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272.51 TAXATION, GENERAL PROVISIONS

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Execution may issue upon personal property tax judgment and the sheriff may seize the personal property assessed even though in the hands of a person other than the owner at the time of assessment and sell the same upon execution sale to satisfy the tax judgment. OAG July 29, 1948 (421-A-8).

Personal property taxes upon property transferred by the taxpayer after assessment may be enforced. If there is no tax judgment, one should be obtained. A tax judgment is a perpetual lien on property owned by the taxpayer on May 1 of the assessment year. The taxing officer may proceed in the district court to impress the lien on such property. OAG May 11, 1949 (421-A-8).

The words "prior to its assessment or taxation as personal property" as used in Laws 1953; Chapter 315, requires a dealer or distributor of motor vehicles to register the same prior to May 1 if he is not to be subject to assessment or taxation of such vehicle as personal property. OAG May 11, 1953 (421-C-25).

272.51 DISTRESS FOR TAXES DUE ON PROPERTY ABOUT TO BE SOLD OR MOVED; PAYMENT OF TAXES AND RELEASE FROM LIEN; NOTICE

When personal property has been assessed and is subject to the payment of the tax is sold or about to be removed from the county, distress proceedings may be initiated to compel the payment of the tax as determined by the county auditor. A lien attaches on May 1 of the year in which assessed. OAG July 29, 1952 (421-A-9).

272.54 Renumbered 281.321.

272.55 Renumbered 281.322.

272.56 Renumbered 281.323.

272.57 Renumbered 281.324.

272.58 ENFORCEMENT OF TAXES RECIPROCALLY IN COURTS OF THIS AND OTHER STATES

HISTORY. 1949 c 145 s 1-3.

272.59 TAX REDUCTION; SWAMP OR MARSH LANDS RESERVED AS WILD LIFE PRESERVES

HISTORY. 1953 c 688 s 1.

CHAPTER 273

TAXES; LISTING, ASSESSMENT

273.01 LISTING AND ASSESSMENT, TIME

Taxes are levied, assessed, and collected entirely by statutory process. In default of an enforceable statute, taxes are not recoverable. *Teichert v Chippewa County*, 225 M 406, 31 NW (2d) 11.

No statutory authority exists under which a county may expend funds to place a spastic child in an out-of-state school. OAG Nov. 15, 1951 (169-D).

Personal property acquired at an auction sale on May 1 is taxable against the purchaser. OAG April 29, 1952 (421-A-14).

Personal property presently owned by a resident of North Dakota and shipped from North Dakota to Minnesota, in transit on May 1, but delivered in Minnesota on

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May 2, did not have a situs in Minnesota on May 1 and is not taxable in Minnesota. OAG Sept. 23, 1952 (421-A-17).

The words "prior to its assessment or taxation as personal property" as used in Laws 1953, Chapter 315, requires a dealer or distributor of motor vehicles to register the same prior to May 1 if he is not to be subject to assessment or taxation of such vehicle as personal property. OAG May 11, 1953 (421-C-25).

Local board of review has no authority to change assessment relating to ad valorem taxes on real estate in odd-numbered years. OAG July 20, 1953 (474-C).

The owner of real estate whose property was assessed on May 1 sold the property in September to a telephone company, which pays a gross earnings tax in lieu of the property-tax. As the property was assessed and the tax laid before the transfer, said tax must be paid. OAG Oct. 28, 1952 (474-D-1).

273.02 OMITTED PROPERTY

There is no statutory provision authorizing correction of an improper classification of real estate as far back as five years. Proceedings to collect real property taxes are in rem and not in personam, and absent any statutory authorization for correction of assessments in past years, there seems to be no way by which taxes lost by improper classification can be recovered. OAG Feb. 10, 1950 (232-D).

Mineral interests severed from the land must be separately taxed and forfeited. OAG Sept. 13, 1951 (311-L).

Where a railroad company leased a portion of its right-of-way to an individual for commercial purposes and the individual constructed buildings thereon, the buildings are taxable as personal property and should have been listed, assessed and taxed against the individual owner of the building. OAG June 16, 1949 (408).

Lot 1, block 10, abuts on 11th avenue and on the south side abuts on "T" alley, dedicated to the public use in the original plat. By resolution the village council vacated 11th avenue and "T" alley. As the result the vacated portions did not become a part of lot 1. They constituted separate tracts. The 1940 assessment was made against lot 1, block 10, and it did not include the vacated portions so the purchaser at the forfeited tax sale acquired only lot 1 as originally platted and did not obtain title to the vacated portions of the street and alley, which the auditor should now place on the tax rolls. OAG May 2, 1949 (425-C).

