Same.—Persons entitled to sue.—Venue—County officers.—Sec. 1900-1 provides that persons claiming adversely to the state or its successor in interest any right, title, or interest in or lien upon any land claimed to have been forfeited to the state for taxes may maintain an action against the state or its successor in interest for the purpose of determining the title to such land and the adverse claims and the
rights of the parties, respectively, therein. Such action shall be brought in the district court of the county in which the land lies. The complaint shall be served upon the county auditor, also upon the county attorney, who shall defend the action. In the case of such lands otherwise held by the state, the summons, together with a copy of the complaint, shall be served upon the attorney general, who shall defend the action. (Act Apr. 20, 1939, c. 341, §2.)

2190-3. Same—Limitations—Persons under disability.—Except as otherwise herein provided, no cause of action or defense shall be asserted or maintained upon any claim adverse to the state or its successor in interest respecting any lands claimed to have been forfeited to the state for delinquent taxes may be quieted and all adverse claims thereto and the rights of all parties therein, respectively, may be determined, and, in the case of registered lands, the issuance of new certificates of title thereto may be obtained, by action brought by the state or its successor in interest as herein provided; provided, that before any such action shall be commenced the county auditor's certificate of forfeiture, if filed as provided by the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 2164-12, Subdivision (f), and acts amendatory thereof or supplementary thereto, or by any other law hereafter enacted providing for the filing and recording of such a certificate, provided, that if such certificate of forfeiture was filed before the passage of this act, such cause of action or defense may be asserted in an action commenced within one year after the filing of the county auditor's certificate of forfeiture as provided by the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 2164-12, Subdivision (f), and acts amendatory thereof or supplementary thereto, or by any other law hereafter enacted providing for the filing and recording of such a certificate. (Act Apr. 20, 1939, c. 341, §6.)

2190-4. Same—Claimant to deposit taxes in court—Disposition according to decree.—In any action respecting lands claimed to have been forfeited to the state for taxes, no cause of action or defense asserted by any party adversely to the state or its successor in interest, claiming adversely to the state or its successor in interest, in which the running of the period of limitations hereunder shall be suspended as to such owner or his successor in interest during the time of such possession, but no longer. (Act Apr. 20, 1939, c. 341, §3.)

2190-5. Same—State may bring action to quiet title—Filing certificate of forfeiture.—The title of the state, or its successor in interest, based in whole or in part upon any ground alleged by the state or its successor in interest, if any, as their interests may appear, a copy of the complaint, shall be served upon the county auditor, together with a copy of the complaint, shall be served upon the county auditor, also upon the county attorney, who shall defend the action. In the case of such lands otherwise held by the state, the summons, together with a copy of the complaint, shall be served upon the attorney general, who shall defend the action. (Act Apr. 20, 1939, c. 341, §4.)

2190-6. Same—County attorney or attorney general to bring action.—Actions respecting lands held otherwise by the state in taxes, or any part or parts thereof. Any person who has succeeded to the interest of the state under such claim of forfeiture may include in one action all of the land in any county wherein he has acquired such interest, or any part or parts thereof. (Act Apr. 20, 1939, c. 341, §7.)

2190-7. Same—Venue—Lands included in suit.—Every such action shall be brought in the district court of the county in which the lands lie. Expenses of such actions shall be paid from the forfeited tax sale fund and charged against the shares of the taxing districts or agencies in which the lands lie, or from the general revenue fund, as the county board may direct. Actions respecting lands held otherwise by the state shall be brought by the attorney general, and the expenses thereof shall be paid from such funds as may be appropriated and available therefor. (Act Apr. 20, 1939, c. 341, §6.)

Section is not mandatory but permissive so far as referring to commencement of actions on behalf of county, being passed to provide procedure whereby county may proceed to quiet title to tax forfeited lands in order that they may become more saleable. Op. Att'y Gen. (412A-24), July 7, 1939.

2190-8. Same—Contents of complaint.—The complaint shall set forth a description of the lands, shall alleges that the state, or its successor in interest, as the case may be, is the absolute owner thereof in fee simple as a result of absolute forfeiture thereof to the state for delinquent taxes, and shall pray that the plaintiff's title and all adverse claims to such lands and the rights of all parties therein, respectively, be determined, and, in the case of registered lands, the complaint shall state that the same are registered and shall pray that a new certificate or certificates of title be issued to the person or persons entitled thereunto. The complaint shall contain a statement of the facts or provisions pertinent to the issues. In describing the lands, two or more adjacent parcels may be consolidated in a single description, if deemed expedient. (Act Apr. 20, 1939, c. 341, §8.)
2190-9. Same—Defendants—Unknown claimants.—The owners of such lands at the time of forfeiture, all persons in actual possession of such lands, claiming adversely to the plaintiff, and all other persons claiming an interest in or lien thereon adverse to the plaintiff, or, so far as shown of record or known to the attorney for the plaintiff, shall be made defendants in the action; provided, that failure to join any person as a defendant shall not impair the effect of the action as to those joined. It shall not be necessary to specify in which parcels of land the defendants respectively are interested. The plaintiff may also add to the names of the defendants in the summons, complaint, and other papers in the action the following persons or parties unknown claiming any right, title, estate, lien, or interest in the real estate described in the complaint hereinafter referred to, and all such persons and parties shall thereupon be deemed to be joined as defendants, and, upon being served as herein provided, shall be bound and concluded by the judgment. (Act Apr. 20, 1939, c. 341, §9.)

2190-10. Same—Filing of complaint—Form and contents of summons.—The complaint shall be filed in the office of the clerk of the district court. The summons shall be issued by the attorney for the plaintiff, and shall be in substantially the same form as in other civil actions relating to determination of titles, except that it shall require each defendant to file with the clerk, within 30 days before the time allowed for answering, instead of serving the same upon the attorney for the plaintiff, and shall contain, in addition to other provisions required by law, the following:

"And you are hereby notified that the object of satisfaction, and other things, is to determine the title and adverse claims to the lands hereinafter described, claimed to have been absolutely forfeited to the state for delinquent taxes, and to obtain the issuance to the persons entitled thereto of new certificates of title to any of said lands which have been registered, and that said action affects the following described lands situated in the county of

State of Minnesota

(Insert description of lands)"

(Act Apr. 20, 1939, c. 341, §10.)

2190-11. Same—Service of summons, etc.—Publication—Service outside of state—Affidavit—Legal papers—Return—Mailing summons to nonresidents.—The summons shall be served in the manner provided by law for the service of summons in other civil actions in the district court. The summons shall be served upon all persons who are not residents of the state and upon those designated as "all other persons or parties unknown claiming any right, title, estate, lien, or interest in the lands described in the complaint herein" by publication for three successive weeks in a qualified legal newspaper published in the county in which the action is pending; provided, that personal service without the state may be made on any nonresident defendant in the manner provided by law. No affidavit of nonresidence, notice of lis pendens, or sheriff's return need be filed before the commencement of the publication or before the making of personal service without the state. At least twenty days before the trial of action, the attorney for the plaintiff shall mail a copy of the summons to each nonresident defendant whose post-office address he has been able to ascertain by diligent search and inquiry, of which the affidavit of the attorney, filed with the clerk, shall be conclusive evidence. The return shows that after diligent search the attorney has been unable to find any defendant within the county and that such defendant cannot be found therein, together with the affidavit of plaintiff's attorney that he believes that such defendant is not a resident of the state, a copy of the summons and any other paper required to be mailed in the action shall be mailed to the maker of the statement at the address therein stated. Any such statement may be withdrawn by the maker at any time by written notice to the clerk of court. (Act Apr. 20, 1939, c. 341, §11.)

2190-12. Same—Registered lands—Filing copy of summons with registrar.—In case of any of the lands involved in the action are registered, a copy of the summons, embracing a description of the registered lands but omitting the unregistered lands, shall be filed with the registrar of titles, and such further notice shall be given as the court may direct before the issuance of any new certificates of title or the forfeiture thereof unless the court shall declare the proceeding to be invalid in law. Provided, that failure to file such copy of the summons or to give such other notice shall not otherwise affect the validity of the proceedings. (Act Apr. 20, 1939, c. 341, §12.)

2190-13. Same—Answers—Contents—Filing certificate of clerk.—The defendants in the action may answer separately, or such of them as are jointly interested in any particular parcel or parcels of land may answer jointly. No answer merely alleging the defendant's title or denying the plaintiff's title generally shall be sufficient, but every answer shall describe the particular parcel or parcels of land in or upon which the defendant claims an interest or lien, together with the nature of such interest or lien, and shall state specifically the grounds upon which such claim is based and the grounds upon which the plaintiff's title is claimed to be defective or void. The answer may contain any other allegations or provisions pertinent to the issues. Every answer shall be filed with the clerk within the time allowed for answering the summons, unless the time be extended by agreement of plaintiff's attorney or by order of the court. Before the trial the clerk shall make and file his certificate as to all defendants who have not answered the summons, or the nonresident defendant whose post-office address he has been unable to ascertain by diligent search and inquiry, of which the affidavit of the attorney, filed with the clerk, shall be conclusive evidence of the facts therein stated. (Act Apr. 20, 1939, c. 341, §13.)

2190-14. Same—Claimants—May file names with clerk of court—Summons to such claimants—Withdrawal of statements.—Any person having or claiming an interest in any land in any county may, upon payment of a fee of 50c, file with the clerk of court of the county a statement of his name, place of residence, post-office address, and a description of the land in which he has or claims an interest. The statement shall be prima facie evidence of the facts therein stated. Any such statement may be withdrawn by the maker at any time by written notice to the clerk of court. (Act Apr. 20, 1939, c. 341, §14.)

2190-15. Same—Present laws to govern.—So far as applicable and not inconsistent herewith, all provisions of law relating to actions for the determination of titles in the district court shall apply to and govern actions hereunder. (Act Apr. 20, 1929, c. 341, §15.)

2190-16. Same—Defects in proceedings.—The title of the state to land forfeited for delinquent taxes shall not be held invalid in any action or proceeding by reason of any failure, omission, error, or defect in the proceedings not affecting the taxation of such land or the forfeiture thereof unless the court shall declare the proceeding to be invalid in law.
termine that such failure, omission, error, or defect was fatal to the jurisdiction of the authorities in the proceedings, or that the rights of the owner or other parties in interest were substantially prejudiced. All provisions of law in that behalf shall be construed liberally in favor of the state and its officers and agents. The burden of proving that the title of the state or its successor in interest is invalid in any such cases shall be upon the party so asserting. (Act Apr. 20, 1939, c. 341, §16.)

2190-17. Same—Quitclaim deeds to state—Disclaimer—Costs.—Any person having or claiming an interest in or lien upon land claimed to have been forfeited to the state for delinquent taxes may execute and deliver to the state a quitclaim deed of the land, conveying all his right, title, and interest therein, in form approved by the attorney general; or, if an action respecting such land has been commenced against such person by the state or its successor in interest, such person may either execute and deliver such deed, or may answer in the action, disclaiming any interest in or lien upon the land. If the state has conveyed the land, the deed shall inure to the benefit of the state's successor in interest. In either of the cases mentioned in this section, if a deed be delivered or disclaimer made at any time before the entry of judgment in an action brought by the state or its successor in interest, as herein provided, the plaintiff shall not recover costs personally against the person executing such deed or disclaimer. (Act Apr. 20, 1939, c. 341, §17.)

2190-18. Same—Opening judgments.—No judgment in any action brought hereunder by the state or its successor in interest shall be opened, vacated, or set aside for the purpose of permitting any defendant upon whom personal service of the summons was made, or, if this section does not apply, upon whom service was made by publication, and who was in default, to come in and defend the action at any time. No judgment in any such action shall be opened, vacated, or set aside for the purpose of permitting any defendant upon whom service of the summons was made by publication, and who was in default, to come in and defend such action unless application therefor be made before the time to appeal from the judgment has expired. Upon the expiration of the time to appeal the judgment shall become conclusive and shall not thereafter be opened, vacated, or set aside for the purpose of permitting any defaulting defendant, provided, that this shall not impair the effect of the judgment prior to such time. (Act Apr. 26, 1939, c. 341, §18.)

2190-19. Same—Lien for taxes in case forfeiture is subject to the provisions of this chapter. (Act Apr. 20, 1939, c. 341, §19.)

2190-20. Same—Act to be supplementary.—Except so far as may be necessary to give effect to the provisions hereof, the provisions of this chapter shall be deemed supplementary to and not exclusive of other laws dealing with the same subject matter, and the provisions of such other laws, so far as applicable and not inconsistent herewith, shall remain in force, subject to the provisions of this chapter. (Act Apr. 20, 1939, c. 341, §20.)

2190-21. Same—Provisions severable.—The provisions of this act shall be severable, and if any provision or the application thereof should be declared unconstitutional or invalid, it shall not affect any other provision or application not necessarily involved therein. (Act Apr. 20, 1939, c. 341, §21.)

2190-22. Same—Inconsistent acts repealed.—All acts and parts of acts inconsistent herewith are hereby repealed. (Act Apr. 20, 1939, c. 341, §22.)

MISCELLANEOUS PROVISIONS.

2191. Lien of real estate taxes.

BALDWIN, 219NW45; notes under §12128, 2122, 2148, 2177.

26 U. S. Board of Tax Appeals 1004; note under §12125-1.

Taxes on real estate, held to become a lien against the property on May 1, of taxable year. Merchant Bank & Trust Co. v. Helvering (USCCAB), 84 Fed.2d 478, affg 32 BTA 1072.
Real estate taxes on Minnesota land for year 1933 accrued in 1932, the amount thereof was not ascertained at that time and they were not payable until Jan., 1934, and one taking assignment of sheriff's certificate of sale under mortgage foreclosure dated Oct. 7, 1932, was not entitled to deduct taxes paid on a cash basis in 1934 from 1934 gross income. Lifson. 936-556. 38536. 

Taxes on real property are assessed for calendar year as of May 1st, upon which date they attach as a lien or charge thereon, and various steps in assessment and levy of taxes are completed, real estate taken and held as real estate as of May 1st. Merle-Smith v. M., 1953-313, 2G2NW850. See Dun. Dig. 491.

Amount of real estate taxes accrued but unpaid at time of death constituted a claim against corpus of estate and upon which the personal representatives or administrators in administratorship are liable from income of estate. Roy J. O'Neil, 31USBearder Tax Cases 1965. 

Where government condemns property for post office title does not pass until final judgment and payment of the award, and county auditor has authority with time to assess taxes against the property, even though under Mason's USC. Tax Tit. 40, §205, title relates back to the date of the filing of the commissioners' award. Op. Atty. Gen., Jan. 26, 1931.

Where city of St. Paul acquired by condemnation portion of property for widening of street and property owner gave city deed on Dec. 26th, 1930, and award was ratified by city council on December 30th, 1939, but proceedings of council were not published in the official monthly council 3rd, 1939, on which date the city was paid, taxes for 1930 spread by the auditor on December 1st, 1931, and assessed to the property, taxes should be paid by the city. Op. Atty. Gen., Apr. 25, 1931.

In determining the taxability of land taken by the state for a military reservation, the question to determine is ownership of the land on May 1st. Op. Atty. Gen., Aug. 15, 1931.

2. Taxes to purchaser, when. —A tax title is a new and original grant from the state as sovereign of title in fee, which is paramount as against any conveyance which purports to convey any title, claims and equities, including claims by adverse purchasers. Marks v. P., 264M256, 255NW490. See Dun. Dig. 237b.

Personal liability. 189M583, 231NW654.

2191-1. Taxes may be cancelled when. —That in all cases where common or independent school districts of the State of Minnesota have acquired title for a nominal consideration to lands within the State of Minnesota for school purposes exclusively, on which the taxes have not been paid for the past five years or more, such school district may apply to the district court of the county wherein said lands are situated for an order cancelling and annulling all taxes on said lands which may have been assessed or levied on said lands prior to the year 1935. Such application shall be by motion duly served on the county auditor and by which such purchaser is a party of the first part, and the personal property then owned by the person assessed from the personal property assessed, and shall state therein the name of the person assessed, a description of the personal property distrained, and the amount of the taxes, penalties, interest and costs claimed against such property. Any person claiming a lien or encumbrance against any property of the person assessed owned by him at the time of the assessment may pay the amount so claimed to the sheriff within fifteen days after the mailing of such notice, and on payment of such amount the sheriff shall issue his receipt therefor to the person making such payment, and such person shall have a first and perpetual lien for the amount so paid, together with interest thereon at the rate of 8% per annum from the date of such payment, superior and paramount to all other liens or encumbrances, except the vendor's interest in conditional sale contracts, upon all of the personal property of the person assessed owned by him at the time of the assessment, whether all of such property was distrained or not, and may foreclose such lien by action with the same service and redemption in the person assessed or those lawfully claiming under him as is provided for mortgagees and those claiming under them in the case of foreclosure of chattel mortgages. Upon the trial of such action said receipt of the sheriff, or a certified copy thereof, shall be produced and received in evidence of the amount and validity of the taxes, penalties, interest and costs so paid, of the fact of such payment, and of the ownership of the property therein described by the person assessed at the time of the assessment.

2192. Assessments for local improvements in cities. A municipality may not exact more from one charged with payment for extension of its mains than in permissible under terms of ordinance under which such mains were extended and further extensions have been exacted, municipality may be held as for money resting due to Sloan v. C., 289M418, 253NW133. See Dun. Dig. 7461, 9114.

Constitutional exemption of church property from taxes. The tax title shall effect upon manner of collection of special assessments which are to be collected in same manner as against real estate generally. Op. Atty. Gen., Sept. 10, 1932.
The failure of any person to pay any tax assessed
upon his personal property before any penalty, inter-
currence, or enforcement thereof shall constitute a default in all liens or encumbrances upon
any personal property owned by him at the time
of such assessment, and shall authorize the holder
of such lien or encumbrance to forthwith foreclose
the same. (27, c. 318, §1; July 15, 1937, Sp. Ses.
c. 51.)

Purchaser of property paying taxes which were a li-
ability of the vendor held not entitled to deduction as for
federal income tax law. 26 U. S. Board of Appeals 1940.

A chattel mortgage filed for record prior to time tax
became a lien upon property is superior to the tax lien,
and the property could be sold under the mortgage by
foreclosure. When the state auditor or the county
auditor has reason to believe that any such structure,
timber, or minerals will be removed from such tract
before such taxes shall have been paid, either may
authorize and direct by this chapter or otherwise,
authorize and directed by this chapter or otherwise,
nothing herein contained shall be construed as a bar to the
enforcement of any such tax lien, or to the lien for taxes.

Amount collected under this section may be applied
against delinquent or subsequent taxes. No bond shall be
required if known, and, if unknown, shall be deposited in the
county treasurer's office. In the case of any taxpayer who
shall on or before the last day of February, May or October falla
Sunday, county auditor could proceed against house, and
purchaser re-
did not give right to remove such structures, timber or minerals.

No building can be removed on tract of land until
all the taxes assessed against such land have been fully paid.

Where May 30th is a holiday and May 31st falls on
Sunday, county treasurer and auditor may make dis-
18, 1931.

County board may not sell hay on delinquent lands.


2205. Penalty for removal.
It is not necessary for a county attorney to secure
evidence from the state auditor that the tax liens
have attached before bringing suit to have a judgment

In the case of any taxpayer who shall on or before
the last day of February, May or October falla
Sunday, such last day, county auditor could proceed against house, and
purchaser re-
did not give right to remove such structures, timber or minerals.

No building can be removed on tract of land until
all the taxes assessed against such land have been fully paid.

Where May 30th is a holiday and May 31st falls on
Sunday, county treasurer and auditor may make dis-
18, 1931.

County board may not sell hay on delinquent lands.


2206. Right to assess and collect.—(1) Except as hereinafter provided the right to assess property omit-
ted in any year, or to reassess taxes upon property prevented from being collected in any year, either
as authorized and directed by this chapter or otherwise,
shall not be defeated by reason of any limitation con-
tained in any statute of this state, and, except as oth-
erwise provided in this chapter, there shall be no limi-
tation of time upon the right of the state to provide
for and enforce the assessment and collection of taxes
upon property subject to taxation.

(a) No assessment shall ever be made of the
taxes for the year 1939 and thereafter, imposed by
Mason's Minnesota Statutes of 1927, Sections 2337 to
2349, both inclusive, for which a return shall have
been filed, or any part thereof, unless the taxpayer in
any year in which such taxes could first have been as-
sessed. The bar of limitation upon the right of assess-
ment imposed by this subsection shall not operate to bar the right of assessment but shall extin-
guish the liability.

(b) The time for the assessment of taxes imposed
by Mason's Minnesota Statutes of 1927, Sections 2337
to 2349, both inclusive, for the year 1927 and prior
years, shall be limited to March 1, 1940, and for the
year 1938, to March 1, 1941, with respect to any
year for which the taxpayer has filed a return under
said Sections 2337 to 2349, both inclusive, or has
made a supplemental return, or has been assessed
pursuant to an order of the Minnesota Tax
Commission or by the county auditor under the
provisions of Mason's Minnesota Statutes of 1927,
Section 1985, and has paid the tax levied thereon;
provided, however, that the assessment of taxes imposed by said Sections 2337 to 2349, both
inclusive, for all years prior to the year 1939 shall,
in the case of any taxpayer who shall on or before
December 30, 1939, file a return and pay the tax, if
any, assessed thereon for the years 1936, 1937 and
1938 pursuant to the provisions of subsection (4)
hereof, be limited as provided in said subsection (4).
(3) Actions to enforce the collection of the taxes imposed by Mason's Minnesota Statutes of 1927, Sections 2337 to 2349, both inclusive, shall be commenced within six years after said taxes become delinquent, provided, however, that such actions shall not be commenced until and unless a valid assessment of such taxes has been made.

(4) Any person may on or before December 30, 1939, file a return required by Mason's Minnesota Statutes of 1927, Sections 2337 and 2349, both inclusive, for each of the years 1936, 1937, and 1938, in which case the right to assess such taxes against such person for said years or any years prior to said years shall be barred. If it shall appear from any of said returns hereafter filed that a tax (credit being first given for taxes theretofore paid for the year covered by said return) is due and payable in respect of the property therein disclosed, such tax, together with the penalties provided herein, shall be assessed by the county auditor on the current money and credits as estimated in the return filed for the year 1938 or prior years.

(5) No assessments pursuant to Mason's Minnesota Statutes of 1927, Sections 2337 to 2349, both inclusive, shall hereafter be made for any year or years prior to the passage of this act, of shares of stock in foreign or domestic corporations the property of which is subject to taxation under the laws of this state.

(6) Any person who makes a return under the provisions of subsection (4) hereof, or who files or has filed supplemental information, with respect to money and credits derived from the sale of stock, shall be subject to criminal prosecution for or on account of any act in connection with any money and credits tax return or such supplemental information filed for the year 1938 or prior years.

(7) If any part or provision of this act shall for any reason be adjudged by any court of competent jurisdiction constitutionally applicable to this act within the scope of such case or provision, such judgment shall not impair or invalidate such part or provision as applied to any other type of case within their terms. If the provisions and exceptions to the application of subsection (2) contained in subsection (4) hereof be adjudged by any court of competent jurisdiction to be invalid or to invalidate the provisions of any other part or provision in the remainder of this act, the exceptions and conditions of said subsection (4) shall be deemed void and of no effect, and the remaining parts and provisions of this act shall be construed as though subsection (4) had not been enacted.

(As amended Apr. 22, 1939, c. 423.)

An action in the district court for the enforcement of the lien of the inheritance tax under section 2311 is not barred by limitations. State v. Brooks, 183 Minn. 251, 236 NW 416. See Dun. Dig. 6566, 6567.

In levy and imposition of taxes state acts in its sovereign capacity and hence, in action for collection thereof, cannot be subjected to an equitable estoppel. State v. Illinois Cent. R. Co., 200 Minn. 553, 274 NW 838. See Dun. Dig. 9116.

Mason's Stat. 1927, §9158, has no application to procedures for enforcement of taxes imposed by said return hereafter filed for the year 1938 or prior years.
deeds has been lost or destroyed, and instruments releasing, removing and discharging easement rights in land or building or other restrictions, may be recorded without such certificate; and, provided that instruments conveying land and, as appurtenant thereto an easement over adjacent tract or tracts of land, may be recorded without such certificate as to the land covered by such easement; and, provided, further, that any instrument granting an easement made in favor of any cooperative public utility in the nature of a right of way over, along, across or under a tract of land may be recorded without such certificate as to the land covered by such easement.

A violation of this section by the register of deeds or the registrar of titles shall be a gross misdemeanor, and, in addition to the punishment thereof, he shall be liable to the grantee of any instrument so recorded for the amount of any damages sustained. (As amended Apr. 13, 1939, c. 215.)

§2211


Deed to a city should be recorded without payment of taxes. Op. Atty. Gen. (373B-9(e)), July 7, 1936.


Land belonging to village used for public purposes cannot be sold for taxes even though deed thereto has not been registered, and the endorsement thereon of certificates showing payment of taxes, but village should secure order from tax commission cancelling all taxes. Op. Atty. Gen. (463A-15), Nov. 10, 1936.


Deed to state by mortgagor indebted to department of rural credit may be recorded without payment of taxes, after recording a deed executed by the mortgagor. Op. Atty. Gen. (131), May 19, 1936.

Instruments conveying easements to pipe line company cannot be recorded until payment of taxes on lands over which easements pass. Op. Atty. Gen. (382A-11), May 1, 1934.

A violation of this section by the register of deeds or the registrar of titles shall be a gross misdemeanor, and, in addition to the punishment thereof, he shall be liable to the grantee of any instrument so recorded for the amount of any damages sustained. (As amended Apr. 13, 1939, c. 215.)


Deed conveying parcels of land and pipe line easement between the state and railroad company should be recorded without payment of taxes upon real estate conveyed thereby. Op. Atty. Gen. (373B-17d), April 2, 1935.

Deed conveying parcels of land and pipe line easement between the state and railroad company should be recorded without payment of taxes upon real estate conveyed thereby. Op. Atty. Gen. (373B-17d), Sept. 16, 1938.

Deed to a townsite from a railroad company covering an abandoned right of way which traverses certain land within city, for taxes first assessed prior to abandonment, may not be recorded without certificates of auditor and treasurer, though railroad pays a gross earnings tax. Op. Atty. Gen. (408A-11), Dec. 3, 1938.

Deed conveying parcels of land and pipe line easement between the state and railroad company should be recorded without payment of taxes upon real estate conveyed thereby. Op. Atty. Gen. (373B-17d), Apr. 2, 1935.
such real estate has been purchased or repurchased, have required the payment of taxes erroneously assessed, have required the payment of taxes erroneously assessed, and, if the property is under the control of the county auditor, the auditor must proceed in accordance with provisions of §2231. Op. Atty. Gen. (23d). July 20, 1939.

Where real estate has been sold in violation of the tax laws, the county auditor shall be liable to the person entitled thereto out of money in the treasury. Op. Atty. Gen. (373B-15). Sept. 11, 1939.

If the plat is defective in description, auditor may assess that owner or surveyor a fine of 25 cents per acre or portion. Op. Atty. Gen., Feb. 16, 1934.

This section does not authorize procedure for platting of a meandered lake bed, but an action must be brought in district court to partition the lands and quiet the title. Op. Atty. Gen., Aug. 21, 1931.


As to plat made from records of register of deeds, auditor could not properly certify to more than fact that he made plat upon request of county auditor pursuant to section so numbered. Op. Atty. Gen. (184d), July 15, 1929.

If county auditor orders platting under §2219, owner must proceed in accordance with provisions of §§3386 to 3386, and if owner fails, county auditor may require county surveyor to make a plat, but he cannot deduct streets or make certificate required of an owner. Op. Atty. Gen. (273c). Sept., 1929.

Railroad lands-Sale.

Upon railroad company contracting to sell land, it becomes subject to taxation as other real estate is taxed, and the amount of such taxes should be determined by assessment of the land as other land is assessed. Op. Atty. Gen., June 17, 1931.

Auditor to furnish statement of tax liens, etc.

Where in 1926 taxes for 1924 were assigned to an individual and his later paid 1925 and 1926 taxes as subsequent taxes, and notice of expiration of redemption was served, county auditor was not required to acquire title in fee simple, the certificate appears to void under §2170, although this does not conclusively and incontestably appear from county auditor’s records, and county auditor should include outstanding tax certificates in certification under §2231. Op. Atty. Gen. (23a). Apr. 12, 1937.

Compensation to auditor for furnishing statement of tax liens.

County treasurer is not entitled to a fee for preparing tax lists for banks desiring to remit taxes for their customers. Op. Atty. Gen., May 19, 1933.

Fees of county auditor under §2232 are controlled by Laws 1937, c. 491, §14, in counties covered by that act, and auditor must turn in 22% thereof, as well as any fees collected from such source over and above the limit of $600 per year, such statute placing an absolute limit of compensation, except mileage and expenses. Op. Atty. Gen. (23d). July 26, 1939.

County treasurer to search and certify taxes due.

County treasurer is not entitled to keep fees collected for issuance of certificates for search of tax records, but must turn such fees to the county treasurer. Op. Atty. Gen., April 22, 1931.

Certain forfeited lands to be sold immediately.—In every case where the owner of a tract of land forfeited to the state for taxes for 1926 or 1927 has transferred or shall hereafter transfer to the state or to any municipal subdivision thereof all his right, title and interest in such tract of land, the same shall be subject to sale in the usual manner provided by law for the sale of land acquired by the state for taxes and shall not be subject to any limitation as to such sale imposed by Chapter 407 of the Laws of 1933 [§§2176-3 to 2176-8]. Apr. 17, 1937, c. 272, §1.}

COMPANIES PAYING GROSS EARNINGS TAX


The Burlington formula for gross earnings shall be used as a basis for a determination of credit balances and such balances are properly gross earnings and there can be no constitutional objection to its use. Interstate Commerce Commission v. Illinois Cent. R. Co., 244 U.S. 280, 37 S. Ct. 527, 61 L. Ed. 1162. See Dun. Dig. 9562.

