

TAXATION

SUPERVISION OF TAXATION

CHAPTER 270

DEPARTMENT OF TAXATION

NOTE: Prior to the creation of the tax commission, L. 1907, c. 408, the state auditor was the officer of the state given general charge over the management of revenue matters. The powers and duties of the tax commission were prescribed in sections 11 and 12 of chapter 408. L. 1939, c. 431, art. 6, abolished the tax commission and transferred its powers and duties to a commissioner. The commissioner qualified, and the transfer was completed on July 6, 1939. The commissioner has supervision of the collection of all taxes except the general property and insurance taxes, and registration fees.

270.01 DEPARTMENT CREATED.

The issue of undervaluation before the board of tax appeals and that of overvaluation in the district court action commenced under section 268.01 were not the same as contemplated by section 271.09, so as to permit a stay of proceedings before the board. *Village of Aurora v Commissioner*, 217 M 65, 14 NW(2d) 292.

The right of a municipality to appeal to the board of tax appeals from an order of the commissioner is governed by L. 1939, c. 431, art. 6, s. 15. *Village of Aurora v Commissioner*, 217 M 73, 14 NW(2d) 292.

Federal power to tax and to spend. 31 MLR 328.

270.06 POWERS AND DUTIES.

The valuation of realty in a village, whether or not it be in a separate assessment district from the town, may be raised by the tax commissioner. *State ex rel v Eskine*, 169 M 381, 211 NW 329.

270.07 ADDITIONAL POWERS.

The legislature may establish a policy and create an agency to carry it into effect and delegate to the agency administrative functions and the right to make rules and regulations in aid of the administrative functions, which rules and regulations must have the force and effect of law. This power when exercised is valid as against all constitutional objections. *State v Minn. & Ontario*, 121 M 421, 141 NW 839.

There is no state or federal law which can be invoked by an Indian to obtain a refund of taxes voluntarily paid on real estate although the Indian has a vested right not to be taxed. *Mahnomen Co. v United States*, 63 SC 1254, 319 US 474.

In the instant case the order of the Minnesota tax commission granting an application for abatement of taxes does not constitute an abuse of discretion justifying interference by the supreme court. Courts will interfere with the exercise of discretion vested in a state agency or commission only to correct manifest abuse thereof, or error in law or fact, or mixed law and fact. *Swanson v Minn. Tax Commission*, 205 M 582, 287 NW 317.

Application by a community hospital association to the county board to have real estate declared exempt from taxation, and the board's denial thereof, did not constitute a judgment and determination barring proceedings in district court to exempt its real estate from taxes levied by the state. *Fairmont Assn. v State*, 221 M 107, 21 NW(2d) 244.

The appellant derived earnings from the Head of the Lakes traffic over two alternate lines. Under a contract with the attorney general it commenced in 1903 to report its earnings on an assumed mileage basis. In 1937 it changed its method and reported such earnings on the statutory method; and the state of Minnesota commenced an action to recover additional taxes claimed to be due. The trial court found additional taxes due from appellant for the year 1937 but refused the taxpayer the right to offset the amount of the over-payment for the years 1934, 1935, and 1936. An appeal to the supreme court resulted in a substantial affirmance.

The question now presented is the right of the taxpayer to off-set over-payments of previous years against the deficiency for the year 1937. The supreme court, *State v Northern Pacific*, 217 M 113, 14 NW(2d) 232, held that the statutory method (section 291.01, subd. 2) of apportioning earnings is exclusive, and as to the claimed refund said: "So far as performed or executed by the voluntary payment of the tax, the 1900 contract and subsequent conduct of the defendant railroad may prevent it from seeking refunds."

As to any refunds from the 1937 earnings of alleged over-payments covering years from 1930 to 1936, the board holds that the commissioner, under the powers granted to him under section 270.07, is well within his discretionary powers, and did not abuse such powers in refusing the claimed allowance. No appeal. *Northern Pacific Ry. v Commissioner*, MBTA Jan. 28, 1946 (229).

Pipestone county owned and maintained a poor farm until February 1944, when operation was discontinued and the farm was leased. If the local officials permit the land to be listed for assessment a refund may be applied for under section 270.07, and the commission may determine. 1944 OAG 360, April 5, 1944 (414-A-11).

The statute does not confer upon the county board of equalization power to make an original assessment on listing of property. 1944 OAG 389, Aug. 24, 1944 (408).

Where a city purchases land between May 1, 1944, and Jan. 1, 1945, it may apply for abatement of the 1944 real estate tax. OAG Feb. 8, 1945 (414-11).

If the assessor determines that lots are not entitled to exemption, a religious corporation may make application, under section 270.07, to the commissioner for relief. If the application is denied, the corporation may appeal. OAG June 5, 1946 (414-D-6).

Assessments for repair of drainage ditches during the years 1927 through 1932, the assessment being long delayed and not laid until 1944, is not void. In a question involving the validity of such assessments the court; and not the commissioner of taxation, must pass on the question. OAG Sept. 18, 1946 (602-B).

The county board in its discretion may recommend to the commissioner of taxation the abatement of certain assessments against lands determined to benefit by construction of a ditch. OAG Oct. 15, 1946 (602-B).

If the contract for deed to the land on which the municipal hospital is being built was entered into prior to May 1, 1945, the real estate was not subject to assessment. Until the tax is extended, as evidenced by the county auditor's certificate, there is no specific tax in existence. In the instant case, the 1945 tax should not have been spread against the real estate acquired by the city in July, 1945. The city of Luverne may apply to the commissioner of taxation for abatement of the tax. OAG March 12, 1947 (414-A-11).

Evidence before administrative tribunals. 23 MLR 68.

Recovery by taxpayer of portion of special assessment levied to discharge judgment liability upon subsequent receipt by the municipality of contribution by one generally liable. 24 MLR 701.

270.078 NOT TO CONFLICT WITH FEDERAL LAW.

State interference in the exercise of federal powers. 13 MLR 361.

270.10 ORDERS, DECISIONS, REPORTS.

That the former tax commission has heretofore allowed similar deductions is not controlling; however, the taxpayer's reliance thereon in taking the deductions

here involved entitles his estate to abatement of the penalties. A decision of an administrative body is not binding upon the courts in a later action involving similar facts and similar points of law., *State v Dancer*, 213 M 289, 6 NW(2d) 466.

270.16 PROPERTY OMITTED OR UNDERVALUED; REASSESSMENT.

Objections to assessments established through reassessment by the commissioner of taxation pursuant to sections 270.16, 270.17, may be raised under sections 278.01, et seq. 1944 OAG 497, April 20, 1944 (408-B).

270.19 MUNICIPALITIES TO BE PARTY TO TAX HEARINGS.

A municipality, appearing before the commissioner of taxation in equalization proceedings pursuant to notice under section 270.19, is not required to request an additional hearing under section 270.20 as a prerequisite to appealing from an order of the commissioner to the board of tax appeals. The appeal in the instant case was taken from an "official order of the commissioner of taxation," within the meaning of section 271.06, subd. 1. *Village of Aurora v Com. of Taxation*, 217 M 64, 14 NW(2d) 292.

The scope of review by the supreme court of a decision of the board of tax appeals is limited to determining whether there is any reasonable basis for it in law. *Village of Hibbing v Com. of Taxation*, 217 M 528, 14 NW(2d) 923.