Land having been sold for taxes, the county treasurer properly certified on the deed that the property was not listed for current taxes; and the property later having been assessed as omitted property, the county treasurer properly refused to certify on the deed from the grantee on the tax deed to a third person that current taxes had been paid. OAG April 23, 1948 (505-H).

Where personal property is omitted from the assessment roll the procedure for taxing such omitted property is outlined in section 273.02; but when the county auditor had delivered the faulty tax list for 1948 to the county treasurer he relinquished all control, and neither the auditor nor the treasurer could then correct the assessment roll as to the omitted property. He must wait until the following year to make the correction. Section 277.02 is not applicable. OAG Nov. 21, 1949 (554-I).

Where an assessment of certain property was omitted and if the county auditor had already delivered the tax list to the county treasurer, the auditor had relinquished all control thereover and has no authority to add the omitted property assessment to the tax list. He must wait and extend the tax against the property so omitted on the tax list for the following year. OAG May 1, 1952 (554-I).

273.03 ASSESSMENT, METHOD

New automobiles in a licensed dealer's possession for the purpose of sale, and driven on public streets only for the purpose of storage in the dealer's warehouse or to the dealer's places of business for sale, and a new automobile acquired by the

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dealer for the purpose of sale and never used on the state's public streets or highways before May 1, 1950, after which it was sold to the dealer's customer, were not subject to the motor vehicle tax but were subject to the personal property tax: *Stephens v Haveland*, 236 M 430, 52 NW(2d) 220.

The village council of Richfield is without authority to enter into a contract with public administration service by which the service must evaluate assessment procedures and salaries. OAG Dec. 3, 1953 (12-B).

When property is omitted in the assessment book by reason of improper transfer on the tax rolls, the county auditor has the duty, under the provisions of section 274.09, to correct the return of the assessor at any time before the final settlement with the county treasurer. OAG Sept. 20, 1950 (21-F).

When a deed of an unsurveyed island is presented to the county auditor it is his duty to collect the taxes thereon and certify as to the payment of the taxes and list the property for assessment even though title to the island may be in the government or possibly the island be appurtenant to an adjacent lake shore lot. OAG Sept. 5, 1947 (357-D).

Where the state owns an undivided $\frac{2}{3}$ interest in property the other $\frac{1}{3}$ being owned by a private owner in making up the real estate assessment book, the interest of the state should not be carried and the undivided $\frac{1}{3}$ interest owned by the private party should be properly described so that he may be assessed on his $\frac{1}{3}$. OAG May 23, 1951 (474-G-2).

Where a plat was not recorded until after May 1 the assessor, on notice of the platting, could not change the description in the assessment books but must assess the property as one tract and not as a number of separate tracts as set off in the plat. He was not required to value or classify the tract as farm land. OAG June 2, 1948 (474-J-2).

273.04 ASSESSORS, COMPENSATION

HISTORY. 1935 c 113 s 1, 2; Mason's Supp s 1986-1, 1986-2; 1941 c 248 s 1; 1947 c 388 s 1; 1949 c 119 s 111; 1951 c 474 s 1; 1953 c 590 s 1.

A village assessor is compensated for his services under section 273.04 and not under section 367.05. OAG July 22, 1947 (12-B-1).

As it relates to the compensation of a village assessor in the village of Golden Valley, Hennepin county, the special provision compensating assessors in Hennepin county, prevails over the general provisions of the new village code. OAG June 10, 1949 (12-B-1).

The compensation of a village assessor of Richfield for the period of March, 1949 to April, 1951, is controlled by section 412.131 and thereafter by section 273.04. OAG Aug. 28, 1951 (12-B-1).

If the assessor's work can be improved or expedited thereby, the village has authority to furnish the village assessor with clerical assistance. OAG April 7, 1949 (12-E).

The compensation of the village assessor of Richfield in Hennepin county was controlled by section 412.131, between March 10, 1949, and April 19, 1951, and thereafter by Laws 1951, Chapter 474, amending section 273.04. OAG Aug. 28, 1951 (12-B-1).

273.05 BOND AND OATH OF ASSESSORS

A local assessor is not a county officer. He is an officer of the assessment district for which he was elected or appointed. Each assessor has the right to select the surety for his own bond. The county has no duties to be performed or rights to be exercised in the matter. The obligee in the bond is the State of Minnesota. The bond must be approved by the county auditor. There is no statutory authorization for "one blanket bond" for "all the local assessors in the county." This opinion does not apply to the county assessor or a county supervisor of assessments. OAG May 15, 1951 (12).