2235. Failure to pay.

Where there is a failure to report earnings there is at the time of the failure also a default in payment rendered to the railroad liable for such amount and interest. 181 Me. 155, 231NW856. See Dun. Dig. 9562.

Where a railroad has for a long period of years kept accounts of gross earnings and made reports thereon on
§2239. Uniform system of accounting. 
Because the obligation to pay gross earnings taxes is imposed by statute and an account stated has the effect of a new contract, the distribution independently of its original subject matter, taxpayer cannot have benefit of discharge as on an account stated because of a stipulation, erroneously computed and less than amount actually due, even though it be accepted by the other party as a discharge of their obligation. State v. Illinois Cent. R. Co., 260M383, 275NW884. See Dun. Dig. 9325.

2240. Evasions and violations. 
In case of failure to report earnings, there is at the time of the failure also a default in payment rendering railroad liable for penalties and interest. 181M615, 219NW167. Railroad companies could tender payment of part of gross earnings demand by state and avoid penalties on such part. State v. Illinois Cent. R. Co., 284NW360. See Dun. Dig. 9129a.

2245-1. Effective date of increased rates and limitations. The increased rates of tax effected by this Act (§§2268, 2272, 2274, 2278, 2289, 2290, 2290-1) shall apply to all gross earnings derived after December 31st, 1936, and the amendment by Section 4 of Mason's Minnesota Statutes for 1937, with respect to the distribution of the taxes therein referred to, shall be effective with respect to such taxes levied for all years subsequent to the year 1936. (June 21, 1937, Sp. Ses., c. 3; §5; July 2, 1937, Sp. Ses., c. 8, §6.)

2245. Gross earnings. 
§2246. GROSS EARNINGS. 
1. In general. This section, as applied to one transported from the interstate commerce to Wisconsin docks, at a rate which absorbs the dock service, held not invalid as violating of the commerce clause or the 14th Amendment of the federal constitution. 278US503, 49SCR191. aff'g 174M3. 218NW167.

Taxes are not deductible from gross earnings tax returns by a taxpayer from another railroad, equivalent to per centum of each credit balance for such use, due to another railroad, equivalent to per centum in Minnesota of using line's entire loaded or revenue freight car mileage, and deducting a per centum of each of tax payer's debit balances owing to it by another line equivalent to per centum in Minnesota of its entire loaded freight car mileage. State v. Illinois Cent. R. Co., 200M583, 219NW167. See Dun. Dig. 9562.

Debit balances accruing in the adjustment of per diem charges on the exchange of freight car equipment are deductible from gross earnings tax returns. Railroad Co. v. railroad company. State v. Minneapolis & St. L. R. Co., 280M250, 281NW244. See Dun. Dig. 9562.


2248. Gross earnings tax. Every such express company shall be assessed a tax equal to nine per cent of its entire loaded or revenue freight car mileage. State v. Illinois Cent. R. Co., 200M583, 219NW167. See Dun. Dig. 9562.

2249. Refund of amount paid as motor vehicle registration tax. The tax imposed by this section is a lien property tax measured by gross earnings, and the motor vehicle registration tax in addition thereto is invalid. 174M72, 216NW542.

2250. Building of telephone company paying gross earnings tax. Building of telephone company paying gross earnings tax, is not exempt from ad valorem tax when not used for highway purposes may pave such ease-ment with a strip of railroad right-of-way subject to a reservation of such strip.

2252. Refund of amount paid as motor vehicle registration tax. The tax imposed by this section is a lien property tax measured by gross earnings, and the motor vehicle registration tax in addition thereto is invalid. 174M72, 216NW542.

2252.2. Seven per cent on gross earnings. Every railroad line company, as hereinafter defined, shall pay annually a sum in the nature of a tax at seven per cent upon the total gross earnings received from all sources by such freight line companies within the state, which shall be in lieu of all ad valorem taxes due upon freight car rentals by any freight line company so paying the same. (19, c. 506, §3; June 21, 1937, c. 3, §1; July 2, 1937, Sp. Ses., c. 9, §1.)
2274. Statement to be filed by railroads using or leasing cars of freight line companies.—Every rail-
road company, or leasing the cars of any freight line company shall, upon making payment to such
freight line company for the use or lease, after December 31st, 1926, of such cars withheld so much there-
from as shall represent the tax imposed on account thereof by Mason's Minnesota Statutes of 1927, Section 2272. On or before August 1 and February 1
respectively, of each year such railroad company shall make and file with the tax commission a statement and an itemized statement, in such form as the public examiner, showing the amount of such payment for the past preceding six-month period, ending June 30 and De-

cember 31, respectively, and of the amounts so withheld by it. If any railroad company shall fail to
make such report, or shall fail to withhold the part of such payment hereby required to be withheld it
shall not be entitled to deduct from its gross earnings for purposes of taxation the amount so paid by it to
freight line companies. (19, c. 506, §§ 72, c. 329, $1; June 21, 1937, Sp. Ses., c. 3, § 1; July 2, 1937,
Sp. Ses., c. 9, § 1.)

2275. Debit balances accruing in the adjustment of per diem charges on the exchange of freight car equipment are not deductible from gross earnings tax of railroad company. State v. Minneapolis & St. L. R. Co., 240 Minn. 525, 241 N.W. 244. See Dun. Dig. 2422.

SLEEPING CAR COMPANIES

2278. Annual statement.—Annually on or before February 1st of each year, every such sleeping car
company shall make and furnish to the Minnesota tax commission, with a duplicate to the public ex-

aminer, an Itemized statement, in such form as the public examiner, with the approval of the Minnesota

tax commission, may prescribe, containing a true and complete statement of the amounts so
withheld by it. If any railroad company shall fail to make such report, or shall fail to withhold the part of
such payment hereby required to be withheld it shall not be entitled to deduct from its gross earnings
for purposes of taxation the amount so paid by it to sleeping car companies. (June 21, 1937, Sp. Ses.,
c. 4, § 3.)

2279. Gross earnings defined. Pullman excess receipts on which gross earnings tax has been paid, or Pullman Company are not gross taxable after payment to railroad company. 181 M 561, 232 N.W. 1055. See Dun. Dig. 5562.

TELEGRAPH AND TELEPHONE COMPANIES

2282-1. Gross earnings tax on telegraph companies.—Every telegraph company, as defined in Mason's
Minnesota Statutes for 1927, Section 2337, shall pay into the state treasury on or before March 1st of each
year, beginning with March 1st, 1938, seven per cent of its gross earnings derived from business within
the state occurring during the preceding calendar year, which shall be in lieu of all ad valorem taxes upon the

eroty of such company within the state for the year during which such gross earnings accrued. (June 21, 1937, Sp. Ses., c. 4, § 1.)

2282-2. Same—Repeal.—Mason's Minnesota Stat-

utes, Sections 2337 and 2357, are hereby repealed. (June 21, 1937, Sp. Ses., c. 4, § 1.)

2282-3. Same—Tax commission to enforce act; regulations.—The Minnesota Tax Commission shall

enforce this Act and shall have the power to make all necessary regulations and to require all necessary

information therefor. (June 21, 1937, Sp. Ses., c. 4, § 3.)

2283-2285. [Repealed.]

These sections between §225 to 229 of C. L. 1933, re-


2286. Telephone companies to pay six per cent on gross earnings.—Every telephone company shall pay into the state treasury on or before March 1st in each year beginning with March 1st, 1938, of its gross earnings from service percentages of its gross earnings of the preceding calendar year derived from business within this state: (a) four per cent of its gross earnings from service to rural subscribers; (b) four per cent of its gross earnings from exchange business at all cities of the fourth class, and boroughs or villages having a popu-

lation of ten thousand: (10,000); or under; and (c) seven per cent of its gross earnings derived from all

other business, which shall be in lieu of all other taxes, except the taxes imposed by Laws 1933, Chap-

ter 405, as amended by Mason's Minnesota Statutes 1927, Section 2337, and by any Act passed at this session or any future session of the legislature of the State of Minnesota. All moneys paid by a company for connecting fees and switching charges to any other company shall be reported as earnings by the company to which they are paid, but shall not be deemed earnings of said company or of the collecting and paying company. For the purposes of this act the population of any municipality shall be considered as that stated in the latest Federal Census. (R. L. '05, §1035; G. S. '13, §§2265, 22, c. 348, 21, c. 421; June 25, 1937, Sp. Ses., c. 7; July 8, 1937, Sp. Ses., c. 10, §1.)

Where telephone company constructed new office building and rented old building to the state free of rent on condition that it pay taxes and maintenance costs, property is subject to ad valorem tax. Op. Att'y Gen. (2160), August 17, 1939.

2286-1. Repeal.—That Extra Session Laws 1937, Chapter 7 be and the same is hereby repealed; pro-

vided, however, that if this act shall be held invalid this section shall be void and of no effect. (July 8, 1937, Sp. Ses., c. 10, § 2.)

Sec. 8 of Act July 8, 1937, cited, provides that the Act shall take effect with the state revenue year.

Property owned by telephone company paying a gross earnings tax is exempt from an ad valorem tax, if rea-


Use of property for telephone purposes and other purposes cannot be apportioned. Id.

Telephone company deriving income from advertise-

ments in its telephone directory, which are so arranged as to lead at thepatron to look at the advertisements rather than the regular list of names to find the number of a particular advertisement, and which income come along with income derived from the placing of names in the alphabetical list in display type. Op. Att'y Gen. April 7, 1936.

Telephone company which permits another company to use its lines for the installation of radio service is required to report as a part of its gross earnings not only the charge for the use of the wires but the cost of installation of the radio receiver. Op. Att'y Gen. April 7, 1939.


TRUST COMPANIES

2289. Gross earnings tax.—On or before March 1 of each year every trust company organized under the

laws of this state shall pay into the county treasury of the county where its principal place of business is

located six per cent of its gross earnings for the preceding calendar year, which amount shall be in

lieu of all ad valorem taxes upon the capital stock and the personal property of such trust company;

provided, however, that any trust company or trust company receive deposits subject to check other than trust de-

posits, that then such company shall be assessed in

the same manner as incorporated banks are assessed, and shall pay taxes in the same manner as such banks.

(c. 229, § 1; C. L. 1927, §2289; June 21, 1937, Sp. Ses., c. 9, § 4.)

Trust companies are not banks within meaning of §243.6 and are not exempt from income tax. Op. Att'y Gen. (5131), June 20, 1934.
2290. Tax apportioned and distributed.—One-sixth of all taxes paid to county treasuries under the provisions of this act shall be remitted to the state treasury and be credited to the general revenue fund and the balance thereof shall be apportioned and distributed in the same manner as the general property tax is apportioned and distributed. (13, c. 529, §2; C. L. '13, §2269; June 21, 1937, Sp. Ses., c. 3, §4; July 2, 1937, Sp. Ses., c. 9, §4.)

2290-1. Reports filed by trust companies with tax commission may require. ('25, c. 251, §1; June 21, and such other and further information as the tax commission may require. (15, c. 251, §1; June 21, 1937, Sp. Ses., c. 3, §4; July 2, 1937, Sp. Ses., c. 9, §4.)

INHERITANCES, DESESES, BEQUESTS AND GIFTS

2292. Imposition of tax.—Subsection 1. Transfers. —A tax shall be and is hereby imposed upon any transfer of property, real, personal or mixed, or any interest therein, or income therefrom in trust or otherwise, to any person, association or corporation, except county, town or municipal corporation within the state, for strictly county, town or municipal purposes, in the following cases:

(a) When the transfer is by will or by the intestate laws of this state from any person dying possessed of the property while a resident of the state.

(b) When a transfer is by will or intestate law, of property within the state or within its jurisdiction and the decedent was a nonresident of the state at the time of his death.

(c) When the transfer is of property made by a resident or by a nonresident when such nonresident's property is within this state, or within its jurisdiction, by gift, made in contemplation of the death of the grantor, vendor or donor, or intended to take effect in possession or enjoyment at or after such death. Any transfer of a material part of the property of a deceased in the nature of a final disposition or distribution thereof, made within two years prior to death, without adequate and full consideration in money or money's worth, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this act.

Subsection 2. Time of transfer.—Such tax shall be imposed when any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the income thereof, by such transfer whether made before or after the passage of this act.

Subsection 3. What shall be deemed transfer.—Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property made either before or after the passage of this act, such appointment made shall be deemed a transfer taxable under the provisions of this act in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by will; and whenever any appo[n]tment or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part a transfer taxable under the provisions of this act shall be deemed to take place to the extent of such property so omitted in the same manner as though the persons or corporation thereby become entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

Subsection 4. (a) Tax on jointly owned property—Lien.—Certificate of attorney general.—(a) Whenever any property, real or personal, is held in the joint names of two or more persons, or is deposited in banks or in other institutions or depositaries in the joint names of two or more persons payable to either or the survivor, upon the death of one of such persons the right of the survivor or survivors, to the immediate ownership or possession and enjoyment of such property, shall be deemed a transfer and subject to the inheritance tax imposed by this act, except such part thereof as may be shown to have originally belonged to the survivor or survivors and never to have been received or acquired by them from the decedent for less than an adequate and full consideration in money or money's worth; in which case there shall be excepted only such part as is proportionate to the consideration furnished by the survivor or survivors, Where any property has been acquired prior to April 29, 1935, or has been acquired at any time by gift, bequest, devise, or inheritance by the decedent and spouse, as joint tenants, one-half of the value thereof shall be taxable. Where any property has been so acquired by the decedent and any other person or persons, as joint tenants, and their interests are not otherwise specified or fixed by law, the taxable portion shall be the value of a fractional part of said property to be determined by dividing the value of the property by the number of joint tenants.

(b) Every tax imposed upon any property taxable under subsection (4) of this section shall be a lien upon the interest of the deceased joint tenant until the tax is paid or if there is no tax, the attorney general shall make and deliver, to the surviving joint tenant, his certificate to that effect, and the said certificate may be recorded as other instruments affecting the title to real estate.

Subsection 5. (a) Tax on life Insurance policies—As transfer—Proration of excess—Notice by insurer—Receipt affecting exemption—Duties of attorney general.—The proceeds of all life or accident insurance policies taken out by decedent and payable on account of his death in excess of $32,500, receivable by named beneficiaries, shall be subject to the tax herein imposed, as follows:

(1) The proceeds of all such policies hereafter issued payable to named beneficiaries.

(2) The proceeds of all such policies now in force payable to named beneficiaries in which the insured has the right to change the beneficiary or under which he has cash surrender right.

(3) Such proceeds in excess of $32,500 shall be deemed a transfer within the meaning of that term as used in this act and a part of decedent's estate, and shall be taxable to the person or persons entitled thereto. In the computation of the tax, the proceeds upon which no tax is imposed shall be credited as follows:

(1) To the surviving spouse, the amount of such proceeds received by such spouse, not in excess, however, of $32,500.
(2) To each minor child of the decedent the amount of such proceeds received by such child, not in excess, however, of $32,500, less the amount, if any, allowable to the surviving spouse.

(3) To each adult child of the decedent the amount of such proceeds received by such child, not in excess, however, of $32,500, less the amount, if any, allowable to the surviving spouse and minor child or children of decedent.

(4) To any person, the amount of such proceeds received by such person, not in excess, however, of $32,500, less the amount, if any, allowable to the surviving spouse and children of decedent.

(c) If the amount otherwise allowable to any class of persons, as aforesaid, together with the amounts allowable to prior classes, shall aggregate more than $32,500, the difference between the aggregate of such proceeds allowable to prior classes and $32,500 shall be prorated among the members of such class in proportion to the amount of such proceeds received by each.

Every corporation, partnership, association, individual, order or society authorized to transact life, accident, fraternal, mutual benefit or death benefit insurance business which shall pay to any named beneficiary any insurance or death benefit upon the death of a resident of this state, shall give notice of such insurance to the surviving spouse and children of the decedent.

Certificates of beneficial interest in trust covering stock of Minnesota and West Virginia corporations, owner of which is domiciled in another state, are not eligible to death transfer tax.

Contracts by insurance companies in consideration of lump sum to pay certain annuity each year to insured and his beneficiaries after his death, are subject to succession tax. In Re Thornton's Estate, 186M565, 241NW245. A taxable succession takes place as from donee rather than donor, but to the extent this is a tax on gift, when a person transfers to property subject thereto by reason of exercise of power. Robshon, 192M365, 255NW486. See Dun. Dig. 972c.

A transfer of insurance received by war veteran from the Government for disability or under the compensation act is not a taxable succession. Where a transfer of insurance occurred in North Dakota, occurred there and is subject to an inheritance tax only under laws of that state. Frank's Estate, 192M165, 251NW293. See Dun. Dig. 972c.

Intangibles are subject to inheritance tax only by domiciliary state. The Stock of Minnesota corporations owned by decedent at time of her death at her domicile in another state, held, kept at her domicile on deposit in Minnesota, for safekeeping purposes only, and not pledged or otherwise made use of within the state, was not liable as a transferee for unpaid federal income tax. Op. Atty. Gen., Mar. 23, 1928.


Inter vivos transfers where donor reserves power to revoke, alter or amend. 23MinnLawRev443.


Reproractive taxation—estate and inheritance taxes applied to joint tenancy created before their enactment. 21MinnLawRev627.

A transfer made by one whose age and physical condition is such that he must realize that death is not far away must be held to have been made in contemplation of death, though he may have entertained an intent for a different purpose, such as giving away this property during his lifetime. Anneke v. W., (DO-Minn.), 1FSupp542. See Dun. Dig. 973.

Primary rates—On $15,000 or less.—When the property or any beneficial interest therein passes by any such transfer where the amount of the property shall exceed in value $15,000 the tax hereby imposed shall be:

(1) Where the person entitled to any beneficial interest in such property shall be the wife, or lineal issue, or any child adopted as such in conformity with the laws of this state, in the event of such adoption child at the rate of one per cent of the clear value of such interest in such property.

(2) Where the person or persons entitled to any beneficial interest in such property shall be the husband, illegitimate child, adopted child and any child to whom such decedent for not less than ten years prior to such transfer stood in the mutually acknowledged relation of a parent; provided, however, such relationship began at or before the child's 15th birthday, and was continuous for said ten years thereafter, or any

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Rates on benefits exceeding $15,000.—The foregoing rates in section 2a are for convenience termed the primary rates. When the amount of the clear value of such property or interest exceeds $15,000, the rates of tax upon such excess shall be as follows:

(1) Upon all in excess of $15,000 and up to $30,000, two times the primary rates.
(2) Upon all in excess of $30,000 and up to $50,000, three times the primary rates.
(3) Upon all in excess of $50,000 and up to $100,000, three and one-half times the primary rates.
(4) Upon all in excess of $100,000 and up to $200,000, four times the primary rates.
(5) Upon all in excess of $200,000 and up to $300,000, five times the primary rates.
(6) Upon all in excess of $300,000 and up to $400,000, six times the primary rates.
(7) Upon all in excess of $400,000 and up to $500,000, seven times the primary rates.
(8) Upon all in excess of $500,000 and up to $600,000, eight times the primary rates.
(9) Upon all in excess of $600,000 and up to $700,000, nine times the primary rates.
(10) Upon all in excess of $700,000 and up to $900,000, ten times the primary rates.
(11) Upon all in excess of $900,000 and up to $1,100,000, eleven times the primary rates.
(12) Upon all in excess of $1,100,000, twelve times the primary rates.

Provided the tax imposed hereby shall in no case exceed 35 per cent of the true and full value of the property transferred. An excess of the applicable specific exemptions. (As amended July 15, 1937, Sp. Sess., c. 50, §2; Apr. 20, 1939, c. 338, §2a.)

Exemptions.—The following exemptions from the tax are hereby allowed: (1) Any devise, bequest, gift, or transfer to the use of the state of Minnesota or any political division thereof for public purposes exclusively, and any devise, bequest, gift, or transfer to or for the use within this state of any corporation or association operated within this state for religious, charitable, educational, literary, educational or public cemetery purposes exclusively, including the encouragement of art within this state, and the prevention of cruelty to children within this state and part of which devise, bequest, gift or transfer inures to the profit of any private stockholder or individual, any bequest or transfer to a trustee or trustees exclusively for such purpose shall be exempt.

The homestead of a decedent, and the proceeds thereof if sold during administration, transferred to the spouse or issue of a decedent, shall be exempt to the extent of $30,000 of the appraised value thereof. (2) Property of the clear value of $1,000 transferred to the widow or to each child of the decedent or any legally adopted child who is a minor or dependent at the death of the decedent, shall be exempt.

Property of the clear value of $5,000 transferred to husband of the decedent, an adult child on other legal descendent of the decedent, any adopted child or any child to whom the decedent was married for less than ten years prior to his death, stood in the mutually acknowledged relation of a parent; provided, however, such relationship began or before the child's 15th birthday was continuous for ten years thereafter, or any lineal issue of such adopted or mutually acknowledged child, shall be exempt.

(3) Property of the clear value of $3,000 transferred to each of the lineal ancestors of the decedent shall be exempt.

(4) Property of the clear value of $1,000 transferred to each of the persons described in the third subdivision of section 2a shall be exempt.

(5) Property of the clear value of $250.00 transferred to each of the persons described in the fourth subdivision of section 2a shall be exempt.

(6) Property of the clear value of $100.00 transferred to each of the persons and corporations described in the fifth subdivision of section 2a shall be exempt. (As amended Apr. 18, 1931, c. 208; July 15, 1937, Sp. Sess., c. 50, §2; Apr. 20, 1939, c. 338, §2c.)
attorney general. (Added Apr. 20, 1939, c. 338, §3.)

Upon the effective date of Act Apr. 20, cited, see §2311-1, post.

Laws 1931, c. 203, amends "the first paragraph of §55, 2d, 2d c. 72" to read as follows:

Public securities consisting of state bonds, certificates of indebtedness and bonds of municipalities owned by a nonresident one time of his domicile, and that are taxable by reason of their being held by the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, without diminution or abridgment of the interest of the beneficiary or in the event of death, the increase accruing to any person or corporation beneficially entitled thereto shall come into actual possession or enjoyment thereof. Public securities consisting of state bonds, certificates of indebtedness and bonds of municipalities owned by a nonresident one time of his domicile, and that are taxable by reason of their being held by the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, without diminution or abridgment of the interest of the beneficiary or in the event of death, the increase accruing to any person or corporation beneficially entitled thereto shall come into actual possession or enjoyment thereof.

(2) The value of every future or limited estate, income, interest or annuity dependent upon any life or lives in being, shall be determined by the rule, method and standard of mortality and value employed by the commissioner of insurance in ascertaining the value of policies of life insurance and annuities for the determination of liabilities of life insurance companies, except that for every future or limited estate, income, interest or annuity, the value of which is not based upon an assumed or fixed rate of interest, the rate of interest and the discount rate, for making such computation, shall be four per cent per annum.

(3) When any transfer is made in trust for any person or persons or corporation or corporations, and the beneficiaries are entitled to said trust to receive the property embraced in said trust is susceptible of present valuation, then and in such case the tax thereon shall be paid at the same time and in the same manner, subject to the same rules, that would be the case if the beneficiaries of such trust received the same directly from the decedent or the persons from whom the property is transferred.

(4) Where an estate for life or for years can be determined by the act or legal devise, it shall be taxed as if there were no possibility of such divesting.

(5) When property is transferred in trust or otherwise, interest or annuities of the estates of the beneficiaries are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeased, extended or abridged, a tax shall be imposed upon said transfer at the highest rate which, on the happening of any of said contingencies or conditions, would be possible under the provisions of this act, and such tax so imposed shall be due and payable forthwith by the executors or trustees out of the property transferred; provided, however, that on the happening of any contingency whereby the said property, or any part thereof, is transferred to a person or corporation beneficially entitled thereto under the provisions of this act, or to any person taxable at a rate less than the rate imposed and paid, such person or corporation shall be entitled to a return of so much of the tax imposed and paid as is the difference between the amount paid and the amount which said person or corporation should pay under the provisions of this act, with interest thereon at the rate of three per cent per annum from the date of payment. Such return or overpayment shall be made in the manner provided by section 21c; (section 9 of this act §2315).
§2295. Gain in market value of property of an estate of a deceased person between time of his death and distribution of property to heirs, devisees, or legatees is not subject to inheritance, devise, bequest, legacy or gift tax. — Sec. 2295, Laws Minn. 1933, c. 328, §2295. See Dun. Dig. §2573.

2295. Collection of tax — Duties of representative.—(1) Any administrator, executor or trustee having in charge or in trust any property for distribution embraced in or belonging to any inheritance, devise, bequest, legacy or gift, subject to transfer or assignment, whether such transfer or assignment is subject to the exercise of a power of appointment by the decedent or not, shall deduct from the gross value thereof, as imposed by this act, the tax therefrom, before paying or distributing the same. If such property be not in money, he shall collect the tax on such inheritance, devise, bequest, legacy, or gift, as the case may be, in such manner as shall be prescribed by the attorney general, of all property within his knowledge and the value thereof at the date of the decedent's death, (a) which the decedent has at any time transferred and which is or may be subject to an inheritance tax, (b) which the decedent held in joint tenancy, (c) which was subject to the exercise of a power of appointment by the decedent. The return shall also contain a list of all policies of insurance on the life of the decedent payable to named beneficiaries, and the amounts thereof, if the total amount thereof is $2,500. (As amended Apr. 20, 1939, c. 338, §4.)

For effective date of Act Apr. 20, 1939, cited, see §2296-1, post.

2296. Payment to county treasurer or state treasurer.—The tax imposed by this act on inheritances, devises, bequests, legacies, gifts and other transfers shall be paid to the treasurer of the county in which the probate court having jurisdiction is located or, where there are no probate proceedings in this state, to the state treasurer upon determination thereof by the attorney general. The treasurer to whom the tax is paid shall enter in a book by him kept for the purpose, the name of the person from whom paid, the amount thereof, the date of such payment, the name of the person paying such tax, the name of the decedent, if known, the date of his death, the name of any heir, devisee, legatee or transferee to whom such property is transferred and the amount thereof. The treasurer shall forward to the county or county in which the decedent held in joint tenancy, (c) which was subject to the exercise of a power of appointment by the decedent. The return shall also contain a list of all policies of insurance on the life of the decedent payable to named beneficiaries, and the amounts thereof, if the total amount thereof is $2,500. (As amended Apr. 20, 1939, c. 338, §4.)

For effective date of Act Apr. 20, 1939, cited, see §2296-1, post.

2297. Inheritance tax a lien upon property.—Every tax imposed by this Act shall be a lien upon the property embraced in any inheritance, devise, bequest, legacy or gift until paid, and the person to whom such property is transferred and the administrator, executors and trustees of every estate embracing such property shall be personally liable for such tax, until its payment, to the extent of the value of such property. But no such lien heretofore or hereafter claimed shall be enforced against real property, in any case unless the lien shall be foreclosed, and then, and then only, such estate shall be subject to the exercise of a power of appointment by the decedent or not, shall deduct from the gross value thereof, as imposed by this act, the tax therefrom, before paying or distributing the same. If such property be not in money, he shall collect the tax on such inheritance, devise, bequest, legacy, or gift, as the case may be, in such manner as shall be prescribed by the attorney general, of all property within his knowledge and the value thereof at the date of the decedent's death, (a) which the decedent has at any time transferred and which is or may be subject to an inheritance tax, (b) which the decedent held in joint tenancy, (c) which was subject to the exercise of a power of appointment by the decedent. The return shall also contain a list of all policies of insurance on the life of the decedent payable to named beneficiaries, and the amounts thereof, if the total amount thereof is $2,500. (As amended Apr. 20, 1939, c. 338, §4.)

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For effective date of Act Apr. 20, 1939, cited, see §2296-1, post.
personal representative of the decedent or some other person having knowledge of the facts therein set forth.

The statements in any such affidavits as to value or otherwise shall not be binding on the attorney general in case he believes the same to be untrue. From the information so furnished to him and such other information as he shall have with him thereunto, the attorney general shall, with reasonable expedition, determine the amount of tax, if any, due from the state under the provisions of this act and notify the person making the application of the amount thereof and the time and place to be due and payable. If so determined to be due or in case there is no tax due to the state, the attorney general shall issue a consent to the transfer of the property so owned by the decedent.

Any person aggrieved by the determination of the attorney general in any matter hereinbefore provided for, may within twenty days thereafter appeal to the district court of Hennepin county, or Ramsey county, Minnesota, by filing with the attorney general a notice in writing setting forth his objections to such determination and that he appeals therefrom and thereupon within ten days thereafter the attorney general shall transmit the original papers and records which have been filed with him in relation to said appeal for consideration by the clerk of the district court to which the appeal shall have been taken, and thereupon said clerk shall acquire jurisdiction of such application and proceeding. Upon the filing of an objection given to the attorney general by the apppellant, the matter may be brought on for hearing and determination by such court either in term time or vacation, at a general or special term of said court, or at chambers as may be directed by order. The said court may determine any and all questions of law and fact necessary to the enforcement of the provisions of this act according to its intent and purpose, and may by order direct the correction, amendment or modification of (of) any determination made by the attorney general.

On such hearing either party may introduce the testimony of witnesses and other evidence in the same manner and subject to the same rules which govern in civil actions. When necessary, the court may adjourn or continue its hearings from time to time, to enable the parties to secure the attendance of witnesses or the taking of depositions. Depositions may be taken and used in such proceedings in the same manner as is now provided by law for the taking of depositions in civil actions.