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Where a city assessor overlooked filing a bond and oath required by section 273.05, until June 27, he was a de facto officer until he filed as required. His acts as de facto officer are valid as to the public and as to third persons, but he cannot compel payment of his compensation. If the compensation is paid to him he may accept it for the services he rendered. A de facto officer may make a valid appointment of a subordinate. OAG June 29, 1951 (12-A-1).

273.06 DEPUTY ASSESSORS

There should be one assessor who would assess both real and personal property and not one assessor for the realty and another for the personalty. OAG Feb. 29, 1952 (12-A).

Section 273.06 is a law of general application. Laws 1927, Chapter 107 was enacted subsequently and applies to the town of Stuntz only. Under the provisions of section 645.26, subdivision 1, the provisions of section 273.06 are inapplicable, and the town assessor has no authority to appoint a deputy, and any deputy assessors must be employed by the town board, in accordance with Laws 1927, Chapter 107. OAG Jan. 21, 1948 (12-E).

A deputy village assessor must be a citizen of the village. OAG March 15, 1950 (12-E).

273.07 Repealed, 1947 c 531 s 10.

273.071 COUNTY SUPERVISORS OF ASSESSMENTS

HISTORY. 1947 c 531 s 1-15; 1951 c 321 s 1; 1953 c 596 s 1.

Office of county supervisor of assessments. 33 MLR 53.

A county assessor may not be reimbursed for his traveling expense in attending a meeting with other assessors held outside his county. OAG Nov. 6, 1950 (12).

The power to tax is an attribute of sovereignty. All property in a city, if not exempt from taxation, is taxable not only for city purposes but for school district, county, and state purposes. The legislature has the power to devise rules and means by which assessments for the purposes of taxation are made. Laws 1947, Chapter 531, Section 14, supersedes inconsistent city charter provisions. Any part of any city charter inconsistent with state law on the subject of assessment is inoperative insofar as inconsistent. OAG Feb. 11, 1948 (12-D).

Laws 1947, Chapter 531, changes in some particulars the duties of local assessors and controls over special acts or charter provisions. It is the duty of the county auditor to deliver the assessment books and blank forms pertaining thereto to the county assessor of Carver county. OAG May 3, 1948 (12-D).

Special Laws 1891, Chapter 2, creates in the city of Chaska a board of equalization which may alter, revise, amend and equalize the assessments of real and personal property in the city of Chaska without regard to the limitation contained in Laws 1947, Chapter 531, Section 14 (c). OAG Sept. 1, 1948 (12-D).

The term of the county assessor appointed in January, 1949, is four years but if after he has been employed for a period of not less than two years the county board determines that the interest of the county may be equally well served by a supervisor of assessments, it may revoke the appointment of the assessor and abolish the office and appoint a supervisor. OAG Feb. 21, 1949 (12-D).

In a county having a county assessor the local assessor views and appraises the value of all property and the county assessor makes the book entries from the information given him by the local assessor. The local assessor, having completed his work, is entitled to his compensation without waiting for the county assessor to complete his work. OAG May 18, 1949 (12-D).

Under the provisions of Laws 1947, Chapter 531, Section 15, the office of county treasurer may not be abolished until the county assessor has been employed for two years. OAG Dec. 31, 1949 (12-D).

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The local assessor submits his appraised value to the county assessor. The county assessor makes his appraisal on the report received and on his own knowledge of the property. After the county assessor has made his assessments in accordance with the provisions of section 273.071, subdivisions 13 and 14, and has entered them on the assessment books, the assessment is subject to review by the local board of review in the manner provided by section 274.01. OAG April 14, 1952 (12-D).

Where the county commissioners appointed a county assessor whose appointment the state commissioner of taxation refused to confirm, it is the duty of the county commissioners to appoint another person. The commissioner of taxation is within his legal rights to use his discretion and refuse to confirm. OAG March 30, 1953 (12-D).

Section 273.071 authorizes the county board to fix the salary of the county supervisor of assessments. In the population class of Todd county the minimum salary is \$4,200, with the proviso that the salary shall not exceed that provided by law for the county auditor or county treasurer. As \$4,180 is the salary provided by law for the county auditor, or the county treasurer, the minimum salary for the supervisor of assessments is \$4,180. OAG June 5, 1953 (12-F-1).

The minimum salary of the supervisor of assessments of Rock county is \$3,500, plus the cost of living increases granted to elective officers of that county. OAG June 10, 1953 (12-F-1).

Where the county board has by authority of law increased the salary of the county treasurer and county auditor, the salary as fixed by such increase is the proper salary. The minimum salary of the county supervisor of assessments must not exceed the salaries of the auditor and treasurer. OAG June 10, 1953 (12-F-1).