The attorney general and any person aggrieved by the order of the district court may appeal to the supreme court from any such order by said courts, within the time and in the manner now provided by law for the taking of appeals from orders in civil actions. ('05, c. 238, §11; '11, c. 209, §2; '13, c. 565, §1; G. S. '13, §2281; Apr. 5, 1935, c. 128.)

Subd. 2 of this section was repealed by Act Apr. 26, 1913, c. 565, §1.

Act Apr. 20, 1933, c. 335, provides a remedy to compel refundment of tax paid under this section to be exercised within one year from date of enactment. It is omitted as temporary.

Editorial note.—Powers conferred on attorney general are transferred to the commissioner of taxation by §2262-6, ante.

Shares of stock in a domestic corporation are so far localized in the state that state has jurisdiction for purpose of imposing an inheritance tax, notwithstanding nothing herein to the contrary. Dole v. State, 132 Minn. 526, 256 N.W. 526. See Sun. Dig. §9572d(40).

There is nothing unconstitutional about a legislative application for consent to the transfer of assets of a decedent, or improperly collected by the state, and Laws 1923, c. 325, is not an abuse of discretion. Monfort's Estate, 193 Minn. 594, 259 N.W. 504. See Sun. Dig. §9411d(40).


2303. Transfer of assets to representative.—(1) No safe deposit company, bank or other institution, person, or persons holding securities or assets of a decedent, shall deliver or transfer the same to the executor, administrators, or legal representatives of said decedent, or upon their order or request, unless notice of the time and place of such intended transfer be served upon the county treasurer, personally or by representative, to examine said securities at the time of such delivery or transfer. If upon such examination the county treasurer or his agent shall find thereon that there has been no tax due for any cause deemed it advisable that such securities or assets should not be immediately delivered or transferred, he may forthwith notify in writing such company, bank, institution or person to deliver or transfer thereof for a period not to exceed ten days from the date of such notice, and thereupon it shall be the duty of the party notified to deliver such delivery or transfer until the time stated in such notice or until the revocation thereof within such ten days. Failure to serve the notice in such manner as is mentioned, or to allow such examination, or to defer the delivery of such securities or assets for the time stated in the second of said notices, shall render said safe deposit company, trust company, bank or other institution, person or persons liable to the state for the amount of any tax due on such delivery or transfer of such shares of stock. (As amended Apr. 20, 1939, c. 338, §6.)

For effective date of Act Apr. 26, 1939, cited, see §3211-1, ante.

2304. County treasurer and attorney general may apply for letters as creditors.—Copy of inventory to attorney general.—Appraisal objections.—Determination service on state auditor.—Attorney general to receive list of property.—(1) The county treasurers of the several counties, and the attorney general, shall have the same rights to apply for letters of administration as are conferred upon creditors by law.

(2) In all estates where it appears from the inventory, appraisal and return that an inheritance tax may be imposed, the representative shall, upon the appeal thereof, under direction of the court, deliver a copy of each, and of the petition, and will, if any, to the attorney general.

(3) The values shown by such inventory, appraisal, and return shall be deemed conclusive and final in the computation of inheritance taxes unless within ninety days after the filing thereof with the probate court the representative of the estate, or the attorney general, or any party in interest, shall file objections thereto with the probate court as to any specific item therein. For the purpose of filing objections as above mentioned, the probate court shall fix a time and place for the determination of the tax and shall give thirty days' written notice thereof to the attorney general and to the representative of the estate and to any party who has filed objections, and such notice shall specify the values of the items objected to and determine the tax. If no objections are filed the court shall make its order determining the tax on the values
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set forth in the appraisal and the return as herein provided.

(4) Upon making and filing the order determining the tax a copy thereof shall be served on the state auditor, the county treasurer, the attorney general and the representatives of the estate. Within 30 days thereafter the attorney general or any other interested party may file written objections thereto with the probate court, and apply for a reassessment and re-determination of the tax. The court may set a time for hearing thereof, and give at least ten days' notice to the attorney general, the county treasurer and other interested parties. Upon such hearing the court may set aside or amend its order, or any part thereof, upon any other action set forth in the return as herein provided. As amended Apr. 20, 1939, c. 338, §7.

For effective date of Act Apr. 20, 1939, cited, see §2311-1, post.

Editorial note.—Powers conferred on attorney general are transferred to the commissioner of taxation, by §2362-6, ante.


Editorial note.—Powers conferred on attorney general are transferred to the commissioner of taxation by §2362-6, ante.

§2309. Probate court to report to attorney general and state auditor—Clerical assistance.—The probate court upon serving a copy of the order determining the tax, as herein provided shall deliver to the attorney general and the state auditor, a full report showing such other matters in connection therewith as may be required by the attorney general upon such forms as may be furnished by him to said court or as may be particularly requested. The county board may allow the county treasurer and the judge of probate to employ such additional clerical assistance for all or part of the time as may be necessary to properly perform the powers and duties imposed upon such officers by the inheritance tax law. (As amended Apr. 20, 1939, c. 338, §6.)

Editorial note.—Powers of attorney general transferred to commissioner of taxation by §2362-6, ante.

§2310. Objections—Notice and hearing. [Repealed.]

Repealed Apr. 20, 1939, c. 338, §8.

Editorial note.—Powers of attorney general transferred to commissioner of taxation by §2362-6, ante.

§2311. Nonpayment of tax—Omitted property.—(1) If any tax is due and unpaid under the provisions of this act, the representative of the estate, the county attorney of the county in which an estate is probated or which has not been probated, or the general may apply to the probate court for a citation, citing the persons liable to pay such tax to appear before the court on a day specified, not more than three months from the date of such citation, and show cause why the tax should not be paid. The judge of the probate court, upon such application, and whenever it shall appear to him that any such tax accruing under this act has not been paid as required by law, shall issue such citation, and the service of such citation, and the time, manner and proof thereof, and the hearing and determination thereon, shall conform as near as may be to the provisions of the probate code of this state, and whenever it shall appear that any such tax is due and payable and the payment thereof cannot be enforced under the provisions of this act in said probate court, the person or corporation from whom the same is due is hereby made liable to the state for the amount of such tax.

(2) Any tax due and unpaid under the provisions of this act may be enforced and collected by action in a court of general jurisdiction in the representative of any estate, or by action in the name of the state brought by the attorney general or the county attorney.

§2312. Any property which for any cause is omitted from the appraisal or inventory, so that its value is not taken into consideration in the determination of the inheritance taxes, may be subsequently taxed against the persons receiving the same, or any part thereof, to the same effect as if included in the original appraisal and determination, except that any representation of an estate discharged from his trust in the probate court shall not be liable for the payment of such tax. When any property has been thus omitted in the determination of an inheritance tax, such taxes thereon may be determined and recovered in a civil action brought by the attorney general in the name of the state, or any other person of general jurisdiction, or may be prosecuted to collection by citation and subsequent proceedings in the probate court wherein the estate was administered. (As amended Apr. 20, 1939, c. 338, §10.)

Editorial note.—Powers conferred on attorney general are transferred to the commissioner of taxation by §2362-6, ante.

§2313. Where estate of nonresident not probated.

Editorial note.—Powers of attorney general transferred to commissioner of taxation by §2362-6, ante.

§2314. Powers of attorney general.

Editorial note.—Powers conferred on attorney general are transferred to the commissioner of taxation by §2362-6, ante.

§2315. Refund of tax.

Editorial note.—Powers conferred on attorney general are transferred to the commissioner of taxation by §2362-6, ante.

§2316. Refund of tax.

Editorial note.—Powers conferred on attorney general are transferred to the commissioner of taxation by §2362-6, ante.

§2317, 2318. [Repealed.]


Editorial note.—Powers conferred on attorney general are transferred to the commissioner of taxation by §2362-6, ante.

§2319. [Repealed.]

Repealed Apr. 23, 1939, c. 431, Art. 6, §7, post, §2362-7.

Editorial note.—Powers conferred on attorney general are transferred to the commissioner of taxation by §2362-6, ante.

§2320. [Repealed.]

Repealed Apr. 23, 1939, c. 431, Art. 6, §7, post, §2362-7.

Editorial note.—Powers conferred on attorney general are transferred to the commissioner of taxation by §2362-6, ante.

§2321. Inheritance tax.—There shall be assessed by the probate court in addition to the inheritance tax as now provided by Mason's Minnesota Statutes of 1927, Sections 2292-2321, an estate tax upon all estates which are subject to taxation under the present Federal Revenue Act of Nineteen Hundred Twenty-six. Said tax is hereby imposed upon the transfer of the estate of every person who, at the time of his death was a resident of this state. The amount of said tax shall be computed by the attorney general and his computation shall be sent to the probate court of the county of deceased's residence.
and shall be by the probate court assessed as an additional amount of inheritance tax as fixed in accordance with the provisions of this act by said probate court. In the event that the estate of the deceased is not probated, said tax shall be determined and computed by the attorney general. The amount of said tax so assessed shall be the amount by which the aggregate amount of the estate tax, payable to the United States under the provisions of the said Federal Revenue Act of Nineteen Hundred Twenty-six [Mason's U. S. Code, Anno., title 26, §§1135-1 to 1136-49], 'shall exceed the aggregate amount of all existing state inheritance, legacy and succession taxes imposed by said Title III [Mason's U. S. Code, Anno., §§1136-1 to 1136-25] or of the provisions thereof providing for inheritance, legacy and succession taxes imposed by said Title III [Mason's U. S. Code, Anno., title 26, §§1135-3(b)] in the extent that this state may be entitled by the provisions of this act, by imposing additional taxes, and the same shall be liberally construed to effect this purpose. The attorney general may make such regulations, relative to the assessment and the collection of the tax provided by this act, not inconsistent with law, as may be necessary to carry out this intent. (Act Apr. 24, 1931, c. 332, §§1.)

2321-4. Intent of act.—It is hereby declared to be the intent and purpose of this act to effect this purpose of the credit allowed under the provisions of said Title III, Section 391, subsection (b) of the Federal Revenue Act of Nineteen Hundred Twenty-six [Mason's U. S. Code, Anno., title 26, §§1136-3(b)], to the extent that this state may be entitled by the provisions of this act, by imposing additional taxes, and the same shall be liberally construed to effect this purpose. The attorney general may make such regulations, relative to the assessment and the collection of the tax provided by this act, not inconsistent with law, as may be necessary to carry out this intent. (Act Apr. 24, 1931, c. 332, §§4.)

 Kurds talk note.—Powers conferred on the attorney general are transferred to the commissioner of taxation by §2326-6 ante.

2321-5. Application.—The provisions of this act shall also apply to all estates not fully distributed and now in process of settlement, where the date of the decedent's death is subsequent to February 26, 1926. (Act Apr. 24, 1931, c. 332, §§5.)

2321-6. Other laws made part of this act.—All provisions of the federal revenue act of Nineteen Hundred Twenty-six [Mason's U. S. Code, Anno., title 26, §§1135-1 to 1136-49], and amendments thereto, relating to succession taxes are hereby made a part of this act wherever the same are applicable. (Act Apr. 24, 1931, c. 332, §§6.)

2321-7. Apportionment of tax.—The tax which may be imposed under section 1 [§2321-1] of this act shall be charged upon such tax from the accrual thereof until the cause of such delay is removed, after which seven percentum shall be charged and collected from the time the due interest at the rate of six percentum per annum shall be charged and collected from the amount of said tax so assessed shall be the amount by which the aggregate amount of the estate tax, payable to the United States under the provisions of the said Federal Revenue Act of Nineteen Hundred Twenty-six [Mason's U. S. Code, Anno., title 26, §§1135-1 to 1136-49], 'shall exceed the aggregate amount of all existing state inheritance, legacy and succession taxes imposed by said Title III [Mason's U. S. Code, Anno., §§1136-1 to 1136-25] or of the provisions thereof providing for inheritance, legacy and succession taxes imposed by said Title III [Mason's U. S. Code, Anno., title 26, §§1135-3(b)] in the extent that this state may be entitled by the provisions of this act, by imposing additional taxes, and the same shall be liberally construed to effect this purpose. The attorney general may make such regulations, relative to the assessment and the collection of the tax provided by this act, not inconsistent with law, as may be necessary to carry out this intent. (Act Apr. 24, 1931, c. 332, §§7.)

2321-8. Provisions separable.—If any portion of this act is held to be unconstitutional, such decision shall not invalidate any provisions unaffected thereby. In the event that any portion of this act or Federal Estate Tax Law, hereinbefore referred to, shall be declared to be in violation of the constitution of the United States, such declaration shall not be construed to affect the provisions of this act. (Act Apr. 24, 1931, c. 332, §§8.)

MORTGAGES ON REAL PROPERTY

2322. Mortgage defined.—Woolworth v. W., 185W336, 241NW316. Purchaser under a contract for a lease claiming title to the property, contending such contract should have been registered under this section, was merely making an collateral attack upon Torrens registration of vendor. In re S. (USCCAE, 177C6001). Cert, den. 301US907, 57SCHR319, Reh. den. 58SCHR5. Transfer by managing officer of bank to certain directors to secure his discharge as mortgagee and not as an assignment for benefit of creditors. Merchants' Nat. Bank v. F., 214NW552, 110NS456.

The fact that the tax was not paid until after the trial but prior to final submission of the case does not affect the instrument. Ibid. Finding that judgment creditors had no knowledge of tax until after the deeding of the judgments held sustained by the evidence. 173M244, 217NW105. Failure to pay mortgage registry tax for two extensions of a mortgage on which the tax was originally paid, held not to invalidate the mortgage, and it was deemed payable without such payment. Mooty et al. v. U., 186M560, 221NW496(2).

The ordinary essential elements of a real estate mortgage are: (1) A debt; (2) a written instrument; (3) a description of the property mortgaged; (4) a description of the mortgage; (5) a delivery of the instrument; and (6) a delivery of the property mortgaged. The mortgagee must have the intent and purpose of this act to obtain for federal state inheritance tax paid by each. (Act Apr. 24, 1931, c. 332, §§8.)

Mortgage registry tax must be paid on mortgages to federal savings and loan associations before they can be recorded. Op. Atty. Gen. (372b-01), Apr. 20, 1934. New mortgage given only to secure same indebtedness as old mortgage upon which registration tax is paid is not exempt from tax. Op. Atty. Gen. (418a-14), July 11, 1934. Where an executor's land contract which does not contain any provision under which the vendor is entitled to take possession of the premises, vendee is not obligated to pay the registration tax on the contract before it can be recorded in the office of the Register of Deeds, unless he took possession of the premises under the contract or being in possession of the premises prior to the contract, thereafter remained in possession. Op. Atty. Gen. (418b-15), July 11, 1934.

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Option contract is not a mortgage and should be recorded without payment of registration tax. Op. Atty. Gen. (418a-12), July 23, 1935. A mortgage given to a county by persons on relief is of no effect where the amount of the mortgage is not stated. Op. Atty. Gen. (418a-14), June 3, 1935. Registry tax must be paid on new mortgage substituting for an existing mortgage. Op. Atty. Gen. (418b-2), July 25, 1935. A closed insolvent bank is required to pay registration tax on transactions with it. Op. Atty. Gen. (418b-3), June 29, 1939. Purchase money mortgage to Joint Stock Land Bank is exempt from tax. Op. Atty. Gen. (418a-13), Jan. 3, 1936. A deed reciting a consideration of one dollar and other value, subject to a mortgage given and sued out on a certain person during his natural life, property to be chosen by him of the half of the estate which should predecease third person, was not subject to registration tax. Op. Atty. Gen. (418b-5), Mar. 24, 1936. Where tax was paid on mortgage It could be enforced, though the tax was not paid on two extensions of the mortgage. Op. Atty. Gen. (418a-12), July 23, 1936. Mortgage registration tax must be paid before contract for deed may be recorded. Op. Atty. Gen. (418b-5), Nov. 23, 1937. Mortgages running to a joint stock land bank are exempt from tax. Op. Atty. Gen. (418a-14), May 25, 1938. Mortgages running to Reconstruction Finance Corporation are not subject to registration tax. Op. Atty. Gen. (418a-14), Sept. 14, 1938. Mortgage running to Reconstruction Finance Corporation may be recorded without payment of tax. Op. Atty. Gen. (418c-1), Dec. 7, 1938. An agreement to pay existing delinquent taxes and accrued interest on a mortgage assumed under a contract for deed does not create a lien upon which a mortgagee to foreclose for a number of years after maturity. Op. Atty. Gen. (418a-14), Nov. 23, 1937. A mortgagee in possession of property subject to a mortgage, with a defeasance clause which should not be recorded without payment of registration tax, may record without payment of registration tax. Op. Atty. Gen. (418b-9), July 25, 1939. 25223. Tax on record or registration. Laws 1931, c. 173, legalizes termination of land contract then not paid. 1732544, 211NW132; note under §2322. Where tax was paid on mortgage it could be enforced, though not paid on a mortgage given by a mortgagee in possession of a mortgage. 1803555, 231NW406(2). An agreement to pay existing delinquent taxes and accrued interest on a mortgage assumed under a contract for deed does not create a lien upon which a mortgagee to foreclose for a number of years after maturity. Op. Atty. Gen. (418a-14), Nov. 23, 1937. A mortgage on all lands owned by mortgagee in certain other states, without a specific description of any property, may be recorded if there is satisfactory proof by affidavit or otherwise satisfactory to the treasurer of facts necessary to determine apportionment of tax. Op. Atty. Gen. (418c-1), Dec. 7, 1938. Mortgage given by Joint stock land bank to reconstruction finance corporation should be accepted for recording, as to such real estate in any county. Op. Atty. Gen., Feb. 1, 1932. Mortgagees executed under Federal Home Owners Loan Act are not subject to registration tax. Op. Atty. Gen. Aug. 24, 1932. An instrument which constitutes both a chattel mortgage and a contract for deed presented to registrar of deeds cannot be filed as a chattel mortgage should be recorded without payment of registration tax. Op. Atty. Gen. (418a-12), July 15, 1935. Mortgagor executed to national bank or receiver thereof is not entitled to record without payment of tax. Op. Atty. Gen. (418a-12), July 15, 1935. Mortgage registry tax must be paid on a contract for deed executed by the mortgagee, while in process of liquidation. Op. Atty. Gen. (418a-12), July 23, 1936. Mortgage given to secure interest only is not subject to registration tax. Op. Atty. Gen. (418a-14), July 23, 1936. Mortgages executed by cooperative association are not exempt from tax. Op. Atty. Gen. (418a-12), Mar. 23, 1936. Where it is impossible to determine what part of principal debt will mature within 5 years and 60 days after due date, deposit to secure interest during such period should be taxed at twenty-five cents for $100. Op. Atty. Gen. (418a-11), Nov. 12, 1936. Tax on church mortgage should be paid to treasurer of county in which real estate is situated. Op. Atty. Gen. (418a-13), Nov. 20, 1936. Where consideration is services to be rendered grantor by furnishing of home and portion of crop to be raised, amount of tax is determined by estimate of value of such services based on mortality cases. Op. Atty. Gen. (418a-5), Sept. 27, 1937. Mortgage assumed by vendee in land contract is to be deducted from total indebtedness in ascertaining amount of primary debt. Op. Atty. Gen. (418a-12), Aug. 17, 1938. Where contract for deed specifies no principal amount, but only certain monthly payments to grantor during his lifetime, value of contract for deed shall be doubled by years of expectancy by yearly value of payments, and portion payable in less than five years should bear the same rate. Id. Where mortgage and debt both run to United States, mortgage may be recorded without tax. Op. Atty. Gen. (418a-15), Aug. 30, 1938. Where mortgage given by a religious corporation to joint stock land bank, mortgagor is exempt from payment of tax. Op. Atty. Gen. (418b-8), May 25, 1939. A trust deed given to a bank by a cooperative power company to secure a note payable to the United States must be registered without payment of tax, though note is transferable. Op. Atty. Gen. (418b-19), May 25, 1939. 25224. Exemption from other taxes. Where payment of registration tax does not exempt mortgagees or grantor in contract for deed from liability for money and credit tax avoided in prior legislation. Op. Atty. Gen. (418a-12), July 23, 1935. Mortgages of bank for cooperatives, which is branch of federal credit administration, held by a state bank in United States, are exempt from mortgage registration tax. Op. Atty. Gen. (418a-14), Nov. 15, 1935. Mortgage upon church property held by trust company in trust for religious and charitable organizations whose personal property would be exempt from taxation, may be recorded without payment of tax. Op. Atty. Gen. (418a-14), Sept. 30, 1938. A trust deed given to a bank by a cooperative power company to secure a note payable to a bank is subject to tax. Op. Atty. Gen. (418b-32), Aug. 17, 1938. 25225. Tax, how payable—Receipts. There can be no refundment of a tax paid under this act except by application to the tax commission under §2323.232. Mortgages on all lands owned by mortgagee in certain counties in the state and property in certain other counties, without a specific description of any property, may be recorded if there is satisfactory proof by affidavit or otherwise satisfactory to the treasurer of facts necessary to determine apportionment of tax. Op. Atty. Gen., Oct. 21, 1931. When any real estate situate in this state and described in any such mortgage is exempt from taxation under Section 1, Article 9 of the Constitution, the tax herein provided shall be paid to the treasurer of the county in which such real estate is situated in the same manner as if such real estate was not exempt from taxation. When any real estate situate in this state and described in such mortgage is not exempt from taxation under such section, but is not taxed by direct tax upon the assessed valuation thereof, then the tax herein provided shall be paid to the state treasurer and credited to the general revenue fund of the state. The receipt thereof shall be endorsed upon the mortgage by the state treasurer and countersigned by the state auditor, who shall charge the treasurer therefor, and thereupon such mortgage shall be recorded or registered in such county and any office in this state. When any such mortgage shall describe any real estate, part of which is not taxed by direct tax, upon the assessed valuation thereof and part of which is taxed, the proportionate amount of the tax to be paid to the state treasurer and to the county treasurer shall be determined in accordance with the proportionate value of the real estate included therein as such valuation shall be determined by the auditor upon application of the mortgagee.
amount of the tax payable to the state treasurer shall thereupon be paid to him, who shall endorse upon such mortgage that the proportionate amount has been paid and the balance of such tax shall be paid to the county treasurer of the county where the mortgage is first presented for record or registration and shall be divided as provided, that bonds, notes or other evidence of indebtedness in the hands of individuals citizens of the state are not taxable as moneys and credits but accrued rents on leases covering property outside state are not taxable from state taxation. Op. Atty. Gen., May 23, 1933.

2337. Definitions.—As used in this section the word "money" means gold and silver coin, treasury notes, bank notes and other forms of currency in common use; and the word "credits" means and includes every rights, claims, demand, and other thing of value, and every annuity or sum of money receivable at state periods, due or to become due, and all shares of stock in corporations (7% per cent or more of the real and tangible personal property of which is not taxable in Minnesota, as credits."

Moneys and credits which were omitted in assessment and collection of tax imposed by §§2337 to 2349, and other penalties, are not to be taken into consideration in determining the limit of the city of Stillwater for its authorized levy of taxes for current purposes. Op. Atty. Gen., Aug. 29, 1930.

The First Bank Stock Corporation and the Northwest Bancorporation are not "banks" or "mortgage loan companies" within the meaning of Sections 2301-2309, Gen. Laws, for purposes of the recording or registration of such mortgage. Op. Atty. Gen., Aug. 29, 1930.


Tax certificates are not taxable under statute relating to moneys and credits unless sale is void and holder is entitled to return of money paid. Op. Atty. Gen., May 12, 1934.

Whether a state tax on shares of stock of a national bank violates Mason's USCA, title 12, §515, is a question of fact in each case to be determined from varying rates of taxation in a given year. Op. Atty. Gen., Aug. 29, 1930.


The First Bank Stock Corporation and the Northwest Bancorporation, insofar as value thereof is supported by shares in national banks, are not subject to money and credits tax. Op. Atty. Gen., June 7, 1933.

Anticipated payments to be received out of so-called trust fund of a railroad retirement fund are not moneys and credits for purpose of taxation. Op. Atty. Gen., May 18, 1934.

Moneys and credits which were omitted in assessment and collection of tax imposed by §§2337 to 2349, and other penalties, are not to be taken into consideration in determining the limit of the city of Stillwater for its authorized levy of taxes for current purposes. Op. Atty. Gen., Aug. 29, 1930.

The First Bank Stock Corporation and the Northwest Bancorporation, insofar as value thereof is supported by shares in national banks, are not subject to money and credits tax. Op. Atty. Gen., May 18, 1934.

Value for assessment purposes of corporate stock, either foreign or domestic, should be determined by deduction from total value of all corporation property of which is assessed or taxed in state. Op. Atty. Gen., June 22, 1931.


Moneys and credits which were omitted in assessment and collection of tax imposed by §§2337 to 2349, and other penalties, are not to be taken into consideration in determining the limit of the city of Stillwater for its authorized levy of taxes for current purposes. Op. Atty. Gen., Aug. 29, 1930.

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Before maturity, group annuity policy is not subject to taxation, but is subject to taxation after maturity, to be computed on basis of life expectancy of annuitant. Op. Atty. Gen. (614b), Mar. 28, 1938.


All money and credits owned by a federal savings and loan association, within the state are taxable under §2317, but not under §2304-5. Op. Atty. Gen. (614), March 7, 1939.


Exemption of $2,000 of money and credits would not violate either state or federal constitution. Op. Atty. Gen. (614g), March 1, 1939.

Shares of stock in corporation paying gross earnings tax whose real and tangible personal property taxable in state is equal to 25% or less of its total real and tangible property are taxable as credits. Op. Atty. Gen. (614n), May 12, 1939.


Though court has held that shares of stock may not be taxed, petition that corporation holds property outside the state, court might still adopt an interpretation that stock is subject to tax unless a substantial part of its value is fixed within the state. Op. Atty. Gen. (614N), June 12, 1939.


2340. Tax commission to prepare instructions.

2342. When to be received as true.

2349. Apportionment of receipts.

GRAIN IN ELEVATORS
2350. Person operating elevator to list.

TRANSIENT MERCHANTS
2353-1. Taxation of personal property of transient merchants—etc.
This act does not affect a stock of merchandise moved into an assessment district between January 1st and May 1st with the intent of being sold and disposed of before the latter date. Op. Atty. Gen., Feb. 6, 1939.

DEPARTMENT OF TAXATION
2374 to 2392. [Superseded.]
Superseded by §1312-1 to 2392, post.

Department of taxation created.—The Department of Taxation shall be under the supervision and control of a commissioner of taxation, except as to the functions herein or by other provisions of law committed to the board of tax appeals. (Act Apr. 22, 1939, c. 431, Art. 6, §2.)

2382-2. Department and commissioner of taxation—Appointment, qualifications, removal—Salary—Bond.—(a) The commissioner of taxation shall be appointed by the governor, by and with the advice and consent of the senate. The commissioner appointed hereunder shall expire March 1, 1945, and succeeding terms shall be six years thereafter. The commissioner shall be selected on the basis of his experience in the field of taxation and administration, and without regard to political affiliations. The governor may remove the commissioner at any time for cause, after notice and hearing. The commissioner shall receive a salary of $5,000 per year, and shall give bond to the state in the sum of $200,000.

(b) Powers—Deputies and assistants—Divisions. Subject to the provisions of this chapter and other applicable laws, the commissioner shall have power to organize the department with such divisions and other agencies as he deems necessary, and to appoint a deputy commissioner, a department secretary, director of divisions, other officers of the department and agents as he may deem necessary to discharge the functions of the department, define the duties of such officers, employees, and agents, and to delegate to them any of his powers or duties, subject to his control and under such conditions as he may prescribe. Appointments to exercise delegated power shall be by written order filed with the secretary of state.

(c) Department—Seal.—The department of taxation shall have a seal, engraved with the words, "State of Minnesota, Department of Taxation." Such seal may be used to authenticate the official acts of the commissioner or any other members of the department except the board of tax appeals, but failure to use the seal shall not invalidate any such acts. Duplicate seals may be provided for the use of divisions of the department and of the several county boards of tax appeals.

(Act Apr. 22, 1939, c. 431, Art. 6, §2.)

2392-3. Powers and duties of former department and tax commission transferred.—All the powers and duties now vested in or imposed upon the department of taxation and the Minnesota Tax Commission, except those herein or by other provisions of law transferred to the board of tax appeals, are hereby transferred to, vested in, and imposed upon the commissioner of taxation. The Minnesota Tax Commission as herebefore constituted is hereby abolished. (Act Apr. 22, 1939, c. 431, Art. 6, §3.)

2392-4. Certain powers and duties.—All the powers and duties now vested in or imposed upon the commissioner of agriculture and dairy and food under the provisions of Mason's Minnesota Statutes of 1927, Chapter 20, the 1938 Supplement to Mason's Minnesota Statutes of 1927, Chapter 20, and other laws relating to the inspection of oil and gasoline and the imposition and collection of taxes thereon are hereby transferred to, vested in, and imposed upon the commissioner of taxation, who shall have power to appoint such inspectors, as assistants, and such employees for the purpose of supervising the administration of said laws. The office of chief oil inspector is hereby abolished and all the powers and duties vested in or imposed upon said office on or before the effective date of this act are hereby transferred to, vested in, and imposed upon the commissioner of taxation. (Act Apr. 22, 1939, c. 431, Art. 6, §4.)

2392-5. Same.—To license cigarette dealers, etc.—All the powers and duties now vested in or imposed upon the commissioner of agriculture and dairy and food under the provisions of Mason's Minnesota Statutes of 1927, Chapter 16A, and the 1938 Supplement to Mason's Minnesota Statutes of 1927, Chapter 16A, and other laws relating to the licensing of the sale of cigarettes and other matters governed by said provisions are hereby transferred to, vested in, and imposed upon the commissioner of taxation, who shall have charge of the administration of said laws, and shall have power to appoint such inspectors, assistants, and other employees as may be necessary therefor. (Act Apr. 22, 1939, c. 431, Art. 6, §5.)

2392-6. Powers of attorney general to supervise inheritance tax transferred.—All the powers and duties now vested in or imposed upon the attorney general under the provisions of any laws relating to inheritance taxes or gift taxes, except those prescribed by Mason's Minnesota Statutes of 1927, Sections 2317 to 2318, are hereby transferred to, vested in, and imposed upon the commissioner of taxation, who shall have charge of the administration of said laws. (Act Apr. 22, 1939, c. 431, Art. 6, §6.)
2362-7. Law repealed. — Mason's Minnesota Statutes of 1927, Sections 2317 and 2318, are hereby repealed. (Act Apr. 22, 1939, c. 431, Art. 6, §7.)

2362-8. May request opinion of Attorney General. — The commissioner of taxation may in writing request the attorney general upon any such matter rendered in response to such request or if he shall have the formal effect of law and until overruled by a decision of the board of tax appeals or a court of competent jurisdiction. (Act Apr. 22, 1939, c. 431, Art. 6, §8.)

2362-9. Orders and reports. — (a) Necessity of writing. — Change of assessments. — Notice. — Approval by attorney general. — All orders and proceedings of the commissioner of taxation or any of his subordinates respecting any tax, assessment, or other obligation shall be in writing, filed in the office of the department. No order or decision increasing or decreasing any tax, assessment, or other obligation by a sum exceeding $100 shall be made without the written approval of the commissioner or his deputy in each case. Written notice of every order granting a reduction, refundment, or abatement of taxes exceeding $100 shall be given within five days to the attorney general. The attorney general shall forthwith examine such order, and if he deems the same proper and legal he shall approve the same in writing, and may waive the right of appeal thereof in behalf of the owner of the estate, otherwise he shall take an appeal from the order in behalf of the state as herein provided.

(b) Orders based on recommendation or approval of public body. — No action requiring the recommendation or approval of any county board or other public agency shall be taken by the commissioner of taxation or any other member of the department unless such recommendation or approval shall have been made upon official action by such county board or other agency, entered upon the minutes or record of its proceedings as a public record, showing the names of the taxpayers or other persons concerned and the amounts involved, and so certified by the recording officer or clerk of the board or agency which made such recommendation or approval.

(c) Contents of biennial report. — The commissioner shall include in the printed biennial report of the department a statement of all abatements, reductions, and refundments of assessments, taxes, or other obligations made by the department during the biennium exceeding $100 in amount, or, in case of real estate taxes, exceeding twenty per cent of the assessed value of the property. Provided, however, that all reductions of assessed valuation of more than $50,000.00 and all reductions, refundments, or abatements of real estate tax of more than $1,000.00 shall be separately shown in such report. Such statement shall show the names of all taxpayers or other persons concerned, the original amount of each assessment, tax, or other obligation, the amount of abatement, reduction, or refundment allowed in each case, and the totals of the respective items, notwithstanding any provisions of law requiring secrecy to the contrary. The commissioner shall also include in such reports a statement of all increases of taxes or assessments made by the department, classified in such manner as he may deem proper, but not showing the names of taxpayers or other persons concerned or the amounts in individual cases. (Act Apr. 22, 1939, c. 431, Art. 6, §9.)

2362-10. Board of tax appeals. — (a) Creation. — Membership. — Qualifications. — There is hereby created a board of tax appeals, an independent agency of the executive branch of the government, in the Department of Taxation, but not in any way subject to the supervision or control of the Commissioner of Taxation. The board shall consist of three members, each of whom shall be a citizen of the state appointed by the governor by and with the advice and consent of the senate. They shall be selected on the basis of their experience with and knowledge of taxation and tax laws. So far as practicable they shall be nonpartisan in their political affiliations, and not more than two of them shall be members of or affiliated with the same political party or organization. No member of the board shall hold any office or under any office or position the salary for which is paid in whole or in part from appropriations from the tax revenues of the State of Minnesota, nor any office under the government of the United States or any other state, nor be a candidate for an elective office under the laws of this state or of the United States or of any other state. No member of the board shall hold any profit or interest or any office under any public or private corporation, association or any candidate or measure to be voted upon by the people. No member of the board shall act as attorney, counselor, or accountant for any taxing authority of any state or any political subdivision thereof.

(b) Tenure. — Vacancies. — Rules. — Upon the taking effect of this act, one member of the board shall be appointed to serve until March 1, 1941, one member to serve until March 1, 1943, and one member to serve until March 1, 1945, who shall act as chairman until another shall qualify as hereinafter provided. Such successions shall be for terms of six years, respectively, commencing at the expiration of the preceding terms. Any vacancy shall be filled by the governor for the unexpired term, subject to confirmation by the senate. The first board shall meet, organize, and adopt rules of procedure.

(c) Removal. — A member of the board may be removed by the governor only for cause, after written notice of the charges against him and an opportunity to be heard publicly thereon.

(d) Compensation. — Expenses. — Each member of the board shall receive $25 per day for time spent in the performance of his duties, but not exceeding $500 for any calendar year, or a proportionate amount for a fraction of a year. He shall also receive his actual and necessary expenses paid or incurred in the performance of his duties. (Act Apr. 22, 1939, c. 431, Art. 6, §10.)

2362-11. Chairman. — Clerk. — Deputies. — Employees. — The member of the board having for the time being the longest record of then continuous service as such shall be chairman of the board, and the member having the next longest record shall be vice-chairman. In case the periods of service of two members be equal, the board shall choose between them. The board shall appoint a clerk, who shall be custodian of its files and records, and may also appoint a deputy clerk and other necessary employees. (Act Apr. 22, 1939, c. 431, Art. 6, §11.)
§ 2362-12. Seal.—The board shall have a seal, engraved with the words, "State of Minnesota, Board of Tax Appeals." Such seal may be used to authenticate the official acts of the board or any member thereof, but failure to use the seal shall not invalidate any such act. (Act Apr. 22, 1939, c. 431, Art. 6, §12.)

§ 2362-13. Hearings—Office—Quorum.—The board shall hold hearings and meetings at the call of the chairman or any two members, and otherwise as may be prescribed by rule of the board. The principal office of the board shall be at the State Capitol, but it may sit or hold hearings at any other place within the state. A majority of the board shall constitute a quorum for making orders or decisions or transacting other official business, and may act though one membership be vacant. One or more members may hold hearings and take testimony, to be reported for action by the board, when authorized by rule of the board. (Act Apr. 22, 1939, c. 431, Art. 6, §13.)

§ 2362-14. Review of orders of Commissioner of Taxation.—The board of tax appeals shall have power to review and redesignate orders or decisions of the Commissioner of Taxation upon appeal thereof. The board may, upon a showing of proper cause, prescribe the form and contents of the records of the cases authorized by law. (Act Apr. 22, 1939, c. 431, Art. 6, §14.)

§ 2362-15. Appeals from orders.—(a) Who entitled to appeal.—Except as otherwise provided by law, an appeal to the board may be taken in the manner hereinafter provided for in the case of an order or final decision of the Commissioner of Taxation respecting any tax, fee, or assessment, or any matter pertaining thereto, 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. (Act Apr. 22, 1939, c. 431, Art. 6, §15.)

§ 2362-16. Shall make record of hearings.—Transcripts—Cost.—The board shall provide for a stenographic report of all proceedings had before it upon appeals in like manner as required by the laws relating to proceedings in district court, so far as applicable. In case of a review by the supreme court of an order of the board, the transcripts of the proceedings before the board shall be furnished to the board, the commissioner, and the attorney general. (Act Apr. 22, 1939, c. 431, Art. 6, §16.)

§ 2362-17. Shall make written order on appeal—Contents—Filing—Notice.—The board shall determine every appeal by written order containing findings of fact and the decision of the board. A memorandum of the copy of any appeal to the board an appeal fee equal to ten cents for each one hundred dollars or fraction thereof of the amount at issue in the proceedings; provided, that the maximum fee shall be $5 and the maximum fee $15; provided further, that no appeal fee shall be required of the state or any of its political subdivisions. In any case where the foregoing provisions for determination of the appeal fee are inapplicable the amount of the fee shall be $10.

(a) Offer of modification or rescission—Dismissal—Costs.—At any time before final determination of an appeal by the board, the commissioner may, upon notice to the appellant, offer to modify or rescind the order appealed from, and if such action be satisfactory to the appellant and to all other parties appearing in the proceeding, if any, and they shall stipulate thereto in writing, the proposed modification or rescission shall be made by the commissioner, and the appeal shall thereupon be dismissed, with such adjustment of costs as may be agreed upon between the commissioner and the appellant and specified in the stipulation.

(b) Time for appeal.—Notice—Duties of attorney general—Intervention.—Except as otherwise provided by law, within twenty days after notice of the making and filing of such order, the appellant shall file a notice of appeal with the commissioner, and shall serve a copy thereof upon the attorney general, the commissioner, and the appellant and specified in the stipulation.

(c) Time for appeal.—Notice—Duties of attorney general—Intervention.—Except as otherwise provided by law, within twenty days after notice of the making and filing of such order, the appellant shall file a notice of appeal with the commissioner, and shall serve a copy thereof upon the attorney general, the commissioner, and the appellant and specified in the stipulation.

(d) Appeal fee.—At the time of filing the notice of appeal the appellant shall pay to the clerk of the board an appeal fee equal to ten cents for each one hundred dollars or fraction thereof of the amount at issue in the proceedings; provided, that the maximum fee shall be $5 and the maximum fee $15; provided further, that no appeal fee shall be required of the state or any of its political subdivisions. In any case where the foregoing provisions for determination of the appeal fee are inapplicable the amount of the fee shall be $10.

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

(f) De novo hearing—Notice—Default—Dismissal.—The board shall hear, consider, and determine every appeal de novo upon the issues made by the notice and the return. The board shall hold a public hearing in every case, of which 10 days notice shall be given by mail to all parties to the proceeding. All parties shall be entitled to the same privilege of appearance as the parties above provided for at the hearing; provided, that the order of the commissioner of taxation in every case shall be prima facie valid. In case no appellant shall appear, the appeal shall be dismissed, and the order appealed from shall be treated as if it had never been taken.

2362-18. Shall make record of hearings.—Transcripts—Cost.—The board shall provide for a stenographic report of all proceedings had before it upon appeals in like manner as required by the laws relating to proceedings in district court, so far as applicable. In case of a review by the supreme court of an order of the board, the transcripts of the proceedings before the board shall be furnished to the board, the commissioner, and the attorney general. (Act Apr. 22, 1939, c. 431, Art. 6, §15.)
commissioner of taxation and filed in his office. Notice of the entry of such order and of the substance of the decision shall be given by mail to all other parties who have appeared, and also, in all cases where the amount at issue exceeds $100, to the attorney general. (Act Apr. 22, 1939, c. 431. Art. 6, §17.)

2362-18. Inheritance taxes.—(a) Cases determinable by probate court—Stipulation as to jurisdiction. Subject to the right of the board herein provided, shall not apply in the determination of inheritance taxes in cases wherein such taxes are now determinable by the probate courts, in which cases proceedings shall be had as otherwise provided by law, subject to the substitution of the commissioner of taxation for the attorney general as herein provided. In all other cases, except as otherwise provided herein, the right of appeal herein provided shall be the exclusive remedy for reviewing the action of the commissioner of taxation respecting any tax, assessment, or other obligation. Upon any appeal taken by a taxpayer, and upon any other appeal when the taxpayer shall so agree in writing, filed with the clerk of the board, the decision of the board of tax appeals, or the decision of the supreme court upon review thereof, shall be final and conclusive upon all parties to the proceedings as to all matters at issue determined by such decision. In all cases the decision of the board upon appeal or of the supreme court upon review thereof may be, in lieu of the order of the commissioner from which the appeal was taken, and shall have like force and effect, subject to the provisions hereof.

(b) Other remedies preserved—Suspension of limitations.—Except as otherwise hereinafter provided, in all cases other than those wherein the taxpayer has appealed to the board or has agreed in writing, as herein provided, that the decision upon appeal shall be final and conclusive, all action or defenses in the courts of the state respecting any tax, fee, or assessment now afforded the taxpayer by law shall be preserved; provided, that no action by a taxpayer for a refund shall be instituted, proceeded with, or determined pending the determination of any appeal or review by the supreme court hereunder, except as hereinafter expressly authorized. Except as otherwise hereinafter provided, in any case wherein an appeal has been taken by a person other than the taxpayer and the taxpayer has not agreed that the decision upon appeal or review shall be conclusive, the running of the time limited by law for the bringing of an action by the taxpayer shall be suspended pending the determination of any issue or issues involved in the appeal made to the supreme court and the matter shall be finally disposed of in any way without final determination of any issue or issues involved in the appeal, the appeal shall be relisted and may be proceeded with the same issue or issues with like effect as if the action had not been commenced, and the determination upon the appeal or upon review by the supreme court shall be final and conclusive upon the taxpayer. The running of any period of time limited by law for the determination of any order of the board shall be suspended for such time as the appeal is stayed under the provisions of this subdivision and for sixty days thereafter. (Act Apr. 22, 1939, c. 431. Art. 6, §18.)

2362-19. Certiorari from Supreme Court—Proceedings—Costs.—(a) A review of any order of the board of tax appeals may be had upon certiorari by the supreme court upon petition of any party to the proceedings before the board. Such review may be had on the ground that the board was without jurisdiction, that the order of the board was not justified by the evidence or was not in conformity with law, or that the board committed any other error or law.

(b) Within twenty days after notice of the making and filing of such order, the petitioner for review shall obtain from the board, or from the supreme court, a writ of certiorari, and shall serve the same upon the commissioner of taxation and upon all other parties appearing in the proceeding before the board, also upon the attorney general, unless he is the petitioner, and shall file the original, with proof of such service, with the clerk of the board. Every petitioner except the attorney general shall also pay to the clerk a fee of $15 and file a bond or deposit in like manner and amount as in case of an appeal from the district court. The fee shall be disposed of in such case. Return upon the writ shall be made to the supreme court and to the superior court of appeal from the board, also upon the attorney general, unless he is the petitioner, and shall be prima facie evidence that the order or decision appealed from was justified by the evidence and was in conformity with law. (Act Apr. 22, 1939, c. 431. Art. 6, §19.)

2362-20. Orders to be prima facie evidence of facts.—(a) In all cases determinable by order of the commissioner of taxation the order of the commissioner, or in case of appeal therefrom, the order of the board of tax appeals or the decision of the supreme court, as the case may be, shall be prima facie evidence of all facts therein stated and shall be prima facie evidence that all precedent requirements of the law were complied with, and shall be prima facie valid, and such order or decision shall be conclusive as to all matters therein determined upon every appellant or petitioner for review and upon all parties to the proceedings who shall have so agreed in writing as hereinafter provided. (Act Apr. 22, 1939, c. 431. Art. 6, §20.)

2362-21. Orders not effective until time for appeal has expired.—Adjustment on reversal or modification.—No order for refundment by the commissioner of taxation or the board of tax appeals shall take effect until the time for appeal therefrom or review thereof has expired. Otherwise every order of the commissioner or the board shall take
effect immediately upon the filing thereof, and no appeal therefrom or review thereof shall stay the execution thereof or extend the time for payment of any tax or other obligation unless otherwise expressly provided by law; provided, that in case an order which has been acted upon in whole or in part shall be set aside or modified upon appeal, the determination upon appeal or review shall supersede the order appealed from and be binding upon all parties affected thereby, and such adjustments as may be necessary to give effect thereto shall be made according to the judgment and order of any court or board of review provided, as herein provided. If it be finally determined upon such appeal or review that any person is entitled to refundment of any amount which has been paid for a tax or other obligation, such amount, unless otherwise provided by law, shall be paid to him by the state treasurer or other proper officer out of funds derived from taxes of the same kind, if available for the purpose, or out of other available funds, if any, with interest at six per cent, upon certification by the commissioner of taxation. If any tax assessment, or other obligation be increased upon such appeal or review, the increase shall be added to the original amount, and may be enforced and collected therefor in separate proceedings in like manner as the original amount. (Act Apr. 22, 1939, c. 431, Art. 6, §12.)

2362-22. May compel attendance of witnesses. The commissioner of taxation, the board or tax appeals, and the several members of the board 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 any such subpoena or refusal by any witness to be sworn or to testify upon any material matter, 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 subpoena in the district court of the county where 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 any member of the board, the secretary of the department of taxation, the clerk of the board in behalf of the board, or by the clerk of the board in behalf of the board, as the case may be. (Act Apr. 22, 1939, c. 431, Art. 6, §22.)

2362-23. Depositions. Depositions may be taken for use before the commissioner or the board upon notice, communique, or stipulation, as in civil actions, and the commissioner and the board shall respectively have power to issue commissions to take depositions. (Act Apr. 22, 1939, c. 431, Art. 6, §23.)

2362-24. May administer oaths. The commissioner of taxation, the members of the board of tax appeals, the secretary of the department, the clerk of the board, and all officers and employes of the department thereto authorized by the commissioner 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 office or the board, as the case may be. (Act Apr. 22, 1939, c. 431, Art. 6, §24.)

2362-25. May make rules and regulations. The commissioner of taxation and the board of tax appeals shall respectively have power to make and amend rules and regulations, not inconsistent with law, governing the performance of their duties and other matters within the scope of their respective functions, and such rules and regulations shall have the force and effect of law; provided, that all rules and regulations affecting persons other than members of the department of taxation shall be filed with the secretary of state, and shall not be binding upon any other persons unless so filed; provided, further, that the provisions of this section shall not prejudice or abridge any power to make rules or regulations otherwise conferred upon the commissioner or the board by law or the effect of the provisions of any other law. (Act Apr. 22, 1939, c. 431, Art. 6, §25.)

2362-26. Secretary of department and clerk of board shall be filing and certifying officers. Certified copies. The secretary of the department of taxation and the clerk of the board of tax appeals shall be the filing officers and custodians of the books, files, and records of the department of taxation, and all papers, records, and books and documents of the department thereto authorized by the commissioner shall respectively have power to certify and authenticate copies of any books, files, and records of the department specified in the order or other order issued during the time in which the clerk and their deputies shall respectively have power to certify to status of a particular individual in question, as affecting representation of a division thereof to certify to status of a particular individual in question, as affecting representation of a division thereof, to be classified as "those holding office or employment prior to the passage of this act," no officer, member, or employe of the department of taxation, including the board of tax appeals, shall, within one year after his office or employment has terminated, act as counsel, attorney, or agent for a taxpayer or be associated with any other person so acting in connection with any claim or proceeding pending in the department, and no officer or employe, whether appointed or employed before or after the passage of this act, shall at any time after the termination of his office or employment act as counsel, attorney, or agent in connection with any claim or proceeding, including the board of tax appeals, or in any other proceeding of which they acquire knowledge in course of their terms of office or employment in the department. Any violation of the provisions of this section shall be a misdemeanor. (Act Apr. 22, 1939, c. 431, Art. 6, §26.)

2362-27. Employees not to represent clients within one year after discontinuing employment. Penalty. Except those holding office or employment prior to the passage of this act, no officer, member, or employe of the department of taxation, including the board of tax appeals, shall within one year after his office or employment has terminated, act as counsel, attorney, or agent for a taxpayer or be associated with any other person so acting in connection with any claim or proceeding of which they acquire knowledge in course of their terms of office. Op. Atty. Gen. (130a), June 30, 1939.


Fact that employer of former auditor of the tax commissioner may have on hand some cases of which auditor acquired knowledge in course of his service in department, or other cases, or other matters, or other officers or employees of the department of taxation may not act as counsel, attorney, or agent in connection with any claim or proceeding of which they acquire knowledge in course of their terms of office. Op. Atty. Gen. (130a), Aug. 24, 1939.

2365-28. Costs and disbursements. Appeals for delay—Addition to tax—Agreement with banks. Witness fees. Upon the determination of any appeal under this article before the board of tax ap-
peals or of any review hereunder by the supreme court costs and disbursements may be taxed and allowed in favor of the prevailing party and against the losing party as in civil actions. In any case where a person liable for a tax or other obligation has lost an appeal or review instituted by him, and the court or board of review shall determine the same merely for purposes of delay, additional costs, commensurate with the expense incurred and services performed by the agencies of the state in connection with the appeal, but not exceeding $500 in any case, unless allowed against him, in the discretion of the board or court. Costs and disbursements allowed against any such person shall be added to the tax or other obligation determined to be due, and shall be paid forthwith. Costs and disbursements allowed against the state or other public agencies shall be paid out of funds received from taxes or other obligations of the kind involved in the proceeding, or other funds of the agency concerned appropriated and available therefor. Witnesses in proceedings under this article shall receive like fees as in the district court, to be paid in the first instance by the parties by whom the witnesses were called, and to be taxed and allowed as herein provided. (Act Apr. 22, 1939, c. 431, Art. 4, §2.)

2362-29. Not to apply to pending actions. —The provisions of this article (§§2362-1 to 2362-31) shall not apply to any proceeding pending in any court at the time of the passage of this act, but such proceedings shall be governed by the laws then in force unless otherwise provided; provided, that proceedings pending in any probate court in an inheritance tax case shall be governed by the provisions of this act, so far as applicable. (Act Apr. 22, 1939, c. 431, Art. 6, §29.)

2362-30. Questions must be disposed of within three months — Salary withheld. — All questions of fact and law, and all matters submitted to the members of the board of tax appeals, shall be disposed of and their decision filed with the clerk of said board within three months after such submission, unless sickness or casualty shall prevent, or the time be extended by written consent of the parties. And no part of the salary of any member of the board under tax appeals shall be paid unless the voucher therefor be accompanied by certificate of the member that he has fully complied with the requirements of this section. (Act Apr. 22, 1939, c. 431, Art. 6, §30.)

2362-31. Effective July 1, 1939. — Notwithstanding any provisions of the laws of this state or the provisions of Article VI hereof (§§2362-1 to 2362-31) shall take effect July 1, 1939; provided, that appointments and employments under said article may be made at any time after the passage hereof, to take effect July 1, 1939. (Act Apr. 22, 1939, c. 431, Art. 6, §31.)


2304. Powers and duties. Moneys and credits which were omitted in assessment of any year or years during life of deceased owner may be assessed and taxed for such year or years after death has occurred and personal representative has been charged, and heirs and legatees are liable on property passing to them, and personal representative is liable personally if he had knowledge of such omission during administration of estate, and personal representative is further personally liable if moneys and credits tax is not paid for years covered by administration. Op. Atty. Gen. (462a), Jan. 1, 1939.


2364-1 to 2364-3. [Repealed.]

Repealed Mar. 13, 1933, c. 83, effective from and after passage.


Tax commission does not have power to order reassessment unless caused to be by the property owner, unless it has been undervalued or overvalued. Op. Atty. Gen., Apr. 23, 1932.

2372-1. Municipalities to be party to tax hearings. Any city, town, village, borough, school district, or county (all of which are hereinafter) may appear at and become a party to any proceedings before the Tax Commission held for the purpose of equalizing or assessing any real or personal property in said municipality, or reducing the assessed value of any such property. For that purpose any such municipality may employ counsel and disburse money for other expenses in connection with such proceedings, on duly itemized verified claim, which shall be paid forthwith as now provided by law for the allowance of claims against a municipality. It shall be the duty of the Tax Commission, at the time of such hearing to grant the municipality, at its request, such further reasonable time as may be necessary for such municipality to prepare for further hearing. It shall be the duty of the Tax Commission whenever any taxpayer or property owner has applied for a reduction of the assessed valuation of any real or personal property in an amount exceeding Fifteen ($15,000) Thousand Dollars, to give written notice to the officials of the municipality wherein such property is located, and to permit such municipality to have a reasonable opportunity to be heard at any proceeding concerning such application. (Act Apr. 23, 1931, c. 304, §1.)

Where application granted by commission was not one for reduction of assessed valuation of property jurisdiction of commission was not affected by its failure to give notice to officials of municipality in which property is located. Glenn Beach Holding Co., 389 N.W.2d 317. See Dun. Dig. 9577a.

2372-2. Must file written request for hearing. Any such municipality may, at any time within ten days after the final adjournment of the county board of equalization of the county in which such municipality is located, or within 10 days after the filing with the county auditor of such county of any order of the tax commission reducing the assessed valuation of any property in such municipality, file a written request with the tax commission for a hearing upon the equalization or assessment of such property in such municipality, specifying the property and the name and address of the owner thereof, as they appear from the assessment books. The tax commission shall thereupon order a hearing thereon and shall mail a notice stating the time and place of such hearing to the municipality and to the owner of such property. It shall be the duty of the Tax Commission, at the time of such hearing to grant the municipality, at its request, such further reasonable time as may be necessary for such municipality to prepare for further hearing. (Act Apr. 23, 1931, c. 304, §2.)

2372-3. Commission to summon witnesses. Upon any such hearing the tax commission shall, upon the request of such municipality or any party to such proceedings, issue subpoenas and summon witnesses to appear and give testimony, and to produce books, records, papers and files of said party preparing for and participating in said hearing. The county shall have access to, and use of, all the data, records and files of the tax commission pertaining to the property in question. Upon demand of any party a record shall be kept by the tax commission of all evidence offered or received at such hearing, the
cost thereof to be paid by the party making such demand. (Act Apr. 23, 1931, c. 304, §3.)

§2372-4. Commission to make findings of facts.—The tax commission shall determine the controversy upon the evidence produced at such hearing and shall make and file written findings of fact and its order determining the controversy. In the equalization and determination of valuations, the findings and values as given by the Assessor of the local assessment district shall be considered as prima facie correct. Copies of such order and findings shall be mailed to all parties appearing at said hearing, and to the county auditor of the county in which the property is located, and such findings shall extend and levy against such property or the owner thereof the taxes thereupon for said year as is attributable to the excessive valuation thereof. If such tax has been paid the county auditor, upon petition of the owner, approved by the county board and tax commission, shall refund such sum as is attributable to such excess valuation. Upon such refund being made the county auditor shall charge the same to the state and the various governmental subdivisions thereof that participated in such excess valuation, payment in proportion to their respective shares therein and deduct the same in the next tax apportionment. (Act Apr. 23, 1931, c. 304, §7.)

§2372-5. Notice of appeal.—To secure such review the municipality shall, within thirty days after mailing of notice of such determination by the tax commission, serve upon such commission a notice of appeal to the supreme court in like manner and upon the same grounds as hereinabove provided for review on the appeal of any municipality as hereinafter provided. (Act Apr. 23, 1931, c. 304, §4.)

§2372-6. Supreme Court to determine.—The supreme court shall reverse or affirm the order of the tax commission or the final order for judgment of the commission reviewed by appeal to the supreme Court, in like manner and upon the same grounds as hereinabove provided for review on the appeal of any municipal as hereinafter provided. (Act Apr. 23, 1931, c. 304, §5.)

§2372-7. Not to stay collection.—The institution of any such appeal from the order of the commission shall not operate to stay in any way proceedings for the assessment or collection of taxes against the property involved therein. Notwithstanding such appeal, the tax commission shall file with the county auditor of the county in which such property is situated, its order confirming, increasing, decreasing or determining the assessed value thereof, and the county auditor shall extend and levy against said property or the owner thereof the taxes thereupon for said year according to such assessment, and all subsequent proceedings for the determination of the taxes and the collection thereof shall be taken as if no appeal from such order were pending. When the matter is finally determined on review, a properly authenticated copy of the findings, order or judgment shall be filed with the county auditor of the county in which the land or property referred to in the proceedings is situated. If said order or judgment lowers the taxable valuation of the land or property referred to in the proceedings the tax commission, upon petition of the owner, approved by the county board, shall abate so much of the taxes against such property as is attributable to the excessive valuation thereof. If such tax has been paid the county auditor, upon petition of the owner, approved by the county board and tax commission, shall refund such sum as is attributable to such excess valuation. Upon such refund being made the county auditor shall charge the same to the state and the various governmental subdivisions thereof that participated in such excess valuation, payment in proportion to their respective shares therein and deduct the same in the next tax apportionment. (Act Apr. 23, 1931, c. 304, §7.)
Whether this title is sufficient to carry the provisions in sections 2 and 3 of the act (set forth below as §§2392-1, 2392-2) may present a serious judicial question. 173M236, 215NW71, 110, 111; note under §2392-1; 221NW13.

181M221, 232NW35; note under §2374.

177M226, 232NW35; note under §2374.

Reformation of covenant in lease to pay tax. 493(P24) 176M125, 221NW74. See D.C. Dig. 9377.

The occupation tax and the royalty tax are complementary. 172M236, 215NW74.

2373-1. Application of act.—All ores mined or produced subsequent to December 31, 1938, and prior to January 1, 1941, shall be subject to the increased rate provided by this act. (Act Apr. 21, 1939, c. 356, §2.)

See note under §2373.

2373-2. Low grade ore.—For the purpose of increasing employment and the utilization of low grade ores, the occupation tax rate computed without the benefits of this section shall be reduced as follows: whenever more than thirty-three and one-third per cent of the ores mined or produced in any year from any property treated as a unit in calculating the tax on the business of mining or producing ore therefrom of low grade ores, as hereinafter defined, the rate of tax applicable to such mining or production for such year from such property shall be eight and one-half per cent in lieu of the nine per cent otherwise provided. Whenever more than six-sixths part of the tons of ore produced from any property in any year shall consist of low grade ores, as hereinafter defined, the rate of tax applicable to such mining or production for such year shall be eight per cent in lieu of the nine per cent otherwise provided. As used in this section, low grade ores shall mean iron, manganiferous or silicous ores which, in accordance with rules of the government geological authorities, require treatment by roasting, sintering, agglomerating, or drying through the use of fuel or by jiggling or by heavy medium separation to make them suitable for blast furnace use. This section shall be severable from Section 1 hereof, and if this section is held unconstitutional, the rate of tax applicable to the occupation of producing the ores defined herein shall be as prescribed by Section 1. In no event shall the rate of tax imposed upon the mining or producing of low grade ores be higher than that imposed upon the mining or producing of high grade or standard ores. (Act Apr. 21, 1939, c. 356, §3.)