Laws 1953, Chapter 596, is not applicable to the salary of the county supervisor of assessments in Wabasha county for the reason that the minimum salary of the county treasurer and county auditor is in excess of \$4,000. OAG June 23, 1953 (12-F-1).

Under the provisions of Laws 1953, Chapter 596, the county board may fix the compensation of the county supervisor of assessments and prescribes the minimum amount of such salary. Any change in the salary of the county supervisor of assessments under the provisions of chapter 596 will be effective not earlier than the time when the county board fixes such salary. OAG June 25, 1953 (12-F-1).

The offices of county supervisor of assessments and town clerk are not incompatible. OAG Oct. 8, 1947 (358-E-6).

Under the provisions of section 273.071 the local board of review of a town, city, village or borough has no power to reduce the aggregate assessment returned by the county assessor; and under the provisions of section 274.13 the county board of equalization is subject to substantially the same limitation. OAG Dec. 21, 1948 (406-B).

After the city board of equalization has commenced its work of reviewing the assessment of property in the city, the county assessor's authority to change assessments is limited to entering in the assessment books. Such changes are made by the city board of equalization and he has no authority to make any other changes in the assessments unless it is ordered by the county and state boards of equalization who in the final analysis have authority to make the necessary changes. OAG Aug. 14, 1950 (406-B).

A city charter must in all things be consistent with and subject to the laws of the state, and where the city of Rochester provides a certain date for meeting of the board of review in tax cases, the charter provisions must yield to the provisions of section 273.071 which provides that the supervisor of assessments or county assessor has the power to fix such date. OAG June 28, 1950 (406-C).

While Laws 1947, Chapter 531, Section 8 requires the attendance of local assessors attending sectional meetings and makes no provisions for compensation, the assessors may nevertheless be compensated under the provisions of section 367.05. OAG March 29, 1948 (414-D-13).

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273.08 ASSESSOR'S DUTIES

A mandamus action requiring county assessor to certify a certain tax to the county auditor brought two months after the county assessor has completed his prescribed duty, is futile, and the petitioner is not entitled to a writ. *State ex rel v Haviland*, 223 M 89, 25 NW(2d) 474.

If an assessor is paid on a per diem basis he is entitled to his per diem compensation when in attendance at a sectional meeting, but if he is paid on an annual basis he is not entitled to such extra compensation. OAG March 29, 1948 (12).

In a city there should not be a separate assessor for realty and for personality. One assessor should assess both. OAG Feb. 29, 1952 (12-A).

Where a city assessor overlooked filing a bond and oath required by section 273.05, until June 27, he was a de facto officer until he filed as required. His acts as de facto officer are valid as to the public and as to third persons, but he cannot compel payment of his compensation. If the compensation is paid to him he may accept it for the services he rendered. A de facto officer may make a valid appointment of a subordinate. OAG June 29, 1951 (12-A-1).

Where a village assessor completed his work and collected his compensation on a per diem basis and performed all his duties imposed by section 412.131, the village council could not thereafter place him on a monthly or annual salary for the balance of the year. OAG Sept. 6, 1950 (12-B-1).

The duties of a town assessor are required to be performed during April, May and June of each year. As to the town of Grand Rapids the compensation of the assessor and his assistants may be fixed by the town board but must not exceed the amount authorized by Laws 1953, Chapter 573. OAG Aug. 18, 1953 (12-C-1).

If the village council determines that the work of the village assessor may be expedited and improved with additional clerical assistance, it may authorize and pay for such assistance. OAG April 7, 1948 (12-E).

273.11 VALUATION OF PROPERTY

The assessor must determine the sale or market value of property to be assessed. In determining this he must consider every element and factor affecting such valuation and this includes location, cost of construction or reproduction, the purpose for which the building was used, its intrinsic value or worth, the price at which the owner is willing to sell, price at which buyers are willing to buy, and price at which similar property, if any, has sold. *Schleiff v Freeborn County*, 231 M 389, 43 NW(2d) 265.

In the assessment for taxation of a retail stock of liquors in determining the full and true value, there can be no deduction for state and federal excise taxes paid thereon. OAG Sept. 7, 1948 (218-K).

For assessment purposes the "true and full value" of the retail stock of intoxicating liquors is the retail value of the liquors without deduction of federal and state liquor taxes thereon. OAG Sept. 7, 1948 (218-K).

Assessments are based upon the May 1 date, and where a plat is recorded after May 1 the assessor must still assess the property as it existed on that date and must assess the property as one tract and not as afterward divided into lots and blocks; but he may still assess the property according to its new value as platted and need not classify it as farm land, which it was previously. OAG June 2, 1948 (474-J-2).