See note under §2373.

2374. Value of ore—how ascertained.—The valuation of iron or other ores for the purposes of determining the amount of tax to be paid under the provisions of Section 1 of this act shall be ascertained by subtracting from the value of such ore at the place where the same is brought to the surface of the earth, such value to be determined by the Minnesota Tax Commission: 

1. The reasonable cost of supplies used and labor performed at the mine in separating the ore from the ore body, including hoisting, elevating, or conveying the same to the surface of the earth.

2. If the ore is taken from an open pit mine, an amount for each ton of ore mined or produced during the year equal to the cost of removing the overburden, divided by the number of tons of ore uncovered in each case to be determined by the Minnesota Tax Commission.

3. If the ore is taken from a underground mine, an amount for each ton of ore mined or produced during the year equal to the cost of sinking and constructing shafts and running drifts, divided by the number of tons of ore that can be advantageously taken out through such shafts and drifts, the number of tons of ore that can be advantageously taken out in each such case to be determined by the Minnesota Tax Commission.

4. The amount of royalties paid on the ore mined or produced during the year.

5. A percentage of the ad valorem taxes levied for said year against the realty in which the ore is deposited equal to the percentage that the tons mined or produced during such year bears to the total tonnage in the mine.

6. The amount or amounts of all the foregoing subtractions shall be ascertained and determined by the Minnesota Tax Commission. (’21, c. 223, §2; 25, c. 307, §1; July 23, 1937, Sp. Sea., c. 85, §2.)

The purchaser of a mining lease is entitled to a deduction as advance royalty from the valuation of the ore produced, in addition to any other deduction of the amount paid for the lease, whether by way of rental, interest or royalty by lump sum payment. 172M125, 221NW74.

Money paid for an assignment is none the less advance royalty because the assignment is without condition and contains no right of re-entry. 172M236, 215NW74.

Where a mining lease is sold or transferred, the transferor is entitled to a deduction of advance royalties paid by the transferee on ore theretofore mined. 176M125, 221NW74.

Where the sum paid for a mining lease includes the amount for the privilege of mining the ore and also the propel paid for other benefits, the royalty may be determined by deducting the value of the other property from the sum paid. 176M125, 221NW74.

In fixing the value of iron ore for the purpose of computing the occupation tax, advance royalties paid thereon are to be deducted. 176M125, 221NW74.

The deduction of royalty does not include the 6% royalty tax imposed by 8S2392-1 and 2392-2 on the value of the ore, as said tax is a tax and not a royalty, the royalty upon which is imposed being a royalty reserved in the computing the occupation tax. 181M221, 232NW35. See D.U. Dig. 9377.

Obligation assumed by an assignee of a mining lease as consideration for assignment is "royalty" for priv- ilege of mining the ore and, as such, deductible In ascertaining the occupation tax. State v. Bjornson, 294Mc49, 259NW392; note under §2374.

Consideration received for assignment of a mining lease is a royalty, though relation of landlord and tenant does not continue to exist between assignor and assignee, and royalty need not be in nature of rent from a sublessee and obligation assumed by assignee for royalty tax constitutes a consideration for right to remove ore, though taxes are not paid to the assignor. State v. Bjorn- son, 196Mc212, 2C4NW773. See D.U. Dig. 9377.

Advance royalty paid by a lessee of a mining lease or by assignee of lessee or a sublessee cannot be de- ducted from occupation tax on ore mined after lease has expired. State v. Wallace, 196Mc212, 2C4NW773. See D.U. Dig. 9376c.

Where lessee of unexpired mining leases, upon which a lump sum as advance royalty has been paid, transfers the conveyance of fee, it was to interest of lessee that leases and obligations assumed by assignee for royalty tax advanced royalty paid could be made for ore mined and produced each year for unexpired term of leases. 2374-1.

2374-1. Ores subject to act.—All ores mined or produced subsequent to December 31, 1938, shall be subject to the provisions of this act. (July 23, 1937, Sp. Ses., c. 86, §3.)

2383. Notices to persons liable of amount of tax—Hearings and review.


TAX ON IRON ORE ROYALTIES

2392. Tax on royalties.—Rate of tax.—There shall be levied and collected from each person liable of the amount of tax for each calendar year thereafter, for permission to explore, mine, take out and remove any iron ore land within this state, a royalty of nine per cent for the years 1939 and 1940, and eight per cent thereafter. (As amended July 23, 1937, Sp. Ses., c. 84, §1; Apr. 21, 1939, c. 355, §1.)

Editorial note.—Sec. 2 of Act Apr. 21, 1939, provides: "The prescribed rate provided by the provisions of this section shall be the rate of 1% on all royalties received subsequent to December 31, 1938, and prior to January 1, 1941." This section 2 is ambigu-
and interest of the lessee, and where the lessee has been required to pay all taxes and assessments, he must pay the royalty tax. 172M922, 273, 215NW71, 160, 161.

The occupation tax and the royalty tax are complementary. 172M255, 215NW74.

Laws 1931, c. 207, legalizes abatement of taxes in any way affecting the nature or character of the taxes imposed... (2392-8) (b) A bond be given to secure such payment, upon the occupation tax imposed by §373, 181M221, 235NW935. See Dun. Dig. 6256C.

Royalty tax cannot be enforced against right, title, and interest in land, where recipient of royalty conveyed prior to time such tax became a lien; grantee having no actual notice or knowledge of existence of tax. State v. Res., 189M456, 250NW41. See Dun. Dig. 7616C.

Tax imposed by the receiver of the Minnesota Tax Commission in an amount 25 per cent in excess of the tax commission's estimate of the tax, or the estimated amount of the tax (such estimate to be made by the tax commission) be deposited with the state treasurer as security for such payment, or (d) The payment of the tax be guaranteed or secured in some other manner satisfactory to the tax commission. (23, c. 228, §8; Apr. 20, 1931, c. 234, §3.)

Royalty tax cannot be enforced against right, title, and interest in land, where recipient of royalty conveyed prior to time such tax became a lien; grantee having no actual notice or knowledge of existence of tax. State v. Res., 189M456, 250NW41. See Dun. Dig. 7616C.

Application.—Nothing in this act shall be construed as amending, modifying, qualifying or in any way affecting the nature or character of the tax imposed by Mason's Statutes of 1927, Section 2392-1 to 2392-12, inclusive. (Act Apr. 20, 1931, c. 224, §4.)

TAXES DUE UNITED STATES

2392-9. Application.—Nothing in this act shall be construed as amending, modifying, qualifying or in any way affecting the nature or character of the tax imposed by Mason's Statutes of 1927, Section 2392-1 to 2392-12, inclusive. (Act Apr. 20, 1931, c. 224, §4.)

TAXES DUE UNITED STATES

2392-9. Application.—Nothing in this act shall be construed as amending, modifying, qualifying or in any way affecting the nature or character of the tax imposed by Mason's Statutes of 1927, Section 2392-1 to 2392-12, inclusive. (Act Apr. 20, 1931, c. 224, §4.)

TAXES DUE UNITED STATES

2392-9. Application.—Nothing in this act shall be construed as amending, modifying, qualifying or in any way affecting the nature or character of the tax imposed by Mason's Statutes of 1927, Section 2392-1 to 2392-12, inclusive. (Act Apr. 20, 1931, c. 224, §4.)

TAXES DUE UNITED STATES

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ARTICLE I.—GENERAL DEFINITIONS

2394-1. Definitions.—When used in this Act—
(a) The term “person” shall include individuals, fiduciaries, estates and trusts, and partnerships not included in the definition of corporations, and may, where the context requires, include corporations as hereinafter defined. (As Amended July 15, 1937, Sp. Ses. c. 49, §1.)
(b) The term “partnership” shall mean any partnership not of the class included in the definition of corporations. (m) The term “Commission” shall mean the Minnesota Tax Commission.
(c) The term “corporation” shall include joint stock companies and corporations existing under the laws of any state or county; limited partnerships or corporations existing under the laws of other states; associations (other than ordinary partnerships) and common-law trusts organized or conducted for profit. (d) The term “domestic” when applied to a corporation shall mean created or organized in Minnesota or under its laws, and the term “foreign” when used in reference to a corporation shall mean created or organized in Minnesota or personal services performed there, though he shall have been engaged in work within this state for more than 150 working days during such taxable year; (e) The term “resident” shall mean any individual domiciled in Minnesota and any other individual maintaining an abode therein during any portion of the tax year who shall not during the whole of such tax year have been domiciled outside the state.
(f) The term “residence” shall mean the place of abode of the individual or individual fiduciary, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any portion of the tax year.
(g) The term “fiscal year” shall mean an accounting period of twelve months ending on the last day of any month other than December. (k) The term “paid or incurred” and “paid or accrued” shall be construed according to the method of accounting upon the basis of which net income is computed for the purposes of the taxes imposed by this Act; and the terms “received” or “received or accrued” shall be similarly construed.
(h) The term “taxable year” shall mean the period for which the taxes levied by this Act are imposed. It shall be a calendar year, a fiscal year, or, in cases where returns for a fractional part of a year are permitted or required, the period for which such return is made. The term “fiscal year” shall mean an accounting period of twelve months ending on the last day of any month other than December. (l) The term “paid or incurred” and “paid or accrued” shall be construed according to the method of accounting upon the basis of which net income is computed for the purposes of the taxes imposed by this Act; and the terms “received” or “received or accrued” shall be similarly construed.
(i) The term “stock” or “share” shall mean the interest of a member in a corporation however evidenced; and the terms “stockholder” or “shareholder” shall mean the owner of any such “stock” or “share.”
(j) The term “state” or “this state” shall mean the State of Minnesota unless the context requires otherwise, mean the State of Minnesota.
(n) The term “property” shall include every form of property, real, personal or mixed, tangible or intangible, and every interest therein, legal or equitable, irrespective of how created or arising. Property pledged or mortgaged shall be treated as owned by the pledgor or mortgagor.
(o) Whenever in this Act the estate of a decedent or a trust is referred to as a taxable person, or a duty is imposed on such estate or trust, the reference may be construed as meaning the fiduciary in charge of the property of such estate or trust, and the duty shall be treated as imposed on such fiduciary.
(p) The term “commissioner” shall mean the commissioner of Administration and Finance provided for in Section 1 of Article III, Chapter 426 of the Laws of Minnesota of 1925. (Act Apr. 21, 1933, c. 465, §1.)
(q) The term “taxpayer” shall mean any person or corporation subject to a tax imposed by this Act.

ARTICLE II—IMPOSITION OF TAXES

2394-2. Imposition on corporations; privilege tax; how measured.—(a) An annual tax is hereby imposed upon every domestic corporation, except those included within Section 3, for the privilege of existing in this state, or for the grant to it of the privilege of transacting or for the actual transaction of any local business within this state during any part of its taxable year, in corporate or organized form.
(b) The tax imposed by subsection (a) shall be measured by such corporations’ taxable net income for the taxable year for which the tax is imposed, and shall be computed in the manner and at the rates hereinafter provided. (Added July 15, 1937, Sp. Ses. c. 49, §1.)
(c) Estates of decedents dying domiciled within this state during any part of its taxable year, in corporate or organized form.
(d) The term “domestic and foreign corporations” whose business within this state during the taxable year consists exclusively of foreign commerce, interstate commerce, or both.
(e) The resident and non-resident individuals, except that no nonresident individual shall be taxed on his income from compensation for labor or personal services performed within this state during any taxable year unless he shall have been engaged in work within this state for more than 150 working days during such taxable year;
(f) Estates of decedents dying domiciled within or without this state and
(g) Trusts (except those taxable as corporations) however created by residents or non-residents or by domestic or foreign corporations. (Act Apr. 21, 1933, c. 465, §3; July 15, 1937, Sp. Ses. c. 49, §3.)

State of Minnesota may tax residents of Wisconsin upon the income derived from business or services performed in Minnesota or personal services performed there, though the income is derived in double taxation is not forbidden by the state or national constitution unless it results in lack of uniformity or offends the due process or equal protection clauses. 14.

This act is constitutional. Reed v. B., 191 Minn 254, 253 N.W. 289 (1934). See Dun. Dig. 9143, 9146.

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This act is constitutional. Reed v. B., 191 Minn 254, 253 N.W. 289 (1934). See Dun. Dig. 9143, 9146.

Reciprocal and retaliatory legislation. 21 Minn. Law Rev 371.

2394-4. Accrual of liability. Existence of fiduciary relationship. The liability for the tax imposed by Section 2 shall arise upon the first day of the taxable year upon which a domestic corporation exercises any of the privileges specified in Section 2 or exists as a corporation, or on which a foreign corporation is possessed of the privilege for the grant to it of the privilege of transacting or for the actual transaction by it of any local business within this state during any part of its taxable year, in corporate or organized form. The liability for the tax imposed by Section 3 shall arise concurrently with the receipt or accrual of income during the taxable year. The provisions shall in no way affect the determination of the amount of such taxes, the time for making returns, and the time for paying such taxes. (As Amended July 15, 1937, Sp. Ses. c. 49, §4.)

(b) The liability of any taxpayer shall remain unaffected by the fact that such taxpayer, or the title, possession, custody or control of his business or property, is in the care of a guardian, trustee, receiver, conservator, or any other person acting in any fiduciary capacity for such taxpayer or in reference to his business or property, unless the taxes imposed by this Act are specifically imposed by this Act upon such an individual, guardian, trustee, receiver, conservator or fiduciary. (Act Apr. 21, 1933, c. 405, §4.)

2394-5. Exemptions from act.—The following corporations and organizations shall be exempted from taxation under this Act:

(a) National and state banks, except as such banks are subject to the excise tax imposed by sections 32-4 and 32-5. (Act Apr. 21, 1933, c. 405, §5; July 15, 1937, Sp. Ses. c. 49, §5; Apr. 22, 1939, c. 446, §5.)

(b) Corporations engaged in the business of mining or producing iron ore; but if any such corporation engages in any other business or activity or has income from any property not used in such business it shall be subject to the tax computed on the net income from such property or such other business or activity. Royalty (as defined in Mason's Minnesota Statutes of 1927, Section 2394-2) shall not be considered as income from the business of mining or producing iron ore within the meaning of this section.

(c) Farmers' mutual insurance companies organized and existing under the laws of the state and credit unions organized under Chapter 206, Laws 1925, and existing under the laws of the state and credit and savings associations organized under the laws of the State of Minnesota or of the United States. (Act Apr. 21, 1933, c. 405, §6; July 15, 1937, Sp. Ses., c. 49, §6; Apr. 22, 1939, c. 446, §6.)

(d) Fraternal beneficiary associations wherever organized, and public department relief associations of public employees of this State or of any of its political subdivisions.

(e) Co-operative or mutual rural telephone associations.

(f) Labor, agricultural and horticultural organizations, no part of the net income of which inures to the benefit of any private member, stockholder, or individual.

(g) Farmers', fruit growers', or like associations organized and operated on a cooperative basis (a) for the purpose of processing or marketing the products of members or other producers, and turning back to their members of sales less the necessary expenses, on the basis of either the quantity or the value of the products furnished by them, or (b) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses. Exemption shall not be denied any such association because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 per centum per annum, whichever is greater, on the value of the consideration for which the stock was issued, and it substantially all such stock (other than non-voting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the association, upon dissolution or otherwise, beyond the fixed dividends) is owned by producers who process or market their products or purchase their supplies and equipment through the association; nor shall such exemption be denied any such association because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose. Such an association may market the products of non-members in an amount the value of which does not exceed the value of the products marketed for members, and may purchase supplies and equipment for non-members in an amount the value of which does not exceed the value of the supplies and equipment purchased for members, provided the value of the purchases made for persons who are neither members nor producers does not exceed 15 per centum of the value of all its purchases. Business done for the United States or any of its agencies shall be disregarded in determining the right to exemption under this paragraph.

(h) Corporations organized for exclusively scientific, literary or artistic purposes, no part of the net income of which inures to the benefit of any private member, stockholder or individual;

(1) Business leagues and commercial clubs, not organized for profit and no part of the net income of which inures to the benefit of any private member, stockholder or individual;

(j) Any corporation all the stock of which is owned by the United States or which may be exempt from state franchise or income tax by federal law;

(k) The State of Minnesota and all its political or governmental subdivisions, municipalities, agencies, or instrumentalities, whether engaged in the discharge of governmental or proprietary function;

(l) Clubs organized and operated exclusively for pleasure, recreation or other nonprofitable purposes, no part of the net income of which inures to the benefit of any private member, stockholder or individual;

(m) Any corporation all the stock of which is owned by the United States or which may be exempt from state franchise or income tax by federal law;

(n) The State of Minnesota and all its political or governmental subdivisions, municipalities, agencies, or instrumentalities, whether engaged in the discharge of governmental or proprietary functions;

(o) Corporations organized for exclusively educational, philanthropic or charitable purposes or functions.

(p) Corporations organized for exclusively educational, philanthropic or charitable purposes or functions.

(q) Corporations organized for exclusively educational, philanthropic or charitable purposes or functions.

(r) Corporations organized for exclusively educational, philanthropic or charitable purposes or functions.

(s) Corporations organized for exclusively educational, philanthropic or charitable purposes or functions.

(t) Corporations organized for exclusively educational, philanthropic or charitable purposes or functions.

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(v) Corporations organized for exclusively educational, philanthropic or charitable purposes or functions.

(w) Corporations organized for exclusively educational, philanthropic or charitable purposes or functions.

(x) Corporations organized for exclusively educational, philanthropic or charitable purposes or functions.

(y) Corporations organized for exclusively educational, philanthropic or charitable purposes or functions.

(z) Corporations organized for exclusively educational, philanthropic or charitable purposes or functions.
2394-4. Rates of tax; credits, apportionment.—
(a) The privilege and income taxes imposed by this act upon corporations shall be computed by applying to their taxable net income in excess of the applicable credits allowed under Section 27, the following schedule of rates:

- (1) On the first $1,000, one centum.
- (2) On the second $1,000, two centums.
- (3) On the third $1,000, three centums.
- (4) On the fourth $1,000, four centums.
- (5) On the fifth $1,000, five centums.
- (6) On the sixth and seventh $1,000, six centums.
- (7) On the eighth and ninth $1,000, seven centums.
- (8) On all over $9,000 and not over $12,500, eight centums.
- (9) On all over $12,500 and not over $20,000, nine centums.
- (10) On the remainder, ten centums.

(b) The taxes due under the foregoing computations shall be credited with the following amounts:

- (1) One hundred dollars for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer.
- (2) One hundred dollars for each person (other than husband or wife) who makes separate returns and who is less than 16 years of age.
- (3) $6.00 for each person (other than husband or wife) who makes a joint return of income with the taxpayer, and who falls under the provisions of Section 27.

2394-5. Direct tax in certain cases.—The tax for the taxable year in the case of taxpayers taxable under Section 2 whose taxable year ended prior to the date on which this Act takes effect shall be a direct tax on its taxable net income instead of on the net income of the privilege, as provided in Section 31(b), for the taxable years during which it occurred.

2394-6. Taxable net income.—(a) Net income and taxable net income shall be computed on the basis of the taxpayer's annual accounting period, and, except as specifically provided to the contrary by this Act, in accordance with the method of accounting regularly employed in keeping the taxpayer's books; provided, that if no such accounting system has been regularly employed, or if that employed does not clearly or fairly reflect income or the income taxable under this Act, the computation shall be made in accordance with such method as the Commissioner may prescribe and the computation does clearly and fairly reflect income and the income taxable under this Act.

(b) Salaries of officers and employees of Building and Loan Associations and National Banks are not exempt from taxation.

(c) If the status of a taxpayer, in so far as it affects the credits allowed under (1), (2) and (3), shall change during the taxable year, or if the taxpayer shall either become or cease to be a resident of the state during such taxable year, such credits shall be apportioned, in accordance with the number of months before and after such change.

ARTICLE III.—COMPUTATION OF NET INCOME

2394-9. Taxable net income.—(a) Net income and taxable net income shall be computed on the basis of the taxpayer's annual accounting period, and, except as specifically provided to the contrary by this Act, in accordance with the method of accounting regularly employed in keeping the taxpayer's books.

(b) A taxpayer may change his accounting period only with the consent of the Commissioner.

(c) The Commissioner, whenever in its opinion the fair distribution of income as between taxable years will be promoted thereby, permit, under such regulations as it may prescribe, taxpayers who regularly dispose of property on the installment plan, or who make a casual disposition of property on which the initial payment in cash is less than 40 per cent of the purchase price, to compute their income for the purpose of computing taxes from such transactions on the basis of taxable years during which they occurred.
§2394-10. What is net income.—The term “net income” shall include all kinds of compensation for labor or personal services of every kind from any private or public employment, office, position or service, whatsoever; income derived from the ownership or possession of property; income derived from the transaction of any trade or business; and income derived from any source whatever. Items of gross income includible within said definition shall be deemed such regardless of the form in which received. Items of gross income shall be included in gross income of the taxable year in which received by a taxpayer unless properly to be accounted for as of a different taxable year under methods of accounting permitted by Section 9, except that (1) amounts transferred from a reserve or other account, if in effect transferred to surplus, shall, to the extent that such amounts were accumulated from gross income during any taxable year, be treated as gross income for the year in which the transfer occurs, and (2) amounts received as refunds on account of taxes deducted from gross income during any taxable year shall be treated as gross income for the year in which actually received. (Act Apr. 21, 1933, c. 405, §10.)

§2394-11. What is gross income.—The term “gross income” shall include every kind of compensation for labor or personal services of every kind from any private or public employment, office, position or service, whatsoever; income derived from the ownership or possession of property; income derived from the transaction of any trade or business; and income derived from any source whatever. Items of gross income includible within said definitions shall be deemed such regardless of the form in which received. Items of gross income shall be included in gross income of the taxable year in which received by a taxpayer unless properly to be accounted for as of a different taxable year under methods of accounting permitted by Section 9, except that (1) amounts transferred from a reserve or other account, if in effect transferred to surplus, shall, to the extent that such amounts were accumulated from gross income during any taxable year, be treated as gross income for the year in which the transfer occurs, and (2) amounts received as refunds on account of taxes deducted from gross income during any taxable year shall be treated as gross income for the year in which actually received. (Act Apr. 21, 1933, c. 405, §11.)

§2394-12. Exemptions from gross income.—The following items shall not be included in gross income: (a) The value of property acquired by gift, devise, bequest or inheritance, but the income from such property shall be included in gross income; the income received under a gift, devise, bequest or inheritance of a right to receive income shall also be included in gross income. (b) Amounts received under a life insurance contract payable by reason of the death of the insured, whether in a single sum or in installments, but deemed interest accruing after December 31, 1932, and paid by the insurer on any such amounts held by it after the death of the insured shall be included in gross income. (c) Amounts received, other than those specified in subsection (b) and other than amounts received as annuities, under a life insurance, or endowment con-
where the occupancy by such taxpayer of such premises for such purposes constitute in whole or in part the consideration received by him in connection with a transaction such that, had such consideration been received thereunder in cash or other property, the amount thereof would have been required, either in whole or in part, to be included in his gross income.

(1) The value of food and goods produced by the taxpayer and consumed or used by his immediate family.

(2) Amounts deducted from the wages or salaries of employees by employers under a voluntary or compulsory plan of unemployment insurance shall not be included in the gross income of such associations.

(3) Subdivisions (c), (d), (f) and (g) shall not apply to corporations, and subdivisions (f) and (g) shall not apply to corporations taxable under Section 405, §12; Apr. 29, 1939, 202M366, 278NW594. See Dun. Dig. 9120.

(a) Ordinary and necessary expenses paid or incurred in conducting the activity or in carrying on the trade of the corporation, from which the gross income is derived, including a reasonable allowance for salaries and voluntary or compulsory contributions made by employees to maintain a voluntary or compulsory system of unemployment insurance or a system of old age, retirement, or other benefits for their employees, and any welfare work for the benefit of such employees.

(b) The interest paid or accrued within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities the income from which is includible in gross income, and of property the periodical income from which is includible in gross income under Section 12, or on indebtedness, except on indebtedness incurred in connection with a business or transaction the gains from which are includible in gross income; or if arising from fires not attributable to arson, the theft. Losses deductible under this subdivision shall be treated as sustained in the taxable year during which the property was injured or destroyed, and deductible losses arising from theft shall be treated as sustained in the taxable year in which the theft occurred. The amount of the deductible loss shall be computed on the same basis as is provided by Section 16 for determining the gain or loss on the sale or other disposition of property. (As amended July 1, 1927, Sp. Sess., c. 8.)

(c) Debts ascertained to be worthless and charged off during the taxable year, but this last shall be required only if the taxpayer keeps regular books of account; provided, that the taxpayer may in the al-
(h) The amount of the deductions under subdivisions (f) and (g) shall be computed on the basis provided in Section 18, but in no case shall the amount of such deductions exceed the difference between the basis provided in Sections 18 and 19, and the sum of the lesser of (a) the amount realized from the sale or other disposition of property, or (b) the amount paid in dollars or money's worth for the property, plus the fair market value of the property at the time the taxpayer acquired it directly or indirectly, less the amount paid in the form of interest or discount on any indebtedness which was evidenced by notes or other written instruments issued by such taxpayer or by any person in whose behalf such taxpayer acts, if the property was acquired by the taxpayer from such person in payment of the indebtedness evidenced by notes or other written instruments issued by such person.
2394-17. Transactions in which gain or loss is not recognized.—(a) No gain or loss from the following transactions shall be recognized at the time of their occurrence, except as otherwise specified in this section:

(1) If property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of title or beneficial interest, or other property secured by or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment.

(2) If common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

(3) If stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, sold for stock or securities in such corporation or in another corporation a party to the reorganization.

(4) If a corporation a party to a reorganization exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation or for property to the extent attributable to property so received.

(5) If property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation, and immediately after the exchange such person or persons are in control of the corporation; but in the case of an exchange by two or more persons this paragraph shall apply only if the amount of the stock and securities received by such person or persons is in proportion to his interest in the property prior to the exchange.

(6) No gain or loss shall be recognized upon the receipt by a corporation of property distributed in complete liquidation of another corporation. For the purposes of this paragraph a distribution shall be considered to be in complete liquidation only if—

(A) the corporation receiving such property was, on the date of the adoption of the plan of liquidation, and has continued to be at all times until the receipt of the property, the owner of all the stock of such other corporation possessing at least 80 per centum of the total combined voting power of all classes of stock entitled to vote and the owner of at least 80 per centum of the total number of all other classes of stock (except non-voting stock which is limited and preferred as to dividends), and was at no time on or after the date of the adoption of the plan of liquidation and until the receipt of the property the owner of a greater percentage of any class of stock than the percentage of such class owned at the time of the receipt of the property; and

(B) no distribution under the liquidation was made before the first day of the first taxable year of the corporation beginning after December 31, 1925; and

(C) the distribution is by such other corporation in complete cancellation or redemption of all its stock, and the transfer of all the property occurs within the taxable year of such other corporation in accordance with a plan of liquidation, even though no time for the completion of a transfer of the property is specified in such resolution; or

(D) such distribution is one of the series of distributions by such other corporation in complete cancellation or redemption of all its stock in accordance with a plan of liquidation under which the transfer of all the property under the liquidation is to be completed within three years from the close of the taxable year during which is made the first of the series of distributions under the plan, except that if such transfer is not complete within such three years the taxpayer does not continue qualified under subparagraph (a) until the completion of such transfer, no distribution under the plan shall be considered a distribution in complete liquidation.

(b) If such transfer of all the property does not occur within the taxable year the Commission may require of the taxpayer such bond, or waiver of the statute of limitations on assessment and collection, or both, as he may deem necessary to insure, if the transfer of all the property occurs within such three-year period, or if the taxpayer does not continue qualified under subparagraph (a) until the completion of such transfer, the assessment and collection of all income, war-profits, and excess-profits taxes then imposed by law for such taxable year or subsequent taxable years, to the extent attributable to property so received. A distribution otherwise constituting a distribution in complete liquidation within the meaning of this paragraph shall not be considered as not constituting such distribution merely because it does not constitute a distribution or liquidation within the meaning of the corporate law under which the distribution is made; and for the purposes of this paragraph a transfer of property of such other corporation to the taxpayer shall not be considered as not constituting a distribution (or one of a series of distributions) in complete cancellation or redemption of all the stock of such other corporation, merely because the carrying out of the plan involves (i) the transfer under the plan to the corporation, or such other corporation, of property not attributable to shares owned by the taxpayer, upon an exchange described in paragraph (4) of this subsection, and (ii) the complete cancellation or redemption under the plan, as a result of exchanges described in paragraph (3) of this subsection, of the shares not owned by the taxpayer.

(b) (1) If an exchange would be within the provisions of subsection (a) (1), (2), (3), or (5) of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then, the gain, if any, to the recipient shall be recognized in an amount not in excess of the sum of such money and the fair market value of such other property.

(2) If a distribution made in pursuance of a plan of reorganization is within the provisions of paragraph (1) of this subsection, a distribution of a taxable dividend, then there shall be taxed as a dividend to each distributee such an amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after December 31, 1932. The remainder, if any, of the gain recognized under paragraph (1) shall be taxed as a gain from the exchange of property.

(c) (1) If the corporation receiving such other property or money distributed it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

(2) If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not so distributed.
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(d) If an exchange would be within the provisions of subsection (a) (1) to (5), inclusive, of this section if it were not for the fact that the property received in the exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

(e) If property (as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation, or the threat or imminence thereof) is compulsorily or involuntarily converted into property similar or related in service or use to the property so converted, or into money which isforthwith in good faith, under regulations prescribed by the Commission, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund, no gain or loss shall be recognized. If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended.

(i) The term “reorganization” means (a) a statutory merger or consolidation, or (b) the acquisition by one corporation in exchange solely for all or a part of its assets to another corporation of all or a part of its assets to another corporation of all or a part of its assets to another corporation, or (c) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its stockholders or both are in control of the corporation to which the assets are transferred, or (d) a recapitalization, or (e) a mere change in identity, form, or place of organization, however effected.

(2) The term “a party to a reorganization” includes a corporation resulting from a reorganization and includes both corporations in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

(g) As used in this section the term “control” means the ownership of stock possessing at least $0 per centum of the total combined voting power of all classes of stock entitled to vote and at least 50 per centum of the total number of shares of all other classes of stock of another corporation; or of substantially all the properties of another corporation, or (e) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its stockholders or both are in control of the corporation to which the assets are transferred, or (d) a recapitalization, or (e) a mere change in identity, form, or place of organization, however effected.

(g) If substantially identical property was acquired in the place of stocks or securities which were sold or disposed of and in respect of which loss was not allowed as a deduction under Section 13 (d) the basis in the case of property so acquired shall be the same as in the case of the stock or securities so sold or disposed of, increased by the excess of the repurchase price of such property over the sale price of such stock or securities, or decreased by the excess of the sale price of such stocks or securities over the repurchase price of such property.

(h) If a taxpayer has received a stock dividend in respect to any stock, the amount that would be the gain or loss basis in disposing of the stock in respect of such stock dividend was increased by the excess of the repurchase price of such property over the sale price of such stock or securities, or decreased by the excess of the sale price of such stock or securities over the repurchase price of such property.

(i) If the property was acquired after December 31, 1932, by a corporation in connection with a reorganization, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. This subsection shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee as the consideration in whole or in part for the transfer of the property to it. (Added July 15, 1937, c. 49, §49.)

(j) If the property was acquired after December 31, 1932, by a corporation in connection with a transaction described in Section 17 (a) to (d), inclusive, the basis (except as provided in subsection (f) of this Section 18) shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by Section 17 (a) to be received without the recognition of gain or loss, and in part of other property, the basis provided in this subsection shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the time of such exchange. The determination shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it. (As amended July 15, 1937, c. 49, §49.)
(2) as paid-in surplus or as a contribution to capital, then the basis shall be the same as it would be in the hands of the transferee, increased in the amount of any gain or decreased in the amount of any loss recognized to the transferee upon such transfer under the law applicable to the year in which the transfer was made. (Added July 15, 1937, c. 49, §13.)

(b) If the property was acquired after December 31, 1932, as the result of a compulsory or involuntary conversion described in Section 17 (e), the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable for the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made. (Added July 15, 1937, Sp. Ses., c. 49, §13.)

2394-19. Basis for determining gain or loss from sale or other disposition of property acquired before Jan. 1, 1938.—The basis for determining the gain or loss from the sale or other disposition of property acquired before January 1, 1933, shall be the fair market value thereof on said date except that, if its cost to the taxpayer, adjusted as provided in section 16 (b) for the period prior to January 1, 1933, (in the case of inventory property, its last inventory value) exceeds such value, the basis shall be such adjusted cost (or last inventory value); provided that the basis prescribed by section 18 for determining gain or loss with respect to property acquired after January 1, 1933, shall be deemed the cost of such property to the taxpayer for the purposes of this section. (Apr. 21, 1933, c. 405, §19; July 15, 1937, Sp. Ses., c. 49, §14.)

2394-20. Deductions.—(a) The basis upon which exhaustion, wear, tear, obsolescence, or depletion are to be allowed in respect to any property shall be the same as provided in Sections 18 and 19 for the purpose of determining the loss or gain on the sale or other disposition thereof.

(b) Losses from sales or exchanges of capital assets shall be allowed only to the extent of $2,000, plus the gains from such sales or exchanges. For this purpose, the term "capital asset" shall include any property held by the taxpayer (whether or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business.

(c) For the purposes of this Act amounts received by the holder upon retirement of bonds, debentures, notes, or certificates or other evidence of indebtedness issued by any corporation (including those issued by the government or political subdivision thereof) with interest coupons or in regular form shall be considered as amounts received in exchange therefor. (Apr. 21, 1933, c. 405, §20; July 15, 1937, Sp. Ses., c. 49, §16.)

2394-21. What are dividends.—(a) The term "dividends" shall mean any distribution made by a corporation to its shareholders, whether in money or in other property, out of its accumulated earnings or profits. Every distribution shall be treated as made out of earnings or profits if, and to the extent that, any such earnings or profits are available on the date the distribution was made, and in no case shall any such action was taken, on the date of the actual payment or credit of such distribution to shareholders, and, for the purposes hereof, the earnings or profits for the year during which any such distribution was so made shall be prorated on the time basis. Dividends paid in property other than cash shall be included in the recipient's income at the fair market value of such property on the date the action ordering their distribution was taken, or if no such action was taken, on the date of the actual payment or credit thereof to the distributee. (Added July 15, 1937, Sp. Ses., c. 49, §16.)

(b) If a distribution (other than a distribution in liquidation) is made by a corporation that is not out of earnings or profits, the distributee may receive the same free from tax until the amount thereof exceeding the loss or gain applicable to the taxable year in respect of which it is received, but amounts received in excess thereof shall be treated as income for the taxable year when received by him; amounts received tax-free hereunder shall be applied to reduce the loss or gain basis applicable to the stock in respect of which received whenever such stock is sold or otherwise disposed of.

(c) A stock dividend shall not be treated as income but, if a corporation cancels or redeems its stock, whether or not such stock was issued as a stock dividend at such time and in such manner as to make the distribution the cancellation and redemption in whole or in part essentially equivalent to the distribution of a taxable dividend the amount so distributed in cancellation or redemption shall be treated as a taxable dividend to the extent that it represents a distribution of earnings or profits. A dividend shall be deemed a stock dividend only if made in stock of the same kind or class as that with respect to which it was distributed. (As amended July 15, 1937, Sp. Ses., c. 49, §16.)

(d) Amounts distributed in liquidation of a corporation shall be treated as payment in exchange for the stock, and the gain or loss to the distributee resulting from such exchange shall be determined under Section 16 but shall be recognized only to the extent provided in Section 17. Amounts distributed in complete liquidation of a corporation shall be treated as gain or loss in respect of which it is received, but losses on liquidation shall be recognized only in the year in which the corporation shall have made its final distribution. No amount received in liquidation shall be treated as the distribution of an ordinary dividend. (Apr. 21, 1933, c. 405, §21; July 15, 1937, Sp. Ses., c. 49, §16.)

2394-22. Taxable net income.—The taxable net income of a corporation shall be determined as provided in Sections 22, 24, 25, and 26. (Act Apr. 21, 1933, c. 405, §22.)

2394-23. Gross income to be allocated.—Items of gross income shall be assigned to this state or other states or countries in accordance with the following principles:

(a) The entire gross income of all resident or domestic taxpayers from compensation for labor or personal services, or from a business consisting principally of the performance of personal or professional services,
shall be assigned to this state, and the income of nonresident taxpayers from such sources shall be assigned to this state, if to the extent that labor or services are performed within it; all other income from such sources shall be treated as income from sources without this state.

(b) Income and gains received from intangible property employed in the business of the recipient of such income or gains, and from tangible property employed in the business of such recipient if such business consists principally of the holding of such property and the collection of the income and gains therefrom, wherever held and whether in trust or otherwise shall be assigned to this state if such property has a situs within it, and to other states only if it has no situs whatever in this state.

Income or gains from intangible personal property not employed in the business of the recipient of such income or gains, and from intangible property employed in the business of such recipient if such business consists principally of the holding of such property and the collection of the income and gains therefrom, wherever held and whether in trust or otherwise, shall be governed, except as otherwise provided, by the following provisions:

(a) Such deductions shall be allowed to the extent that they are connected with and allocable against the production or receipt of such gross income assignable to this state.

(b) That proportion of such deductions, so far as not connected with and allocable against the production or receipt of gross income assignable to other states or countries and so far as not entering into the computation of the net income assignable to this state under Section 25, shall be allowed which the taxpayer's gross income from all sources within the State of Minnesota or any of its subdivisions (a), (b), and (c) of Section 23 bears to his gross income from all sources, including that entering into the computations provided for by Section 25; provided that taxes of the kind deductible under Section 13 shall, so far as within the description of deductions deductible under this subsection (b), be deductible in their entirety if paid to the State of Minnesota or any of its subdivisions and not paid to a different state or country; and that such deduction shall not be included in making the computation of deductions hereinafter in this subsection (b) provided for.

(c) No deductions shall be allowed under this section, unless the taxpayer, when requested by the Commission, shall furnish it with information sufficient to enable it to determine the validity and correctness of such deductions. (Act Apr. 21, 1933, c. 405, §24.)

2394-25. Net income to be allocated. — (a) The taxable net income from a trade or business carried on partly within and partly without this state shall be computed by deducting from the gross income of such business, wherever derived, deductions of the kind permitted by Section 13 so far as connected with or allocable against the production or receipt of such income.

(b) The percentage which the total tangible property, real, personal, or mixed, owned or used by the taxpayer in connection with said trade or business is of the total tangible property, real, personal, or mixed, wherever located, owned, or used by the taxpayer in connection with said trade or business, shall be assigned to this state, and the income of such property shall be assigned to the provisions of subsection (a).

(c) Income derived from carrying on a trade or business, including in the case of a business owned by natural persons the income imputable to the owner for his services and the use of his property therein, shall be assigned to this state if the trade or business is carried on wholly within the state, and to other states if conducted wholly without this state. This provision shall not apply to business income subject to the provisions of subdivision (a).

(d) The percentage which the sales made within this state and through, from or by offices, agencies, branches or stores within this state is of the total sales wherever made;

(e) The percentage which the total tangible property, real, personal, or mixed, owned or used by the payer in connection with said trade or business is of the total tangible property, real, personal, or mixed, wherever located, owned, or used by the taxpayer in connection with said trade or business;

(f) The percentage which the taxpayer's total payroll paid or incurred in connection with said trade or business is of the total payroll paid or incurred in connection with said entire trade or business.

(g) Provided, however, that the percentage of such remainder to be assigned to this state shall not be in excess of the sum of the following percentages: 70% of the percentage determined under subdivision (A) (1) (a) above, 15% of the percentage determined under subdivision (A) (1) (b) above, and 16% of the percentage determined under subdivision (A) (1) (c) above.

(h) If the business consists of the manufacture wholly without the State of Minnesota of personal property and the sale of said property within and without the State, said remainder shall be apportioned to Minnesota on the basis of the percentage obtained by taking the arithmetical average of the following three percentages:

(i) The percentage which the sales made within this state in connection with said trade or business is of the total sales wherever made;

(j) The percentage which the total tangible property, real, personal, or mixed, owned or used by the taxpayer in connection with said trade or business is of the total tangible property, real, personal, or mixed, wherever located, owned, or used by the payer in connection with said trade or business;

(k) The percentage which the taxpayer's total payroll paid or incurred in connection with said trade or business is of the total payroll paid or incurred in connection with said entire trade or business.
such income (1) the arithmetical average of the three percentages set forth in subdivisions (a) (b) (c) of subsection (1) of this section, or (2) the separate or segregated accounting method.

(4) The sales payrolls, earnings, and receipts referred to in this section shall be those for the taxable year in respect of which the tax is being computed. The property referred to in this section shall be the average of the property owned or used by the taxpayer at the beginning and close of the taxable year in respect of which the tax is being computed.

For the purposes of this Section, in determining the amount of sales made within Minnesota, there shall be excluded therefrom sales negotiated or effect [sic] in behalf of the taxpayer by agents or agencies chiefly situated at, connected with or sent out from premises for the transaction of business owned or rented by the taxpayer or by his agents or agencies outside the state and sales otherwise determined by the commission to be attributable to the business conducted at such premises. If the commission finds that the taxpayer maintains an office, warehouse or other places of business outside the state for the purpose of reducing its tax under this section it shall in determining the amount of taxable net income therein include in the property of sales and services attributable by the taxpayer to the business conducted at such place outside the state.

(B) The methods prescribed by subsection (A) shall apply whenever and in so far as, the business carried on within this state is an integral part of a business carried on both within and without the state.

(C) Nothing in this section shall prevent the application of Sections 23 and 24 to that portion of a taxpayer's income which is not from a trade or business carried on partly within and partly without this state. (Act Apr. 21, 1933, c. 405, §25; Apr. 22, 1939, c. 446, §22.)

2304-26. Commission to prescribe methods of accounting.—The methods prescribed by Section 25 shall be presumptively determined fairly and accurately the taxpayer's net income allocable to this state; provided, however, that any taxpayer feeling aggrieved by the application to his case of the methods so prescribed, may petition the Commission for determination of such taxable net income on some other basis, including separate accounting. Thereupon, if the commission upon the petition of the taxpayer finds that the application of the methods prescribed by Section 25 will be unjust to the taxpayer, it may allow the use of the methods proposed by the taxpayer, or may determine the taxable net income by other methods if satisfied that such methods will fairly reflect the taxable net income attributable to this state. (Act Apr. 21, 1933, c. 405, §26; July 15, 1937, Sp. Sess., c. 49, §59; Apr. 22, 1939, c. 446, §23.)

2304-27. Credits against tax.—The taxes imposed by this act shall be on, or measured by, as the case may be, the taxable net income less the following credits against it:

(a) A credit of $1,000 in the case of each corporation.

(b) An amount for contributions or gifts made within the taxable year.

(1) To the State of Minnesota or any of its political subdivisions for exclusively public purposes.

(2) To any community chest, corporation, organization, trust, fund, or foundation operating within this state that is tax-exempt and operated exclusively for religious, charitable, scientific, literary, artistic or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(3) To a fraternal society, order, or association, operating under the lodge system, if such contributions or gifts are to be used within this State exclusively for the purposes specified in (2); or for or to posts or organizations of war veterans or auxiliary units or societies of such posts or organizations, if they are within the state and no part of their net income inures to the benefit of any private shareholder or individual.

The total credit against net income hereunder shall not exceed fifteen per cent of the taxpayer's taxable net income.

(c) Dividends received by a corporation during the taxable year from another corporation if the recipient owns 80 per centum or more of all the voting stock of such other corporation, from income arising out of business done in this state by the corporation paying such dividends; but if the income out of which the dividends are declared was derived from business done within and without this state, then so much of the dividends shall be allowed as a credit as the amount of the taxable net income of the corporation paying the dividends assignable to this state bears to the entire net income of the corporation, such rate being determined by the returns under this Act of the corporation paying such dividends for the taxable year preceding the distribution thereof except that with respect to dividends distributed during the year 1933 the rate shall be determined by the corporation's return for that year. The burden shall be on the taxpayer of showing that the amount of dividends claimed as a credit has been received from income arising out of business done in this state.

(d) To each mutual savings bank organized and existing as such under the laws of this state, an amount equal to the interest and dividends paid or credited during the taxable year of its depositors. (Apr. 21, 1933, c. 405, §27; July 15, 1937, Sp. Sess., c. 49, §18; Apr. 22, 1939, c. 446, §28.)

Editorial note.—Section 1 of Act Apr. 22, 1939, cited, in its enacting part, purports to amend "subsections (c) and (d)" of this section, but the amendment as set out seems to relate to subdivision (d) only.

Intention of legislature in passing Laws 1933, c. 446, was to add a new subsection (a). Hull v. K., 286 NW 311.

Section is constitutional, though it contains clerical errors and bill as enacted may be allowed as a credit as what from bill passed by legislature. Id. See Duen. Dig. 8901, 8985.


ARTICLE IV.—PROVISIONS RELATING TO SPECIAL CASES

2304-28. Application of Act.—(a) The taxes imposed by this act on individuals shall apply to the income of estates or of any kind of property held in trust, including

(1) Income accumulated in trust for the benefit of the grantor, or of any person for whose benefit a trust was created, or income contingent upon the death or the determination of any event, or income which is to be distributed currently or at some future time when the event upon which its distribution is contingent occurs, whether or not any such person is a beneficiary of the trust;

(2) Income which is to be distributed currently or at some future time when the event upon which its distribution is contingent occurs, whether or not any such person is a beneficiary of the trust;

(3) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

The tax shall be computed upon the net income of the estate or trust, and shall be paid by the fiduciary, except as provided in section 28-5 (relating to revocable trusts) and section 28-5 (relating to income for benefit of the grantor). For return of the tax on the net income of the entire estate or trust, including

(1) The income of a trust or separate fund set up for the benefit of an unborn or unascertained person or persons with whom the grantor is not entitled to $2,000 personal exemption. Section is constitutional, though it contains clerical errors and bill as enacted may be allowed as a credit as what from bill passed by legislature. Id. See Duen. Dig. 8901, 8985.

(2) Income which, in the discretion of the fiduciary, may be distributed currently or at some future time when the event upon which its distribution is contingent occurs, whether or not any such person is a beneficiary of the trust;

(3) Income which the fiduciary is required to hold or distribute as the court may direct; and

(4) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

The tax shall be computed upon the net income of the estate or trust, and shall be paid by the fiduciary, except as provided in section 28-5 (relating to revocable trusts) and section 28-5 (relating to income for benefit of the grantor). For return of the tax on the net income of the entire estate or trust, including

(a) A credit of $1,000 in the case of each corporation.

(b) An amount for contributions or gifts made within the taxable year.

(1) To the State of Minnesota or any of its political subdivisions for exclusively public purposes.

(2) To any community chest, corporation, organization, trust, fund, or foundation operating within this state that is tax-exempt and operated exclusively for religious, charitable, scientific, literary, artistic or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(3) To a fraternal society, order, or association, operating under the lodge system, if such contributions or gifts are to be used within this State exclusively for the purposes specified in (2); or for or to posts or organizations of war veterans or auxiliary units or societies of such posts or organizations, if they are within the state and no part of their net income inures to the benefit of any private shareholder or individual.

The total credit against net income hereunder shall not exceed fifteen per cent of the taxpayer's taxable net income.

(c) Dividends received by a corporation during the taxable year from another corporation if the recipient owns 80 per centum or more of all the voting stock of such other corporation, from income arising out of business done in this state by the corporation paying such dividends; but if the income out of which the dividends are declared was derived from business done within and without this state, then so much of the dividends shall be allowed as a credit as the amount of the taxable net income of the corporation paying the dividends assignable to this state bears to the entire net income of the corporation, such rate being determined by the returns under this Act of the corporation paying such dividends for the taxable year preceding the distribution thereof except that with respect to dividends distributed during the year 1933 the rate shall be determined by the corporation's return for that year. The burden shall be on the taxpayer of showing that the amount of dividends claimed as a credit has been received from income arising out of business done in this state.

(d) To each mutual savings bank organized and existing as such under the laws of this state, an amount equal to the interest and dividends paid or credited during the taxable year of its depositors. (Apr. 21, 1933, c. 405, §27; July 15, 1937, Sp. Sess., c. 49, §18; Apr. 22, 1939, c. 446, §28.)

Editorial note.—Section 1 of Act Apr. 22, 1939, cited, in its enacting part, purports to amend "subsections (c) and (d)" of this section, but the amendment as set out seems to relate to subdivision (d) only.

Intention of legislature in passing Laws 1933, c. 446, was to add a new subsection (a). Bull v. K., 286 NW 311.

Section is constitutional, though it contains clerical errors and bill as enacted may be allowed as a credit as what from bill passed by legislature. Id. See Duen. Dig. 8901, 8985.


ARTICLE IV.—PROVISIONS RELATING TO SPECIAL CASES
in which so distributed or made available to the extent (that it exceeds the amount paid in by him).

b) Taxable Year Beginning Before January 1, 1933—The provisions of subsection (a) shall not apply to a taxable year beginning before January 1, 1933. (33, c. 405, §28-4, added Apr. 22, 1939, c. 446, §10.)

Editorial note.—In pari materia with Mason's Internal Revenue Code, §162.

2394-28c. Recovovable trusts.—Where at any time the power to revest in the grantor title to any part of the corpus of the trust is vested

(1) in the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom, or

(2) in any person not having a substantial adverse interest in the disposition of such part of the corpus or the income therefrom, then the income of such part of the trust shall be included in computing the net income of the grantor. (33, c. 405, §28-5, added Apr. 22, 1939, c. 446, §10.)

Editorial note.—In pari materia with Mason's Internal Revenue Code, §162.

2394-28d. Transferees and fiduciaries.—(a) The amounts of the following liabilities shall, except as hereinafter in this section provided, be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in a tax imposed by this act, (including all provisions of the act for the collection of taxes.)

(1) The liability, at law or in equity, of a transferee of property of a taxpayer in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed upon the taxpayer by this act.

(2) The liability of a fiduciary under Chapter 405, Laws 1933, Section 48-1, of the income tax act of 1933 as amended in respect of the payment of any such tax from the estate of the taxpayer. Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

(b) The period of limitation for assessment of any such liability of the transferee or fiduciary shall be as follows:

(1) In the case of the liability of an initial transferee of the property of the taxpayer, within one year after the expiration of the period of limitation for assessment against the taxpayer;
(2) In the case of the liability of the transferee of a transferee of the property of the taxpayer, with in one year after the expiration of the period of limitation for assessment against the proceeding transferee, but only if within three and one half years after the expiration of the period of limitation for assessment against the taxpayers, except that if before the expiration of the period of limitation for the assessment of the liability of the transferee, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the taxpayer or last preceding transferee, respectively, then the period of limitation for assessment of the liability of the transferee shall expire one year after the return of execution in the court proceeding.

(3) In the case of the liability of a fiduciary, not later than one year after the liability arises or not later than the expiration of the period for collection of the tax in respect of which such liability arises, whichever is the later:

(c) For the purposes of this section, if the taxpayer is deceased, or in the case of a corporation has terminated its existence, the period of limitation for assessment against the taxpayer shall be the period that would be in effect had death or termination of existence not occurred.

(d) In the absence of notice to the commission that any person has terminated its existence, the period of limitation for assessment against the taxpayer shall be the period that would be in effect had death or termination of existence not occurred.

(e) As used in this section, the term “transferee” includes heir, legatee, devisee, and distributee. (33, c. 405, §29, Apr. 22, 1933, c. 445, §1.)

Editorial note.—In pari materia with Mason's Internal Revenue Code, §311.

2394-29n. Fiduciary to assume status of taxpayer. — (a) Upon notice to the commission that any person is acting in a fiduciary capacity, such fiduciary shall assume the powers, rights, duties, and privileges of the taxpayer in respect of a tax imposed by this act (except as otherwise specifically provided and except that the tax shall be collected from the estate of the taxpayer), until notice is given that the fiduciary capacity has terminated.

(b) Upon notice to the commission that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 29, the fiduciary shall assume, on behalf of such person, the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

(c) Notice under subsection (a) or (b) shall be given in accordance with regulations prescribed by the commission. (33, c. 405, §29-1, added Apr. 22, 1933, c. 445, §1.)

Editorial note.—In pari materia with Mason's Internal Revenue Code, §312.

2394-30. Partnerships not to be taxed. — (a) The tax imposed by this Act shall be imposed on partnerships; but the distributive share, whether distributed or not, of each partner in the taxable net income of the partnership for its taxable year ending during such partner's taxable year shall be included in computing such partner's taxable net income, except that, if a partnership's taxable year ending in 1933 differs from the partner's taxable year during which he must include its taxable net income for such taxable year in his taxable net income, he shall be required to include only such fraction of the partnership's taxable net income for its said taxable year that the number of months within 1933 contained in its said taxable year bear to twelve.

(b) The taxable net income of the partnership shall be assigned to this state under Sections 22 to 36, inclusive.

(c) Each partner shall be allowed as a credit against his taxable net income the proportionate part of contributions or gifts that are within Section 27 and made by the partnership during its taxable year, but the sum of this latter credit allowed hereunder and that allowed the partner under Section 27 shall not exceed the limit therein specified. (As amended July 15, 1937, Sp. Ses., c. 49, §20; Apr. 22, 1939, c. 445, §13.)

(d) The taxable net income of a partnership which a partner is required hereunder to take into his taxable net income shall be taxed at the rates applicable to the partner's taxable year during which he is required to include it in his taxable net income. (Act Apr. 21, 1933, c. 405, §30.)

Changes in interest rate allowed by this section apply to all claims which have been filed with commission subsequent to April 22, 1939. Op. Att'y Gen. (531p), June 14, 1939.

Comparative tax burden of corporations and partnerships. 23MinnLawRev506.

2394-31. Taxes for part of year.—(a) Whenever under this Act a taxpayer is permitted or required to make a return for a fractional part of a year, the tax shall be computed on such fractional part of a year, and not on the fraction of a year more than the fraction of a year in which the taxpayer is required to make a separate return for the period between the close of his last fiscal year and the following December 31; if the change is from a calendar year to a fiscal year, a separate return shall be made for the period between the close of his last calendar year and the date designated as the close of the fiscal year; and if the change is from one fiscal year to another fiscal year, a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year. The taxable net income for any such period shall be put on a calendar year basis by multiplying the amount thereof by twelve and dividing by the number of months included in the period for which such separate return is made; and the tax shall be that part of a tax, computed on the taxable net income, which would be obtained therefrom under such section (except that the liability shall be limited to reducing the total amount of their taxes under this Act, there shall be imposed upon it a special tax, in addition to those otherwise imposed by this Act, of ten per cent of its taxable net income assignable to this state less credits against net income under Section 27.

(b) When any taxpayer is permitted to change the basis for reporting his income from a fiscal to a calendar year, he shall make a separate return for the period between the close of his last fiscal year and the following December 31; if the change is from a calendar year to a fiscal year, a separate return shall be made for the period between the close of his last calendar year and the date designated as the close of the fiscal year; and if the change is from one fiscal year to another fiscal year, a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year. The taxable net income for any such period shall be put on an annual basis by multiplying the amount thereof by twelve and dividing by the number of months included in the period for which such separate return is made; and the tax shall be that part of a tax, computed on the taxable net income, which would be obtained therefrom under such section (except that the liability shall be limited to reducing the total amount of their taxes under this Act, there shall be imposed upon it a special tax, in addition to those otherwise imposed by this Act, of ten per cent of its taxable net income assignable to this state less credits against net income under Section 27.)
may determine the amount of its income so as to reflect what would have been its reasonable taxable net income but for the arrangements causing the understatement; of its taxable net income or the cor-
statement of its losses, having regard to the fair
profits which, but for any agreement, arrangement,
or understanding, might have been or could have
been obtained from such business.
(c) Whenever a corporation which is required to
file an income tax return is affiliated with or related to
another corporation through stock ownership by
the same interests or as parent or subsidiary cor-
porations, or has its income regulated through con-
tract or other arrangement, the Tax Commission
may permits or require such consolidated statements as in
its opinion are necessary in order to determine the
taxable net income received by any one of the affiliated
or related corporations. If 90% of all the voting
stock of two or more corporations is owned by or
under the legally enforceable control of the same in-
terests the Commission may impose the tax as though
the combined entire taxable net income was that of
one corporation except that the credit provided by
Section 27 (e) shall be allowed for each corporation;
but inter-company dividends shall in that event be ex-
cluded in computing taxable net income. (Act Apr.
21, 1933, c. 405, §32.)

(2394-32a) Taxable year extending into calendar
years affected by different laws.—The tax comp-
on to the taxable net income for any one calendar
year (hereinafter called “first calendar year") and
ending in the following calendar year (hereinafter
called “second calendar year”), whenever the law
applicable to the first calendar year is different from
the law applicable to the second calendar year, shall
be the sum of (1) that proportion of a tax for the
entire period, computed under the law applicable to
the first calendar year, which the portion of such
period falling within the first calendar year is of the
entire period, and (2) that proportion of a tax for the
entire period, computed under the law applicable to
the second calendar year, which the portion of such
period falling within the second calendar year is of
the entire period. (Apr. 21, 1933, c. 495, §32-1;

(2394-32b) Insurance companies; report of net in-
come; computation of amount of income allocable to
state.—The taxable net income of insurance com-
panies under this Act shall be computed as follows:
Each such company shall report to the Com-
mmission the net income returned by it for the taxable
year to the United States under the provisions of the
Act of Congress, known as the “Revenue Act of
1936,” or that it would be required to return as net
income thereunder if that exceeded the specific credit
allowed, or if their gross income exceeds $5000.
(b) The executor or administrator of the estate
of a decedent with respect to the taxable net income
of such decedent for any part of the year during which he was alive, if such taxable net
income exceeds an amount on which a tax at the rates herein provided would exceed the
specific credit allowed, or if such decedent’s gross income for the aforesaid period exceeds $1000.
(c) The executor or administrator of the estate
of a decedent with respect to the taxable net income
of such estate if that exceeds an amount on which a tax at the rates herein provided would exceed the
specific credit allowed, or if such estate’s gross
income exceeds $1000.
(d) The trustee or other fiduciary of property
held in trust with respect to the taxable net income
of such trust if that exceeds an amount on which a tax at the rates herein provided would exceed the
specific credit allowed, or if the gross income of such trust
exceeds $1000. If, in either case such trust belongs
to the class of taxpayers.
(e) The guardian of an infant or other incom-
petent person with respect to such infant’s or other
person’s taxable net income if that exceeds an amount
on which a tax at the rates herein provided would exceed the specific credit allowed, or if their gross
income exceeds $1000.
(f) Every corporation with respect to its taxable
net income if in excess of $1000, or if its gross in-
come exceeds $5000. The return in this case shall
be sworn to by the president, vice-president or other

ARTICLE V.—RETURNS

(2394-33) Who shall make returns.—The following
persons shall make a return under oath for each taxable
year (or fractional part thereof where permitted
or required by this Act):
(a) Individuals with respect to their own taxable
net income if that exceeds an amount on which a tax
at the rates herein provided would exceed the
specific credit allowed, or if their gross income exceeds $5000.
(b) The executor or administrator of the estate
of a decedent with respect to the taxable net income
of such decedent for any part of the year during which he was alive, if such taxable net
income exceeds an amount on which a tax at the rates herein provided would exceed the specific credit
allowed, or if such decedent’s gross income for the aforesaid period exceeds $1000.
(c) The executor or administrator of the estate
of a decedent with respect to the taxable net income
of such estate if that exceeds an amount on which a tax at the rates herein provided would exceed the
specific credit allowed, or if such estate’s gross
income exceeds $1000.
(d) The trustee or other fiduciary of property
held in trust with respect to the taxable net income
of such trust if that exceeds an amount on which a tax at the rates herein provided would exceed the
specific credit allowed, or if the gross income of such trust
exceeds $1000. If, in either case such trust belongs
to the class of taxpayers.
(e) The guardian of an infant or other incom-
petent person with respect to such infant’s or other
person’s taxable net income if that exceeds an amount
on which a tax at the rates herein provided would exceed the specific credit allowed, or if their gross
income exceeds $1000.
(f) Every corporation with respect to its taxable
net income if in excess of $1000, or if its gross in-
come exceeds $5000. The return in this case shall
be sworn to by the president, vice-president or other
principal officer, and by the treasurer or assistant treasurer.