Where 20 acres of farm land within the city of Austin previously existing as farm land was in the spring of 1948 platted and the 66 lots of the plat were accepted by the city council on April 16, 1948, but the plat was not filed for record in the office of the register of deeds until after May 1, 1948, the county auditor in making the real property assessment book was limited to using the same metes and bounds description of the 20-acre tract as had been in use in prior years. Under section 273.11 this does not mean that the assessor must value the tract as farm land. Under section 272.03 the full and true value is the usual selling price at the place where

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the property is at the time of the assessment; but the price which could be obtained is therefor at private sale and not at forced or auction sale. OAG June 2, 1948 (474-J-2).

273.12 ASSESSMENT OF REAL PROPERTY

The covenant of a lease providing that "The lessee further agrees that he will as additional rent pay all taxes and assessments which shall during said term be levied, assessed or otherwise imposed upon said demised premises; it being understood that the first taxes to be paid by the lessee shall be the taxes levied and assessed for the year 1916, and that the last taxes to be paid by the lessee shall be the taxes levied and assessed for the year 2016. The lessee agrees that he will pay such taxes, impositions and assessments before any fine, penalty, interest or costs under the law from time to time in force may be added thereto for the non-payment thereof," obligates an assignee to pay taxes assessed in 1936 where he remained in possession as assignee until Dec. 16 of that year. *Whitney v Leighton*, 225 M 1, 30 NW(2d) 329.

Where the witness testified as to fair market value of property as of the date of the assessment; correctly defined market value as contemplated by section 272.03, subdivision 9; gave consideration to all factors which might affect such valuation; and took into consideration the price which the taxpayer paid for property two years prior to the assessment, such evidence was sufficient to sustain the trial courts finding of valuation. Examination of the record fails to disclose that the taxpayer's property was unfair or unequally assessed in comparison with other assessments in the locality. *Schleiff v County of Freeborn*, 231 M 389, 43 NW(2d) 265.

A veteran may purchase tax-forfeited land to the extent of 160 acres. If his original purchase is less than 160 acres, he may purchase additional land to make up the shortage. No additional allowance may be granted by reason of the fact that there is a highway easement over part of the property. OAG April 10, 1951 (310).

Assessments are based upon the May 1 date, and where a plat is recorded after May 1 the assessor must still assess the property as it existed on that date and must assess the property as one tract and not as afterward divided into lots and blocks; but he may still assess the property according to its new value as platted and need not classify it as farm land, which it was previously. OAG June 2, 1948 (474-J-2).

273.13 CLASSIFICATION OF PROPERTY

HISTORY. Amended, 1949 c 723 s 1; 1951 c 510 s 1; 1951 c 585 s 1; 1953 c 358 s 1, 2; 1953 c 400 s 1; 1953 c 747 s 1, 2.

Petitioner's property consisting of an unplatted 40-acre tract 23 miles distant from Minneapolis, which is used partially for residential purposes by the petitioner, an attorney practicing in Minneapolis, but is in further use for raising garden produce, chickens, trees, pasturage for sheep and in the past has been used on a more expensive scale for the raising of cattle, sheep, hogs, and chickens, is rural in character and devoted or adaptable to rural but not necessarily agricultural use, and should have been classified under section 273.13, subdivision 6, class 3 (b) and subdivision 4, class 3. *Staples v State*, 233 M 312, 46 NW(2d) 651.

Where salaries of public officers are fixed by law and based upon assessed valuation, the words "assessed valuation" have the meaning given them in section 273.13, subdivision 7a. OAG Jan. 17, 1951 (104-A-1).

In the assessment for taxation of a retail stock of liquors, in determining the true and full value there can be no deduction for state and federal excise taxes paid thereon. OAG Sept. 7, 1948 (218-K).

A building on a railroad right-of-way occupied by a tenant is personal property under the provisions of section 272.03, subdivision 3, and cannot be classified for taxation purposes under section 273.13, subdivisions 6, 7. OAG April 23, 1947 (232-D).

Where minor children, whose parents are dead, inherit the homestead but because of their youth do not occupy the homestead but have been placed in other

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homes by their guardian, the former homestead cannot be classified as a homestead for purposes of taxation because the property is not being equally occupied by the children as their homestead. OAG Oct. 21, 1948 (232-D).

Units of rural housing upon real estate owned by a cooperative association is not a homestead for tax exemption purposes. OAG Nov. 23, 1948 (232-D).

Where a farmer-owner leases his entire farm for a stated cash rental, reserving for his own use and occupancy only the farm house and gardens, only the farm house and yard would be entitled to homestead classifications and the portion of the farm would not be classified as a homestead. Where the farmer-owner rents out the major portion of his farm on a share basis, the question whether the rented portion is entitled to homestead classifications depends upon the control which the farmer-owner retains over the operation of the entire farm and the question of whether or not sufficient rented portion is exempt as a homestead is a question of fact for the assessing officials to determine. OAG July 11, 1949 (232-D).

Where a life tenant resides in a dwelling house, his interest therein is a freehold interest and it is the duty of the life tenant to pay taxes on the property. For taxation purposes the property so occupied is the homestead of the occupant. OAG Dec. 5, 1949 (232-D).

The father owned a farm upon which there is a dwelling and farm buildings. He rents the dwelling to a third party but keeps livestock on the farm. He lives with a son on an adjoining farm. To qualify for homestead classification two elements must be present: (1) ownership, (2) occupancy by owner for purposes of a home. In the instant case the second element is lacking. The keeping of livestock on the farm and the spending of a part of each day on the farm does not constitute occupancy for the purposes of a homestead. OAG April 15, 1950 (232-D).

A dwelling left by decedent to her two brothers and occupied by the brothers constituted their homestead as it relates to taxation even though the probate proceedings were still pending and had not been completed. OAG Nov. 17, 1952 (232-D).

In seeking homestead classification an oral declaration of the record owner of the property and the oral declaration of his son who occupied the property is not sufficient evidence of the ownership of the land by the occupant to justify the granting of a homestead classification of the property. OAG March 11, 1953 (232-D).

As it relates to an ad valorem tax there is no homestead classification of contiguous land where the owner does not have the present ownership of land on which he resides. OAG July 7, 1953 (232-D).

A county auditor is directed to deduct the \$100 exemption from the total valuation of the property as equalized by the commissioner of taxation and extend the levy of taxes upon the remainder only. The fact that class 3a, class 3d and class 2 property are assessed at different percentages is not material. The personal property exemption provided for in section 272.08 is applicable to any personal property which the taxpayer may own and is not limited to the household goods described in section 273.13, subdivision 3. OAG Feb. 17, 1948 (421-B-5).

Where 20 acres of land within the city of Austin previously existing as farm land was in the spring of 1948 platted and the 66 lots of the plat were accepted by the city council on April 16, 1948, but the plat was not filed for record in the office of the register of deeds until after May 1, 1948. The county auditor in making the real property assessment book was limited to using the same metes and bounds description of the 20-acre tract as had been in use in prior years. Under section 273.11 this does not mean that the assessor must value the tract as farm land. Under section 272.03 the full and true value is the usual selling price at the place where the property is at the time of the assessment; but the price which could be obtained is therefor at private sale and not at forced or auction sale. OAG June 2, 1948 (474-J-2).

Whether real property is "rural in character and devoted or adaptable to rural but not necessarily agricultural use" is a question of fact which can be determined only after giving consideration to many different factors. If the property is a farm surrounded by other farms it is both rural in character and devoted to rural use. On

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the other hand, if the property is residential, located in the middle of a built-up section of a municipality, it is neither rural in character nor devoted to rural use. OAG Sept. 19, 1949 (474-J-2).

Laws 1953, Chapter 387, is a general law and not a law of special application. The classification of cities of 450,000 population and over is germane to the subject matter of chapter 387. The legislature has the power to limit the maximum rate of taxation which the library board of the city of Minneapolis may levy in any one year for library purposes to that fixed and established by the board of estimate and taxation. OAG Aug. 12, 1953 (519-C).

Pipelines are not included for tax purposes in section 273.13, class 3a or class 3d. Pipelines are not "personal property having taxable situs on farms." OAG Nov. 13, 1951 (519-M).

If a single levy is made to the auditor by a school board rather than a first and second levy, the duty of spreading the levy or extending it on the tax books must be performed by the auditor. OAG Oct. 9, 1950 (519-M).

273.131 VETERANS BONUS PROPERTY TAX

HISTORY. 1949 c 642 s 17.

The proceeds of the \$84,000,000 bond issue may only be used for paying adjusted compensation and costs of administering the act and the moneys obtained through taxes provided by the act may only be used for payment of the bonds and interest thereon. OAG Feb. 9, 1951 (822).

273.17 ASSESSMENT OF REAL PROPERTY IN ODD-NUMBERED YEARS

HISTORY. 1852 c 4 s 4; PS 1858 c 9 s 48; 1860 c 1 s 22; 1861 s 1 s 7; GS 1866 c 11 s 31; 1878 c 1 s 32; GS 1878 c 11 s 32; GS 1894 s 1540; RL 1905 s 811; 1917 c 254; MS 1927 s 1994; 1937 s 206 s 1.