The receivers, trustees in bankruptcy, or assignees operating the business or property of a taxpayer with respect to the taxable net income of such taxpayer if that exceeds an amount on which a tax at the rates herein provided would exceed the specific credit allowed (or, if the taxpayer is a corporation, if the excess of the amounts specified, giving the names and addresses of all persons entitled to a distributive share to which each is entitled. The return shall be sworn to by one of the partners. (Act Apr. 21, 1933, c. 405, §34.)

2394-36. Filing of return.—The filing of a return required under this section shall be deemed an assessment subject to revision of the tax shown due on the basis of such return. (Act Apr. 21, 1933, c. 405, §36.)

2394-37. Shall be annual return—exceptions.—The returns shall cover a twelve month period except in the following cases:

(a) The return made by or for any taxpayer who was in existence for less than the whole of a taxable year shall cover that part of the taxable year during which such taxpayer was in existence.

(b) A taxpayer who changes from one taxable year to another shall make a return from the fractional parts of a year as specified in Section 31 (b). (Act Apr. 21, 1933, c. 405, §37.)

2394-38. Partnership returns.—(a) Partnerships shall make a return for each taxable year which shall conform in every respect to the requirements of Section 35, and shall, in addition, include the names and addresses of all partners entitled to a distributive share in their taxable net income and the amount of such distributive share to which each is entitled. The return shall be sworn to by one of the partners.

(b) Every person or corporation making payments during the taxable year to any person or corporation in excess of $500 on account of either rents, interest or dividends, or in excess of $1000.00 on account of either wages, salaries or commissions, shall make a return in respect to such payments in excess of the amounts specified, giving the names and addresses of the persons to whom such payments were made, the amounts paid, to the treasurer and the treasurer, or other corresponding officer by whatever name known, of every political subdivision of the state, of every city, village or borough of every school district, shall, on or before the 1st day of March of each year, beginning with March, 1938, make and file with the Commission a report, giving the name of each employee or official to whom the state or such political subdivision, city, village, or school district, during the preceding calendar year, paid any salary or wages in excess of $500, together with the last known address of such employee or official.

The commission may also require brokers to furnish it with the names of the customers for whom they have transacted business, and with such details as to transactions or any customer as will enable it to determine whether all income tax due on profits or gains of such customers has been paid.

The Commission may require any person acting as agent for another to make a return giving such information as may be reasonably necessary to enable the Commission to assess and collect the tax imposed by this Act upon the person for whom he acts. (Act Apr. 21, 1933, c. 405, §38; July 15, 1937, Sp. Sea., c. 49, §22.)

Section 22 of Act July 15, 1937, cited, amends only subsection b.

2394-39. Date of filing.—The returns required to be made under Sections 33, 34, 35, 36, and 38 (other than those under 38 (b) which shall be made within 30 days after demand therefor by the Commission) shall be filed at the following times:

(a) Returns made on the basis of the calendar year shall be filed on the 15th day of March following the close of the calendar year.

(b) Returns made on the basis of the fiscal year shall be filed during the 6th day of the third month following the close of such fiscal year.

(c) Returns made for a fractional part of a year as an incident to a change from one taxable year to another shall be filed on the 15th day of the third month following the close of the period for which made.

(d) Other returns for a fractional part of a year shall be filed on the 15th day of the third month following the end of the month in which falls the last day of the period for which the return is made.

(e) In case of sickness, absence or other disability or whenever, in its judgment, good cause exists, the Commission may extend the time for filing these returns for not more than six months, except that where the failure is due to absence outside the United States it may extend the period until 30 days after the taxpayers' return to this State. If, however, the required every taxpayer in any of such cases to file a tentative return at the time fixed for filing the regularly required return from him, and to pay a tax on the basis of such tentative return at the times required for the payment of taxes on the basis of the regularly required return from such taxpayer. The Commission may exercise its power under this subdivision (e) by general regulation only. (Act Apr. 21, 1933, c. 405, §39; July 15, 1937, Sp. Sea., c. 49, §23.)

Section 23 of Act July 15, 1937, cited, amends only subsection e.

2394-40. Where filed.—The returns required to be made under Sections 33, 34, 35, 36 and 38 shall be filed with the Commission at its office in St. Paul or at such local offices in the County of the residence or principal place of business of the taxpayer as the Commission may designate. If designated by the Commission the Treasurer of each county shall receive such return and payments of taxes thereon and transmit the same to the Commission within 10 days, and in such case his bond as County Treasurer shall cover any defalcations in connection therewith. But no County Treasurer shall be required to assist in making out or swearing to such returns. (Act Apr. 21, 1933, c. 405, §40.)

ARTICLE VI.—COLLECTION OF TAX

2394-41. Payment of tax—exceptions.—The taxes imposed by this Act, and interest and penalties imposed with respect thereto, shall be paid by the taxpayer upon whom imposed except in the following cases:

(a) The tax due from a decedent for that part of the taxable year in which he died during which he
§2304-42. Tax to be paid when return is filed.—All taxes imposed by this Act shall be paid at the time fixed for filing the return on which the tax is based, except that they may, at the election of the taxpayer, be paid in two equal installments the first of which shall be paid at the time above specified and the second on or before six months thereafter. They shall be paid to the Commission or to the local officers designated by the Commission with whom the return is filed as hereinbefore provided. (Act Apr. 21, 1933, c. 405, §41.)

§2304-43. Tax commission to examine return.—(a) The Commission shall as soon as practicable after the return is filed, examine the same and make any investigation or examination of the taxpayer’s records and accounts that it may deem necessary for determining the correctness of the return. The tax so computed by it on the basis of such examination and investigation shall be the tax to be paid by such taxpayer. If the tax found due shall be greater than the tax computed as due on the taxpayer’s return, the Commission shall assess the tax in the amount of such excess and the whole amount of such excess shall be paid to the Commission within 30 days after notice of the amount and demand for its payment shall have been mailed to the taxpayer by the Commission. If the understatement of the tax on the return was false and fraudulent with intent to evade the tax, the installments of the tax shown by the taxpayer’s return which have not yet been paid shall be paid to the Commission within 30 days after notice of the amount thereof and demand for payment shall have been mailed to the taxpayer by the Commission. If the amount of the tax found due shall be less than that required by the return, the excess shall be refunded to the taxpayer in the manner provided by Section 47 (except that no demand therefor shall be necessary), if he has already paid the whole of such tax, or credited against any unpaid installment thereof, provided that no refundment shall be made except as provided in Section 47, after the expiration of thirty days from the filing of the return. (Act Apr. 21, 1933, c. 405, §43; Apr. 22, 1939, c. 446, §21.)

(b) The notices and demands provided for by Sections 42, 44, and 45 shall contain a brief statement of the basis of the tax and shall be given by registered mail to the taxpayer at the address given in his return, if any, and if no such address is given then to his last known address. (Act Apr. 21, 1933, c. 405, §43.)

§2304-44. Failure to make return or pay tax.—If any return shall fail to do so within the time prescribed by this Act or by regulations under the authority thereof, or shall make, willfully or otherwise, an incorrect, false or fraudulent return, it shall be prima facie correct and valid, and the taxpayer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereof. (Act Apr. 21, 1933, c. 405, §44; July 15, 1937, Sp. Ses., c. 49, §30.)

§2304-45. Actions for collection of tax.—(a) If a tax imposed by this Act, including penalties therein, or any portion of such tax, is not paid within 30 days after it is required to be paid thereunder, the Commission shall, unless it proceeds under the provisions of subdivision (b) hereof, bring against the person liable for payment thereof an action at law in the name of the state for the recovery of the tax and interest and penalties due in respect thereof under this Act. Such action shall be brought in the district court of the judicial district in which lies the county of the residence or principal place of business within this state of the taxpayer or, in the case of an estate or trust, of the place of its principal administration, and for this purpose the place named as such in the return, if any, made by the taxpayer shall be conclusive against the taxpayer in this matter. If no such place is named in the return such action may be commenced in Ramsey County. Such action shall be commenced by filing with the clerk of such court a statement showing the name and address of the taxpayer, if known, an itemized summary of the taxable net income on the basis of which the tax has been computed, the tax due and unpaid thereon and the interest and penalties due with respect thereto under the provisions of this Act, and shall contain a prayer that the court adjudge the taxpayer to be indebted on account of such taxes, interest and penalties in the amount thereof specified in the statement; a copy of such statement shall be annexed to the praesidio thereon. Said clerk shall mail a copy of said statement by registered mail to the taxpayer at the address given in the return, if any, and if no such address is given then at his last known address after the same is filed, except that, if the taxpayer’s address is not known, notice to him shall be made by posting copy of said statement for ten days in the place in the court house where public notices are regularly posted. The taxpayer shall, if he desires to litigate the claim or any part thereof, file a verified answer with said clerk setting forth his objections to the claim or any part thereof; said answer shall be filed on or before the twentieth day after the expiration of the period during which the notice was required to be posted. If no answer is filed within the specified time, the court shall enter judgment for the State in the amount prayed for plus costs of $10.00. If an answer is filed, the issues raised shall stand for trial as soon as possible thereafter, and the court shall determine the issues and direct judgment accordingly, and if the taxes, interest or penalties are sustained to any extent over the amount tendered by the taxpayer, shall assess $10 costs against the taxpayer. The court shall disregard all technicalities and matters of form not affecting the substantial merits. The Commission may call upon the county attorney or the attorney general to conduct such pro-
ceadings on behalf of the state. Execution shall be issued upon such judgment at the request of the Commission, and such execution shall in all other respects be governed by the laws applicable to executions issued on judgments. Only the homestead and household goods of the judgment debtor shall be exempt from seizure and sale upon such execution.

(b) If the tax imposed by this Act, or any portion of such tax, is not paid within 30 days after it is required to be paid thereunder, and if, for want of power in the State of Minnesota to impose a personal liability for such tax, interest or penalties upon the taxpayer or to obtain jurisdiction of his personal property in order to render against him a personal judgment for the amount of any such tax, interest or penalties, or for any other reason the proceedings authorized by subdivision (a) hereof shall be impossible, then the Commission shall issue its warrant to the sheriff of any county of the state commanding him to levying upon and sell the real and personal property of the taxpayer within the county, and to return such warrant to the Commission and pay to it the money collected by virtue thereof by a time to be therein specified, not less than 60 days from the date of the warrant. The sheriff shall proceed thereunder to levy upon and seize any property of the taxpayer within his county, except the homestead and household goods of the taxpayer, and shall sell the same as and for the satisfaction of such taxes, interest and penalties, and his costs, but such sales shall as to their manner be governed by the laws applicable to sales of like property on execution issued pursuant to judgments of a court of record. The proceeds of such sales less the sheriff's costs shall be turned over to the Commission which shall retain such part thereof as is required to satisfy such taxes, interest and penalties, and his costs, and pay over any balance to the taxpayer. The Commission shall not proceed under this subdivision until the expiration of 30 days after mailing to the taxpayer at his last known address a written notice of the amount of taxes, interest and penalties due from the taxpayer and demand for their payment.

(c) The Commission may also proceed under the provisions of subdivision (b) hereof whenever it has reasonable grounds for believing that the collection of any taxes, interest or penalties due under this Act will be jeopardized by delays incident to other methods of collection, and in such cases no preliminary notice and demand shall be required.

(d) If the Commission has reasonable grounds for believing that a taxpayer is about to remove himself or his property from this state with the purpose of evading the tax imposed by this Act, it may immediately declare the taxpayer's taxable year at an end and assess a tax on the basis of its own knowledge or information available to it, mail the taxpayer written notice of the amount thereof, and demand its immediate payment, and if payment is not immediately made, collect the tax by the method prescribed in subdivision (b) hereof, except that it need not await the expiration of the period of time therein specified.

(e) The Commission may use all other methods authorized for the collection of the tax it may be collected in an ordinary action at law or in equity by the state against the taxpayer.

(f) Either party to an action for the recovery of any taxes, interest, or penalties under subdivisions (a) to (e) inclusive, may recover from the judgment debtor any incorrectness or invalidity. The statement filed by the Commission with the clerk of court, as provided for in subdivision (g) hereof, properly certified by the commissioner of revenue, showing the amount of the tax and penalties as determined or assessed by it, shall be admissible in evidence and shall establish prima facie, the facts set forth therein.

(Act Apr. 21, 1933, c. 405, §46.)

2394-46. Time for assessment and collection.—(a) The amount of taxes assessable with respect to all taxable net income of the taxpayer and computed and recorded the amount of tax with respect thereto, and if the amount is found to be in excess of that originally declared on the return, whenever the commission shall have prepared a notice of tax assessment and mailed the same to the taxpayer. The notice of tax assessment shall be sent by registered mail to the post office address given in the return, and the record of such mailing shall be presumptive evidence in giving of such notice, and such records shall be preserved by the commission.

(b) In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, or by a corporation, the tax may be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within eighteen months after written request therefor (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of three and one-half years after the return was filed. This subsection (b) shall not apply in the case of a corporation unless:

(1) Such written request notifies the commission that the corporation contemplates dissolution at or before the expiration of such 18 months' period; and

(2) The dissolution is in good faith begun before the expiration of such 18 months' period; and

(3) The dissolution is completed.

(c) If the taxpayer omits from gross income an amount properly includable therein which is in excess of 5 per centum of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 5 years after the return was filed.

(d) If the taxpayer omits from gross income an amount properly includable therein under Section 21 of this Act, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 4 years after the return was filed.

(e) For the purposes of subsections (a), (b), (c), and (d) a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(f) In the case of a false or fraudulent return with intent to evade tax or of a failure to file return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(g) Where the assessment of any tax is hereafter made within the period of limitations properly applicable thereto, such tax may be collected by a proceeding in court, but only if begun:

(1) Within four years after the return was filed, or
(2) Within six months after the expiration of the period agreed upon by the commission and the taxpayer, pursuant to the provisions of subsection (h) hereof.

(h) In the case of a corporation, if before the expiration of the time prescribed by subsection (a) hereof for the assessment of the tax, and if the commission has effected an examination of the taxpayer's return and supporting books and records, and
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has prepared a proposed redetermination of the tax liability and mailed a copy of its proposed redetermination to the taxpayer and has afforded the taxpayer an opportunity to appear before it and duly protest such redetermination, and if the commission and the taxpayer are unable to agree upon the correctness of the redetermination as to any material fact or point of law, then before the expiration of the time prescribed by subsection (a) hereof for the assessment of the tax, the commission and the taxpayer are unable to agree upon the amount of the proposed redetermination herein provided for, may be assessed at any time prior to the expiration of the time prescribed by subsection (a) hereof.


Repealed Mar. 10, 1939, c. 59, §1, but amended by §2 of the act read as above, effective June 1, 1939.

Editorial note. — In pari materia with Mason's Internal Revenue Code, §237.


The time prescribed by Subdivision 1 is made void in the case where the state has at least six years after return is filed to institute proceedings for collection. Op. Atty. Gen. (331F), March 6, 1938.

2394-46a. Taxes affected. [Repealed.]


Repealed Mar. 10, 1939, c. 59, §§1, 3, effective June 1, 1939.

2394-47. Refundment of over-payments. — (a) A taxpayer who has paid, voluntarily or otherwise, or from whom there has been collected (other than by the methods provided for in subdivisions (a) and (b) of Section 49) an amount of tax for any year in excess of the amount legally due for that year, may file with the Commission a claim for the refund of such excess. No such claim shall be entertained unless filed within two years after such tax was paid or collected. Upon the filing of a claim the commission shall examine the same and shall make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof by registered mail to the taxpayer at the address stated upon the return. If such claim is allowed in whole or in part, the commission shall issue its certificate for the refundment of the excess paid by the taxpayer, with interest at the rate of three per cent per annum computed from the date of the payment or collection of the tax until the date the refund is paid to the taxpayer, and the state auditor shall cause such refund to be paid in the manner prescribed in subdivision (a) hereof; and if said commission shall fail within 90 days after the filing of such claim by the taxpayer to issue such certificate, the taxpayer may sue the commission for such overpayment at any time thereafter but not more than two years after the passage of this act.

(d) This section shall not apply to claims filed prior to the passage of this act, or pending actions for refunds, but shall apply to all other proceedings.

(Act Apr. 21, 1933, c. 406, §1; Apr. 22, 1939, c. 446, §§15, 20.)

Art. 11—Taxes

ARTICLE VII—INTEREST AND PENALTIES

2394-48. Tax a personal debt. — (a) The tax imposed by this Act, and interest and penalties imposed with respect thereto, shall become a personal debt of the taxpayer from the time the liability therefor arises, irrespective of when the time for discharging such liability by payment occurs. The debt shall, in the case of the executor or administrator of a deceased, become personal debts of such executor or administrator, and if said commission shall fail within 90 days after the filing of such claim by the taxpayer to issue such certificate, the taxpayer may sue the commission for such overpayment at any time thereafter but not more than two years after the passage of this act.

(b) The tax imposed by this Act, and interest and penalties imposed with respect thereto, shall become a personal debt of the taxpayer from the time the liability therefor arises, irrespective of when the time for discharging such liability by payment occurs. The debt shall, in the case of the executor or administrator of a deceased, become personal debts of such executor or administrator, and if said commission shall fail within 90 days after the filing of such claim by the taxpayer to issue such certificate, the taxpayer may sue the commission for such overpayment at any time thereafter but not more than two years after the passage of this act.

There can be no refundment of taxes erroneously or illegally paid or collected though tax liability is not finally determined until more than two years after return was filed. Op. Atty. Gen. (311P), Oct. 25, 1938.

2394-49. Penalties for nonpayment; nonpayment; failure to make return and false return; application of payments. — (a) If any tax imposed by this Act, or any portion thereof, is not paid within the time hereinafter specified for the payment thereof, there shall be added thereto a specific penalty equal to ten per centum of the amount so remaining unpaid, which shall be collected as a part of said tax, and the amount of said tax not timely paid, together with the penalties imposed with respect thereto, shall become a personal debt of the taxpayer who has paid, voluntarily or otherwise, or from whom there has been collected (other than by the methods provided for in subdivisions (a) and (b) of Section 49) an amount of tax for any year in excess of the amount legally due for that year, may file with the Commission a claim for the refund of such excess. No such claim shall be entertained unless filed within two years after such tax was paid or collected. Upon the filing of a claim the commission shall examine the same and shall make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof by registered mail to the taxpayer at the address stated upon the return. If such claim is allowed in whole or in part, the commission shall issue its certificate for the refundment of the excess paid by the taxpayer, with interest at the rate of three per cent per annum computed from the date of the payment or collection of the tax until the date the refund is paid to the taxpayer, and the state auditor shall cause such refund to be paid in the manner prescribed in subdivision (a) hereof; and if said commission shall fail within 90 days after the filing of such claim by the taxpayer to issue such certificate, the taxpayer may sue the commission for such overpayment at any time thereafter but not more than two years after the passage of this act.

(b) In addition to the penalties hereinafter prescribed, any person who wilfully fails to make a re-
turn or willfully makes a false return, with an intent to evade the tax, or a part thereof, imposed by this Act, or any portion of such tax, is not paid when due, or payable thereunder, there shall be added thereto interest at the rate of six per centum per annum from the time above specified, except that, where the taxpayer has filed a return, other than a false or fraudulent one, which has failed to evade the tax, and paid the tax, interest on the basis thereof, interest on additional taxes thereafter imposed for the same taxable year (or fraction thereof, if the return was for a fractional year) shall commence to run only from the thirtieth day after the return was filed, and notice either requiring him to make a corrected return or informing him that an additional tax is due and demanding the payment thereof. Interest due hereunder shall be added to the tax and collected as part thereof.

(g) All payments received shall be credited first to penalties, next to interest, and then to the tax due. (Act Apr. 21, 1933, c. 405, §49.)

(h) [Repealed].

Editorial note: The Act of July 15, 1937, Ex. Sec. c. 49, §25, amended "Laws 1932, chapter 402, section 49" to read as shown above in subsections (a) to (c), no mention being made of subsections (d) to (g) constituting part of §49 of Act Apr. 21, 1933, c. 405. The next section (§54) of the Act Apr. 21, 1933, c. 405, §49, as amended "Laws 1932, chapter 405, section 49 * * * by adding a new subsection thereto and to immediately follow subsection (g) reading as shown above in subsections (d) to (g) may be regarded as incorporated above. We pass the question to a higher authority than our editor.

Subdivision (h), repealed Apr. 22, 1939, c. 446, §16. Such subdivision also repealed July 15, 1937, Ex. Sec. c. 49, §25, §26, §27; Apr. 23, 1939, c. 446, §18. Subdivision (h) is as follows: "(h) In addition to the penalties hereinbefore provided, any person who fails to make a return or willfully makes a false or fraudulent return, with an intent to evade the tax, or a part thereof, imposed by this act, shall be guilty of a felony. The term 'person' as used in this subsection includes any officer or employee of a corporation or a member or employee of a partnership who as such officer, member or employee is under a duty to perform the act in respect to which the violation occurs."

ARTICLE VIII.—ADMINISTRATIVE PROVISIONS

2394-50. Tax commission to administer act; rules; forms; agents or attorneys; disbarment.—The Commission shall administer and enforce the assessment and collection of the taxes imposed by this Act. It may appoint at any time, make and publish such rules and regulations, in enforcing its provisions, as it may determine, and to prepare blank forms for the returns required by this act, which shall include a simplified form for individual taxpayers having a gross income less than $5,000, which statement shall be verified or sworn to by the taxpayer, listing gross income, deductions, net income, gross tax, personal credits and tax payable, provided, however, that detailed returns may subsequently be required of said persons by the commission. The commission shall have power to examine or cause to be examined any books, papers, records, or memoranda relevant to making such determinations including the taxpayer's retained copy of his return of income to the United States Government for any year, whether such books, papers, records, or memoranda are the property of or in the possession of the taxpayer or any other person or corporation. It shall further have power to require the attendance of any taxpayer or other person having knowledge or information in the premises to compel them to produce the books, papers, records, or memoranda when brought by persons so required to attend, to take testimony on matters material to such determination and to

relieve any person or corporation from the obligation of making any return required of him or it under this act. The commission may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before the commission, and may require of such persons, agents, and attorneys, before being recognized as representing claimants, that they shall show they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable services, and otherwise competent to advise and assist such claimants in the presentation of their cases. And such commission may, after due notice and opportunity for hearing, suspend or disbar from further practice before it, any such person, agent, or attorney, shown to be incompetent, disreputable, or who refuses to comply with the said rules and regulations, or who shall with intent to defraud, in any manner wilfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant, by words, circular, letter, or by advertisement. This shall in no way curtail the rights of individuals to appear in their own behalf or as partners or corporations' officers to appear in behalf of their respective partnerships or corporations. (Apr. 21, 1933, c. 405, §50; July 15, 1937, Sp. Ses., c. 49, §49; Apr. 22, 1939, c. 446, §17.)


Commission may not by regulation or rule present an individual, or a corporation, or a claimant, to appear pro se. Op. Atty. Gen. (190a), April 25, 1939.

Commission may legally prescribe that no person may appear before commission or income tax department on any matter pertaining to taxes due under income tax act without being accompanied and represented by an attorney at law. Id.

2394-50a. May make agreements.—(a) The Minnesota tax commission, or any officer or employee of the income tax department, authorized in writing by the Minnesota tax commission, is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any state income and franchise tax for any taxable period ending prior to the date of the agreement.

(b) If such agreement is approved by the Minnesota tax commission within such time as may be stated in such agreement, or later agreed to, such agreement shall be final and conclusive and, upon a showing of fraud or malfeasance, or misrepresentation of a material fact.

(1) The case shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employees, or agent of the state of Minnesota:

(2) in any suit, action, or proceeding such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside or disregarded. (33, c. 405, §56-1; added Apr. 22, 1939, c. 446, §18.)

2394-51. Commission may examine books and records.—For the purpose of determining the correctness of any return, or of determining whether or not any person should have made a return or paid taxes hereunder, the Commission shall have power to examine or cause to be examined any books, papers, records, or memoranda relevant to making such determinations including the taxpayer's retained copy of his return of income to the United States Government for any year, whether such books, papers, records, or memoranda are the property of or in the possession of the taxpayer or any other person or corporation. It shall further have power to require the attendance of any taxpayer or other person having knowledge or information in the premises to compel them to produce the books, papers, records, or memoranda when brought by persons so required to attend, to take testimony on matters material to such determination and to
administer oaths or affirmations. (Act Apr. 21, 1933, c. 405, §51.)

2394-52. Examiners.—For the purpose of making such examinations and determinations, the Commission may appoint such persons to be income tax examiners, as it may deem necessary. If the Commission deems it advisable it may request the comptroller, for such period of time as it may direct, to audit such returns and conduct such examinations, and report thereon to the Commission. Upon such request the comptroller shall appoint such income tax examiners as he may deem necessary. (Act Apr. 21, 1933, c. 405, §52.)

2394-53. Powers of examiners.—Such income tax examiners, whether appointed by the Commission or the comptroller, shall have all the rights and powers with reference to the examining of books, records, papers, or memoranda, and with reference to the subpoenaing of witnesses, administering of oaths and affirmations, and taking of testimony that are conferred upon the Commission hereby. The clerk of any court of record, or any justice of the peace, upon demand of any such examiner shall issue a subpoena for the attendance of any witness or the production of any books, papers, records or memoranda before such examiner. The Commission may also issue subpoenas for the appearance of witnesses before it or before such examiners. The Commission may appoint such referee as it deems necessary to review (singly or as a board of review) the reports of the income tax examiners and petitions or complaints of taxpayers and report thereon to the Commission. Disobedience of subpoenas issued under this Act shall be punished by the district court of the district in which the subpoena is issued as for a contempt of the district court. (Act Apr. 21, 1933, c. 405, §53.)

2394-54. Additional help.—The Commission (and the comptroller, if requested to conduct examinations as hereinbefore provided) may appoint and employ such additional help, or purchase such supplies or materials or incur such other expenditures in the enforcement of this Act as it may deem necessary. The salaries of all officers and employees provided for in this Act shall be fixed by the Commission, where appointed by it, and by the comptroller, where appointed by him, subject to the approval of the Department of Administration and Finance. (Act Apr. 21, 1933, c. 405, §54.)

2394-55. Payment of expenses.—All the expenses of the administration of this Act shall be paid out of the receipts therefrom as other moneys of the state are expended from the latter fund for expenses of administration of this Act shall be paid out of the receipts therefrom as other moneys of the state are expended. (Act Apr. 21, 1933, c. 405, §55.)

2394-56. Publicity of returns.—(a) It shall be unlawful for the Commission or any other public official or employee to divulge or otherwise make known in any manner any particulars set forth or disclosed in any return required by this act, or any information concerning, the taxpayer's affairs acquired from his or its records, officers or employees while examining or auditing any taxpayer's returns or reports and the items thereof. (As amended July 15, 1937, Sp. Ses., c. 49, §31.)

(b) Any person violating the provisions of subdivision (a) hereof shall be guilty of a gross misdemeanor. (Act Apr. 21, 1933, c. 405, §56.)

Member of tax commission or employee may produce income tax return upon trial of lawsuit not involving taxes imposed, if court so orders. Op. Atty. Gen. (461), Jan. 11, 1936.

(c) The Commission and its employees may use information for any purpose within scope of commission's duties, if in connection with such use information is not disclosed to persons other than members of the Commission and employees acting under direction of commission. Op. Atty. Gen. (1300), March 1925.

(d) Commission may use income tax returns or information gained therefrom for any purpose within scope of the duties of the commission as determined therein, for the honest determination of the avoidance of evasion of moneys and credits taxes. Op. Atty. Gen. (1300), March 1925.


(f) Reciprocal and retaliatory legislation. 21MinnLawRev 271.

ARTICLE IX.—DISTRIBUTION OF PROCEEDS OF TAXES

2394-57. Distribution of taxes; fund.—The revenues derived from the taxes, interest and penalties under this Act shall be paid into the state treasury; and be credited to a special fund to be known as "Income Tax School Fund," and be distributed as follows:

(a) There shall be paid from said Income Tax School Fund all refunds of taxes erroneously collected from taxpayers under this Act, as provided herein.

(b) There shall be transferred each year from said fund to the General Revenue Fund the amount expended from the latter fund for expenses of administering this Act.

(c) Out of the balance in said Income Tax School Fund after meeting the requirements of subsections (a) and (b), there shall be distributed to each school district of the state, including municipalities operating their own school, an amount equal to $10.00 per child between the ages of six years and sixteen years, both years inclusive, residing in such district, provided that a child in his sixteenth year shall be included only if in actual attendance in school. The school census taken during the fiscal year shall be used as the basis for computing the amount due each school district. Except as otherwise provided by any law, the funds hereby provided may be used but not restricted to the payment of the current expenses of education in the particular school districts, the money so distributed shall be used for the following purposes only:

(1) Payment or providing for the payment of any bonded or other indebtedness of such district outstanding January 1, 1933.

(2) Providing for the payment of any bonded or other indebtedness thereafter incurred until such debts are fully paid or payment thereof provided for. Any such revenue not required to provide for the payment of any such indebtedness shall be used to pay current operating expenses and to reduce and replace levies on real and personal property.

(3) Where the county auditor is required by any law to levy a tax to pay any interest or principal of any bonded indebtedness of a school district, such
part of such money available therefor to the county School Fund after making the distributions specified in subsection (a), (b) and (c), such balance, not in excess, however, of the amount appropriated for such purpose, shall be used to pay special school aid provided by law, and the amount so used shall be deducted from the appropriation therefor.

The moneys available for distribution under subsections (c) and (d), shall be distributed by the State Board of Education semi-annually, in the same manner, as nearly as practicable, as now provided by law governing the distribution of state funds by said board, except that each school district shall be entitled to receive the money distributable under subsection (c) without being subject to any conditions.

All moneys collected on and after January 1, 1938, irrespective of the year for which such taxes were assessed and from which have been deducted the sums required for the payment of all current maintenance and operating expenses and paid on or before December 31, 1937, and for the payment of all refunds granted prior to said December 31, 1937, and not heretofore distributed, shall be distributed on the basis of school population within such district of current school year and shall be based on the school census; this distribution shall be additional to the amounts provided in subsection (c) hereof and used only for the purposes therein stated.

The income tax receipts whenever collected and after January 1, 1938, irrespective of the year for which such taxes were assessed shall be distributed as provided in subsection (c) hereof.

All of the income tax receipts whenever collected and after January 1, 1938, irrespective of the year for which such taxes were assessed, shall be distributed to it any part of bonds issued by dissolved district cannot pay from proceeds of income tax the outstanding costs of administration incurred and paid prior to the taxable year 1936 and prior years must be distributed to it any part of bonds issued by dissolved district to pay outstanding orders.

County auditor may not retain income tax funds for paying outstanding debts, but such funds must be paid to school district which can legally do so, not heretofore distributed, shall be distributed on the basis of present law based on 1936 school census.

County auditor may not retain income tax funds for paying outstanding debts, but such funds must be paid to school district which can legally do so.

Bonds issued by an unorganized school district, unorganized district cannot pay from proceeds of income tax the outstanding costs of administration incurred and paid prior to the taxable year 1936 and prior years must be distributed to it any part of bonds issued by dissolved district to pay outstanding orders.

Income tax distribution is subject to Laws 1939, c. 431, Art. II, §16(f), authorizing commissioner of administration to withhold funds where collections are not sufficient.

Effective date.—(a) This law shall take effect from and after its passage, but shall apply in computing taxes as follows:

3294-59. Effective date.—(a) This law shall take effect from and after its passage, but shall apply in computing taxes as follows:

3294-59. Effective date.—(a) This law shall take effect from and after its passage, but shall apply in computing taxes as follows:
(1) To the taxable year 1937 and all subsequent years of taxpayers reporting on a calendar year basis.

(2) To the taxable year ending during the calendar year 1937 of taxpayers reporting on a fiscal year basis, in which case the tax shall be computed as provided in Section 32-1 hereof [§2394-32a]; and to all subsequent taxable years of such taxpayers.

(3) To every taxable year commencing on or after January 1, 1937, of every other taxpayer.

(b) All provisions of Laws 1933, Chapter 405 and Extra Session Laws of 1935, Chapter 49, as they existed prior to the passage of this Act, shall remain in full force and effect so far as necessary to preserve any liability for taxes, interest and penalties incurred prior to the passage of this Act. (Act July 15, 1937, Sp. Ses., c. 49, §34.)


2394-60. Laws to remain in force.—All provisions of Laws 1933, Chapter 405 and Extra Session Laws of 1935, Chapter 49, and Extra Session Laws of 1937, Chapter 49, as they existed prior to the passage of this Act, shall remain in full force and effect, so far as necessary to preserve any liability for taxes, interest and penalties incurred prior to the passage of this act, and to enforce the collection of such taxes, interest and penalties, and to enforce civil and criminal penalties. (Act Apr. 22, 1939, c. 446, §20.)

2394-61. Application of amendatory act.—This law shall apply in computing the tax imposed for the calendar year 1937 and each calendar year thereafter upon the transfer during such calendar year by any person, resident or non-resident, of property by gift. except as herein provided, the provisions of this act shall apply only to taxable years beginning after December 31, 1937.

The amendments made by this act to Chapter 405, Laws 1933, as heretofore amended, shall apply to the close of the taxable year beginning with July 1, 1936, and subsequent years. (Act Apr. 22, 1939, c. 446, §21.)

Editorial note.—The closing paragraph of this section, as amended, was rendered ineffective by the veto of the act (H. F. 1378) creating §2394-60. Application of amendatory act.—This law shall apply only to taxable years beginning after December 31, 1937.

2394-62. Retroactive effect. The tax shall not apply to transfers made before the effective date of this Act.

(g) Computation. The tax shall be computed in the manner and at the rates hereinafter provided. (July 16, 1937, Sp. Ses., c. 70, §1.)

2394-72. Valuation of gift.—(a) The true and full value of property at the date of its transfer by gift shall be its value for the purposes of computing the tax imposed by this Act. Where property is transferred with donative intent for less than an adequate and full consideration in money or money's worth, then the amount by which its true and full value at the date of its transfer exceeds the value of the consideration shall be deemed a gift, and such excess shall be deemed the value of such gift for the purpose of computing the tax imposed by this Act. (July 16, 1937, Sp. Ses., c. 70, §2.)

2394-73. Exemptions.—The following transfers by gift shall be exempt from, and excluded in computing, the tax imposed by this Act:

(a) Gifts to state or political division. Gifts to or for the use of the State of Minnesota or any political subdivision thereof for exclusively public purposes.

(b) Religious, charitable, etc., purposes. Gifts to or for the use of any fund, foundation, trust, association, organization or corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, the promotion of the arts, or the conduct of a public cemetery if (1) such gift other than for religious or charitable purposes is to be used for such purposes exclusively within this state, and (2) no part thereof inures to the profit of any private shareholder or individual.

(c) Fraternal societies. Gifts to a fraternal society, order or association, operating under the lodge system, but only if such gifts are to be used exclusively for the purposes designated in subdivision (b) of this section.

(d) Veterans' organizations. Gifts to or for the use of posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such gifts are to be used exclusively for the purposes is to be used for such purposes exclusively within this state, and if such gifts are to be used exclusively for the purposes designated in subdivision (b) of this section.

(e) Benefits to employees. All property transferred, money, service or other thing of value, paid, furnished, or delivered by any person, corporation, organization or association to its employees, or to any organization of its employees, directly or indirectly, by any person, firm or corporation for them or it, including payments to cover insurance, sickness and death benefits, pensions, relief activities, or to any other employees' benefit fund of any kind, and medical service to such employees and their families.

(f) Value exempt. The first $2500.00 in value of gifts (other than of future interests in property) made to any person by the donor during any calendar year. (July 16, 1937, Sp. Ses., c. 70, §3.)

2394-74. Specific exemptions.—(a) Particular donees. The following specific exemptions shall be deducted in computing the amount of the gifts made to any single donee:

1. $10,000.00 if the donee is the wife or minor child, either by blood or by adoption, of the donor.

2. $5,000.00 if the donee is the husband, an adult child by blood or by adoption, other lineal descendant, or any mutually acknowledged child of the
donor, or lineal descendants of such adopted or mutually acknowledged children.

(3) $30,000.00 if the donee is a Class C donee, as specified in Section 6 hereof.

(5) $250.00 if the donee is a Class D donee, as specified in Section 5 hereof.

(b) Single exemption. The exemptions allowed by this section shall be allowed once only with respect to gifts made by a donor to the same donee.

(c) Definitions. The term "mutually acknowledged child" as used herein means any child to whom the donor, for not less than ten years prior to such transfer, stood in the mutually acknowledged relation of a parent; provided, however, such relationship began at or before the child's fifteenth birthday and was continuous for said ten years thereafter. (July 16, 1937, Sp. Ses., c. 70, §4.)

2394-75. Computation of tax.—(a) The tax shall be based on the aggregate sum of the gifts in excess of the applicable specific exemption made by a given donor to the same donee, and for each calendar year the excess over the applicable specific exemption of the aggregate sum of such gifts for such calendar year and for each of the preceding calendar years. (2) A tax, computed in accordance with the rates hereinafter set forth, on the excess over the applicable specific exemption of the aggregate sum of such gifts for each of the preceding calendar years. (July 16, 1937, Sp. Ses., c. 70, §5.)

2394-76. Rates of tax.—(a) Schedule. The tax imposed by this Act shall be computed by applying to the gifts in excess of the applicable specific exemption made by a given donor to the same donee the schedule of rates specified in subdivisions (b) and (c) of this Section.

(b) Classification of donees. The rates on the excess up to $15,000.00 shall be (1) three-fourths per centum if the donee is a member of Class A donees; (2) one and one-eighth per centum if the donee is a member of Class B donees; (3) two and one-fourth per centum if the donee is a member of Class C donees; (4) three per centum if the donee is a member of Class D donees; and (5) three and three-fourths per centum if the donee is a member of Class E donees. The rates herein specified shall be known as the primary rates.

(c) Rate based on amount of gift. The rates on such part of said gift as exceeds $15,000.00 and is not in excess of $30,000.00 shall be two times the primary rate; on such part thereof as exceeds $30,000.00 and is not in excess of $50,000.00, three times the primary rate; on such part thereof as exceeds $50,000.00 and is not in excess of $100,000.00, three and one-half times the primary rate; on such part thereof as exceeds $100,000.00 and is not in excess of $200,000.00, four times the primary rate; on such part thereof as exceeds $200,000.00 and is not in excess of $300,000.00, five times the primary rate; on such part thereof as exceeds $300,000.00 and is not in excess of $400,000.00, six times the primary rate; on such part thereof as exceeds $400,000.00 and is not in excess of $500,000.00, seven times the primary rate; on such part thereof as exceeds $500,000.00 and is not in excess of $600,000.00, eight times the primary rate; on such part thereof as exceeds $600,000.00 and is not in excess of $700,000.00, nine times the primary rate; on such part thereof as exceeds $700,000.00 and is not in excess of $900,000.00, ten times the primary rate; on such part thereof as exceeds $900,000.00 and is not in excess of $1,100,000.00, eleven times the primary rate; and upon such part thereof as exceeds $1,100,000.00, twelve times the primary rate.

(d) Maximum rates. The tax shall, however, in no case exceed thirty per centum of the full and true value of the gifts in excess of the applicable specific exemption made by the given donor to the same donee. If the tax imposed herein is assessed against and attempted to be collected from the donee, the tax shall in no case exceed thirty-five per centum of the full and true value of the gift in excess of the applicable specific exemption after deducting therefrom any gift tax imposed by the United States government if such federal tax was assessed against and collected from the donee.

(c) Classification based on relationship. Class A donees shall include only the wife and lineal issue of the donor, an adopted child of the donor, and the lineal issue of any such adopted child. Class B donees shall include only the husband of the donor, lineal ancestors of the donor, any child of the donor to whom he or she has stood in the mutually acknowledged relation of parent for not less than 10 years prior to the making of the gift if such relationship began at or before such child's fifteenth birthday and was continuous for 10 years thereafter, and the lineal issue of such child. Class C donees shall include only a brother or sister of the donor, a descendant of such brother or sister, a wife or widow of a son of the donor, and the husband of a daughter of the donor. Class D donees shall include the father or sister of the father or mother of the donor, and a descendant of a brother or sister of the father or mother of the donor. Class E donees shall include all donees other than those includible in the foregoing classes. (July 16, 1937, Sp. Ses., c. 70, §6.)

2394-77. Returns and report—(a) Required. Every person making any gifts other than those exempted by Section 8 of this Act [§2394-73], during that part of the calendar year 1937 subsequent to the effective date of this Act, or during any subsequent calendar year, shall make a return thereof in duplicate to the Attorney General of the State of Minnesota. Every return shall specifically set forth the property transferred by gift, the date of the gift, the value at the date of the gift of every item of property transferred by gift, the name and residence of each donee and the relationship of the donee to the donor, and, in the case of property transferred for less than an adequate consideration in money or money's worth, the character and value of the consideration received by the donee. The Attorney General may also require such other information to be given on such return as may be necessary for the effective enforcement of this Act. The return shall be in such form as the Attorney General may prescribe, shall compute the tax imposed by this Act, and shall be under oath of the person making the return. The return in the case of a donor dying prior to the date when he is required to make a return shall be made on his behalf by his executor or administrator; that of a person for whom or whose property a guardian has been appointed shall be made by the guardian of his person or his property or both; and that of a person employing any device to make gifts indirectly may be made by the person in control of the agency or instrumentality through which such person is making gifts indirectly.

(b) Filing; time for. The returns required to be made under subsection (a) of this Section shall be filed with the Attorney General on or before the first day of March of the calendar year immediately succeeding that for which the return is made.

(c) Extension of time. The Attorney General may, whenever good cause shall exist therefor, extend the time for filing any return required hereunder for not to exceed three months.

(d) Returns by donees. The Attorney General may, whenever he deems it necessary and is necessary for the effective enforcement of this Act, require donees to file a return of gifts received by them, and such return may require such donees to report such information.
as is necessary to the effective enforcement of this Act. Returns required hereunder shall be filed with the Attorney General within 30 days after he has mailed notice and demand to the last known address of the donee required to make such return. (July 16, 1937, Sp. Ses., c. 70, §7.)

2394-78. Assessment.—(a) To whom assessed; notice. The Attorney General shall determine and assess all taxes imposed by this Act. The tax shall be assessed upon the donor, and shall be paid by him to the Treasurer of the State of Minnesota within sixty days after notice of such assessment shall have been served upon him. The tax in the case of a donor who has died prior to its assessment shall be assessed upon his executor or administrator, and be paid by such executor or administrator within 60 days after notice of such assessment shall have been served upon him. The tax in the case of indirect gifts may, in the discretion of the Attorney General, be assessed upon the donor, or the person or persons in charge or in control of the agency or instrumentality through which such donor is making indirect gifts, or upon both, and shall be paid by the person upon whom it is assessed within 60 days after notice of such assessment shall have been served upon him (but one tax only shall be collected in such case). Notice of assessment shall be deemed to have been made within the meaning of this subdivision (a) when a letter containing such notice has been mailed to the last known address of the person upon whom the assessment is made.

(b) Liability under assessment; collection; suit against resident or nonresident. The tax shall become a personal liability of the person upon whom it is assessed, if such person is a resident of this state, from the date of its assessment, shall remain such until such tax is paid, and may be collected by an action at law in the name of the state which may be brought in the district court of the judicial district in which such person resides or has his principal place of business or in the district court for Ramsey County. The foregoing provisions shall also apply where the extent of the value of such gift. At any time after the amount of tax has been determined. From the time of the filing of such lien until it is satisfied. The Attorney General may, twenty days after having sent a notice by registered mail to the last known address to such person and an opportunity for a hearing, make for him a return from his own knowledge and from such information as he can obtain through testimony or otherwise, and assess a tax on the basis thereof which shall be paid within 30 days after the Attorney General shall have mailed to such person a written notice of the assessment and demand for the payment of the tax. Such assessment shall be prima facie valid and the burden of proving the invalidity thereof or any error in the calculation of such tax or any penalty included therein shall be upon the person against whom it is assessed. The Attorney General shall have the same powers as are conferred upon him by subdivision (a) for the assessment of additional taxes in case the returns filed by any person required to file a return are incorrect, or false or fraudulent with intent to evade the tax or postpone its payment; and, if the return was false or fraudulent with intent to evade the tax or postpone its payment, the assessment made by the Attorney General shall be immune to attack to the same powers as are conferred made under subdivision (a) of this section. (July 16, 1937, Sp. Ses., c. 70, §9.)

2394-80. Penalties; interest; criminal liability.—If any person shall, without intent to evade the tax or to postpone its payment, fail to make any return required to be made by him under this Act at the time required therein, there shall be imposed on him a specific penalty of five per centum of the tax as finally assessed. If any person shall, with intent to evade the tax or to postpone its payment either fail to make a return when required by this Act or make a false or fraudulent return, there shall be imposed upon him a specific penalty of twenty per centum of the taxes finally assessed, and such person shall also be guilty of a gross misdemeanor.

(b) Failure to pay. If any person shall fail to pay any tax due under this Act at the time required therefor, there shall be added thereto a specific penalty of five per centum of the tax as finally assessed.

(c) Extension of time of payment. The Attorney General may, upon the filing of an affidavit by or on behalf of any person required to file a return by or in regard to any tax required to be paid by him under the provisions of this Act at the time required therefor, extend the time for payment of the tax and penalty for not to exceed three months.

(d) Interest. If any tax imposed by this Act, or any portion of such tax, is not paid when due and payable thereunder, there shall be added thereto interest at the rate of six per centum per annum from the time above specified.

(e) Collection. The penalties and interest imposed by this Section may be collected as part of the tax by the Attorney General in the name of the state for their recovery in any court in which actions for the collection of taxes imposed by this Act may be brought under its provisions.

(f) Application of payments. All payments received shall be credited first to penalties, next to interest, and then to the tax due. (July 16, 1937, Sp. Ses., c. 70, §10.)

2394-81. Refundment.—The Attorney General may issue certificates for the refundment of any tax paid by, or collected from, any person who has paid a tax in excess of the amount of tax legally due from him under the provisions of this Act if claim therefor is made within two years after such tax was paid or collected. The refundment certificates shall be for the amount of the tax
Illegally paid or collected, plus interest thereon at the rate of six per centum per annum from the date of the payment or collection of the tax until the date the refund is paid, and the state auditor shall cause such refund to be paid out of any funds in the state treasury not otherwise appropriated. No refund shall be denied merely because the tax was voluntarily paid or no protest made to its payment. (July 16, 1937, Sp. Ses., c. 70, §11.)

2394-82. Appeal; procedure.—Any person aggrieved by the determination and assessment of a tax by the Attorney General, or his denial of a claim for refund, may appeal therefrom to the District Court of the county in which said person resides, or if said person is a non-resident of the State, to the District Court of Ramsey County, by filing, within thirty days after said determination, with the Attorney General a notice in writing setting forth his objections to such determination and that he appeals therefrom, and thereafter within thirty days thereafter the Attorney General shall transmit the original papers and records which have been filed with him in relation to such matter to the clerk of the District Court. The said appeal shall have been filed, and thereupon said court shall acquire jurisdiction of such proceeding. Upon 15 days' notice given to the Attorney General by the appellant, the matter may be brought on for hearing and determination by said court either in term time or vacation, at the general or special term of said court, or at the chambers as may be directed by order of the court. The said court may determine any and all questions of law and fact necessary to the enforcement of the provisions of this act, as well as its own jurisdiction, and by order direct the correction, amendment or modification of any determination made by the Attorney General.

On such hearing either party may introduce the testimony of witnesses and other evidence in the same manner and subject to the same rules which govern in civil actions. When necessary, the court may adjourn or continue its hearings from time to time, to enable the parties to secure the attendance of witnesses or the taking of depositions. Depositions may be taken and used in such proceedings in the same manner as is now provided by law for the taking of depositions in civil actions.

The Attorney General and any person aggrieved by the order of the district court may appeal to the supreme court from any such order made by said courts, within the time and in the manner now provided by law for the taking of appeals from orders in civil actions.

After the filing of the notice of appeal, and during the pendency of the appeal and for thirty days after final disposition thereof, no penalty shall be imposed under Section 10 hereof. (July 16, 1937, Sp. Ses., c. 70, §12.)

2394-83. Credit against inheritance tax.—If a tax has been imposed on any gift under this Act and thereafter upon the death of the donor an inheritance tax is imposed upon the same gift by this state, there shall be credited against the inheritance tax resulting from the inclusion of such gift in the computation of such inheritance tax an amount equal to the gift tax resulting from the inclusion of such gift in the computation of the gift tax on gifts from such donor to the donee who received such gift. (July 16, 1937, Sp. Ses., c. 70, §13.)

2394-84. Separability of provisions.—If any part or provisions of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair or affect the operative effect of any other part or provision of this act; and, if any part or provision of this act shall for any reason be adjudged by any court of competent jurisdiction constitutionally inapplicable to any case within the terms of such part or provision, such judgment shall not impair or affect the operative effect of such part or provision as applied to any other type of case within their terms. (July 16, 1937, Sp. Ses., c. 70, §14.)

TAX ON INCOME FROM EXEMPT PROPERTY

2394-91. Tax on income reserved to grantor in conveyance to educational institution.—Whenever real property shall be conveyed to any educational institution in the state which has or claims to possess the right of privilege of exemption from taxation under or by virtue of the provisions contained in a territorial charter where such property is not devoted to, and reasonably necessary for the accomplishment of, the educational purposes of such institution, if in connection with such conveyance, or in consideration thereof in whole or in part, (a) such real property is charged with the payment of; or (b) there is reserved to the grantor or to his or its nominees, or (c) the grantee shall be or become under obligations to pay any sum by way of an annuity or income to such grantor or to his or its nominees, whether for life or for a term of years, there shall be levied and collected upon such payments a tax of 50 per cent. (July 24, 1937, Sp. Ses., c. 91, §1.)

2394-92. Same.—"Person" defined.—For all purposes of this act, the word "person" shall be construed to include individuals, partnerships, associations, companies, and corporations. (July 24, 1937, Sp. Ses., c. 91, §2.)

2394-93. Same.—Place of taxation—lien.—Such annuity or income shall have a taxable status in the assessment district wherein is located the real property conveyed under the terms and conditions set forth in Section 1 hereof [§2394-91]; and the tax herein provided shall be a specific lien upon all and singular the amounts as they accrue, which are payable to any person entitled to receive income or annuity thereunder, and upon the right, title, estate, and interest of such person in and to the real property conveyed as aforesaid. (July 24, 1937, Sp. Ses., c. 91, §3.)

2394-94. Same.—Annual report by taxpayer.—Every person to whom any such annuity or income payments are made under the terms and conditions set forth in Section 1 hereof [§2394-91] and the tax herein provided shall be a specific lien upon all and singular the amounts as they accrue, which are payable to any person entitled to receive income or annuity under the same and setting forth, (a) the name and postoffice address of such person to whom such annuity or income is paid, (b) a legal description of every parcel of real estate conveyed to such institution in connection with the conveyance of which the grantee became obligated to pay any such annuity or income; (c) the amount of income or annuity paid on account of each tract of land separately; and 4. such other information as said commission may require. (July 24, 1937, Sp. Ses., c. 91, §4.)

2394-95. Same.—Report by educational institution.—It shall be the duty of every such educational institution making any such annuity or income payment on or before the first day of February of each year, and annually thereafter, or on before the first day of February of each year, to make and file with the Minnesota Tax Commission, a report verified by the person making the same, setting forth the amount of the annuity or income payments received by such person during the preceding calendar year and such other information as said commission may require. (July 24, 1937, Sp. Ses., c. 91, §5.)

2394-96. Same.—Report by educational institution.—It shall be the duty of every such educational institution making any such annuity or income payment on or before the first day of February of each year, and annually thereafter, or on before the first day of February of each year, to make and file with the Minnesota Tax Commission a report covering the preceding calendar year verified by the oath of the officer making the same and setting forth, 1. the name and postoffice address of such person to whom such annuity or income is paid, 2. a legal description of every parcel of real estate conveyed to such institution in connection with the conveyance of which the grantee became obligated to pay any such annuity or income; (c) the amount of income or annuity paid on account of each tract of land separately; and 4. such other information as said commission may require. (July 24, 1937, Sp. Ses., c. 91, §6.)
2394-96. Same—consideration and determination of report by tax commission.—Upon the receipt by the tax commission of the report provided for in Section 5 of this act, it shall determine from such information as it may possess or obtain, whether the same is correct or otherwise, and if found correct, said tax commission shall determine therefrom the amount of tax due from such income or annuity recipient, and shall enter the amount thereof in its records and shall make its certificate of taxes due thereon from such person, and on or before the first day of May of each year file the same with the state auditor and a duplicate thereof with the state treasurer, and the tax commission shall have power, in case it shall deem said report incorrect, to make its findings as to the amount of such taxes due after hearing upon notice to the person interested, and its judgments shall have the same effect as the determination of the amount of such taxes upon a report made as hereinbefore provided. (July 24, 1937, Sp. Ses., c. 91, §6.)

2394-97. Same—penalty for failure to make report—assessment by tax commission.—If any person subject to the tax provided by this act shall fail to make the report required by Section 5 of the act at the time and in the manner therein provided, there shall accrue upon the tax herein imposed a penalty in an amount equal to ten percent of the tax so imposed to be added to and collected with such tax. The tax commission shall in such case determine the tax due thereon from such person together with such penalty, upon such information as it may possess or obtain, and shall proceed as provided by law when such taxes are determined upon the sworn report of the person receiving such payment. (July 24, 1937, Sp. Ses., c. 91, §7.)

2394-98. Same—date of payment—penalty for nonpayment.—Such tax shall be due and payable to the state treasurer on the first day of June 1938, and annually thereafter on the first day of June, and if not paid on or before that date, a penalty of ten percent shall immediately accrue thereon. (July 24, 1937, Sp. Ses., c. 91, §8.)

2394-99. Same—withholding of tax by educational institution—liability on failure to withhold.—Every educational institution making such income or annuity payments which are subject to tax hereunder and upon which the tax has not been paid, shall at the time the payments are made, withhold and deduct therefrom the amount of the tax due thereon, and shall pay the same to the state treasurer. Failure to withhold the tax and to make payment at the time and in the manner hereinbefore required shall render the educational institution liable for the amount of the tax with interest at the rate of 12% per annum from the time the tax should have been paid, to be recovered in an action by the attorney general for the benefit of the state. (July 24, 1937, Sp. Ses., c. 91, §9.)

2394-100. Same—draft on delinquent—evidence.—On or before the tenth day of June in each year the state auditor shall make his draft upon the person delinquent in the payment of such tax for the amount of taxes and penalty, or penalties, due thereon, and place the same in the hands of the state treasurer for collection. The draft of the state auditor for the tax and penalties imposed by the foregoing provisions of this act shall be prima facie evidence in any court which proceedings may be brought for its enforcement that the amount therein stated is due from the person against whom the same is drawn. (July 24, 1937, Sp. Ses., c. 91, §10.)

2394-101. Same—Notice to taxpayer—action by attorney general—interest—lien of judgment—sale of property.—The state treasurer within ten days after the receipt of the draft mentioned in Section 10 of this act shall notify the persons designated in such draft by mail of the fact of the levy thereon of the amount thereof, and if not paid within thirty days after presentation shall deliver the same to the attorney general, whose duty it shall be to bring an action thereon in the district court of the county wherein is the taxable status of the annuity or income, for the amount of such draft, together with interest and costs of the proceeding. Such tax shall draw interest at the rate of 12% per annum, commencing 30 days after the same falls due; and the judgment of the court when so obtained and properly docketed shall be a lien upon all right, title, and interest of the taxpayer to the land upon which such tax is a lien from the time the same is docketed; and said lien shall continue without limitation with interest at the rate of one percent per month on the unpaid balance due from the time the tax should have been paid, to be recovered in an action by the attorney general for the benefit of the state. (July 24, 1937, Sp. Ses., c. 91, §11.)

2394-102. Same—false report—perjury.—Any person who for the purpose of evading the payment of the tax herein provided or any part thereof, makes any false return or report, shall, in addition to the tax provided by this act, pay a penalty of 50% of the amount of said tax; and any person who shall knowingly make under oath any false report or return required by this act, shall be guilty of perjury, and upon conviction thereof shall be punished therefore as provided by law. (July 24, 1937, Sp. Ses., c. 91, §12.)

2394-103. Same—examination of books and papers—refusal as misdemeanor.—All books, contracts, deeds, instruments, correspondence and memoranda relating to or used in connection with the conveyance of any real property as set forth in section 1 of this act, shall upon request of the Minnesota Tax Commission be open to its inspection or examination. If any person shall neglect or refuse on request of the Minnesota Tax Commission to deliver the papers and books aforesaid, he shall be guilty of a misdemeanor and upon conviction thereof shall be punished therefore as provided by law. (July 24, 1937, Sp. Ses., c. 91, §13.)

2394-104. Same—refund of tax erroneously collected—disposition of proceeds.—Out of the proceeds of the taxes imposed hereby, including penalties and interest, the Commission shall refund any tax erroneously paid or collected, and shall reimburse the revenue fund or any other fund of the state of its proper proportion of the expense of administering this act. The balance of the proceeds of any such taxes shall be used to the county treasurer of the county wherein the annuity or income taxed has a taxable status, and shall by him place to the credit of the proper funds and distributed as in the case of general taxes collected. (July 24, 1937, Sp. Ses., c. 91, §14.)

Sec. 16 of Act July 24, 1937, cited, provides that the act shall take effect from its passage.

CHAPTER 12
Military Code