Upon written application by the owner of property, the county board has power to re-classify the property as a homestead if it has erroneously been otherwise classified. OAG June 13, 1950 (232-D).

273.19 LESSEES AND EQUITABLE OWNERS

The covenant of a lease providing that "The lessee further agrees that he will as additional rent pay all taxes and assessments which shall during said term be levied, assessed or otherwise imposed upon said demised premises; it being understood that the first taxes to be paid by the lessee shall be the taxes levied and assessed for the year 1916, and that the last taxes to be paid by the lessee shall be the taxes levied and assessed for the year 2016. The lessee agrees that he will pay such taxes, impositions and assessments before any fine, penalty, interest or costs under the law from time to time in force may be added thereto for the nonpayment thereof," obligates an assignee to pay taxes assessed in 1936 where he remained in possession as assignee until Dec. 16 of that year. *Whitney v Leighton*, 225 M 1, 30 NW(2d) 329.

The three hangars owned and operated by Northwest Airlines, Inc., at the Wold-Chamberlain Airport, all lie within the limits of the village of Richfield. The structures and improvements upon the land are, for tax purposes, a part of the real property upon which they are built. The property is owned by the Metropolitan Airports Commission and leased to the Northwest Airlines, Inc. The hangars are not taxable as personal property. Under the tax exemption provision, all real property owned by the Metropolitan Airports Commission is exempt from taxation unless the lease or use of the hangar property makes the tax exemption provision inapplicable. If the use of the hangar property is not a necessary incident to the operation of the airport by the M.A.C., such hangar property is not exempt from taxation but is subject thereto. There is a distinction between the use of the hangar for maintenance purposes and its use for major overhaul purposes. If the commissioner of taxation should find that the hangar is not used for a public purpose, such hangar property

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is not exempt from taxation but is subject thereto. The property in question is held under a lease for a term of three years and is liable for taxation under the provisions of section 273.19. OAG Sept. 5, 1952 (234).

273.21 NEGLECT BY AUDITOR OR ASSESSOR; PENALTY

HISTORY. 1860 c 1 s 52; GS 1866 c 11 s 69; 1878 c 1 s 116; GS 1878 c 11 s 116; GS 1894 s 1641; RL 1905 s 815; MS 1927 s 1998.

273.22 PERSONAL PROPERTY LISTED

Defendants' motion to open a personal property tax judgment and for leave to answer, setting up that the property involved belonged not to the defendants as partners, but to a corporation which succeeded to the title of the partnership, was addressed to the discretion of the trial court; and in view of a hearing provided for in section 274.01 for the benefit of an aggrieved taxpayer, there was no lack of due process as to the defendants and no abuse of discretion. State v Castner, 226 M 422, 33 NW(2d) 35.

273.23 MERCHANTS; CONSIGNEES

The law requires that merchants place a value on business property and furnish the commissioner with complete information required by form No. 95. OAG July 3, 1953 (421-A-18).

273.25 LISTS TO BE VERIFIED

HISTORY. RS 1851 c 12 s 16; PS 1858 c 9 s 16; 1860 c 1 s 6; 1861 c 1 s 4; GS 1866 c 11 s 6; 1878 c 1 s 15; GS 1878 c 11 s 15; GS 1894 s 1523; RL 1905 s 819; MS 1927 s 2002.

Defendants' motion to open a personal property tax judgment and for leave to answer, setting up that the property involved belonged not to the defendants as partners, but to a corporation which succeeded to the title of the partnership, was addressed to the discretion of the trial court; and in view of a hearing provided for in section 274.01 for the benefit of an aggrieved taxpayer, there was no lack of due process as to the defendants and no abuse of discretion. State v Castner, 226 M 422, 33 NW(2d) 35.

273.26 PERSONAL PROPERTY; WHERE LISTED

If the sale of light and power by the city of Redwood Falls to the village of North Redwood and its inhabitants is a sale of surplus electricity only, and is incidental to the maintenance of the plant for the use of the city of Redwood Falls for the purpose of furnishing itself and its inhabitants with electricity, the light and power lines located in North Redwood are not subject to an ad valorem assessment. OAG Oct. 8, 1947 (414-D-7).

Where a corporation has its registered office in a village but has never maintained an office in the village but has maintained it and its place of business in an adjoining township where its personal property is located, the situs of the personal property of the corporation for ad valorem taxation is in the township adjoining the village. OAG March 12, 1948 (421-A-17).

Where a farm is located in two school districts, the livestock, grain and machinery, should be assessed in the district in which the owner resides. OAG April 5, 1948 (421-A-17).

Where a firm engaged in operating a lime and rock crushing business, whose business office, garage and repair shop are located in a village and the quarry and facilities for crushing rock and lime are in an adjoining township, the situs of the personal property for taxation purposes is in the township. OAG Oct. 22, 1948 (421-A-17).

The proper situs of the equipment of an individual doing business as a contractor is in the taxing district where he resides. OAG May 6, 1949 (421-A-17).

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Section 273.26 lays down the general rule of situs of personal property for ad valorem assessment purposes but to this general rule there are several exceptions. Section 273.29 provides that the personal property pertaining to the business of a merchant or manufacturer shall be listed in the taxing district where the manufacturer's business is carried on. The business of washing and separating sand, gravel, and rock is a manufacturing business within the purpose of section 273.29 and 272.03. A mill where the tow is taken from flax straw probably comes under the head of a manufacturing plant. OAG April 27, 1953 (421-A-17).

273.28 CAPITAL STOCK AND FRANCHISES

A corporate franchise is taxable as property. Pullman v Commissioner, 223 M 96, 25 NW(2d) 838.

"Capital stock and franchises" includes all forms of personal property owned by a corporation. OAG March 12, 1948 (421-A-17).

273.29 MERCHANTS AND MANUFACTURERS

A lime and rock-crushing business is a manufacturing business, and where it is located at a quarry in a town while the office of the company is in the village within the town, the personal property should be assessed in the town rather than in the village. OAG Oct. 22, 1948 (421-A-17).

In taxing Coca Cola signs placed as advertising matter throughout the locality, the taxing officers must determine if the signs are property, and should determine whether the bottling company as distributor is a merchant within the meaning of section 272.03, and whether or not the signs pertain to the merchant's business. OAG Oct. 6, 1949 (421-A-17).

The taxation situs of personal property of a merchant or manufacturer is the town or district where the business is carried on. If the principal place of business is in Ramsey county, the property is taxed there even though warehoused elsewhere, unless business is carried on in the place where warehoused. The tax situs is the place where the business is carried on rather than the place where it is simply warehoused. OAG April 22, 1952 (421-A-17).

Section 273.26 lays down the general rule of situs of personal property for ad valorem assessment purposes but to this general rule there are several exceptions. Section 273.29 provides that the personal property pertaining to the business of a merchant or a manufacturer shall be listed in the taxing district where the manufacturer's business is carried on. The business of washing sand and separating sand, gravel, and rock is a manufacturing business within the purpose of section 273.29 and 272.03. A mill where the tow is taken from flax straw probably comes under the head of a manufacturing plant. OAG April 27, 1953 (421-A-17).

273.33 EXPRESS, STAGE AND TRANSPORTATION COMPANIES; PIPE-LINES

HISTORY. 1949 c 449 s 1.

273.35 GAS AND WATER COMPANIES

HISTORY. Amended, 1949 c 449 s 1.

273.36 ELECTRIC LIGHT AND POWER COMPANIES

Where a city owning a municipal light and power plant sells surplus electricity only and does so as incidental to the maintenance of its own plant, the light and power lines in the village are not subject to ad valorem assessment. OAG Oct. 8, 1947 (414-D-7).

Taxable valuation means the value at which property subject to taxation is valued for the purposes of taxation. In making the computation the county board should take the value of the real and personal property upon which the tax is computed rather than the true and full value. The personal property of power and

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light plants having a fixed status in a municipality is listed and assessed where situated. If any personal property owned by the power and light company does not have a fixed status in a city or village, it should be listed with and assessed by the commissioner of taxation in the county where situated and assessed at the percentage of full and true value as fixed by law. To this will be added the value of money and credits for the year 1942. OAG July 29, 1948 (519-D).

273.37 COMPANIES SUPPLYING ELECTRIC POWER

HISTORY. Amended, 1949 c 554 s 1.

273.38 PERCENTAGE OF ASSESSMENTS; EXCEPTIONS

HISTORY. Amended, 1949 c 554 s 2.

273.41 AMOUNT OF TAX

HISTORY. Amended, 1951 c 590 s 1.

273.42 RATE OF TAX; ENTRY AND CERTIFICATION; CREDIT ON PAYMENT

HISTORY. Amended, 1949 c 554 s 3.

Taxable valuation means the value at which property subject to taxation is valued for the purposes of taxation. In making the computation the county board should take the value of the real and personal property upon which the tax is computed rather than the true and full value. The personal property of power and light plants having a fixed status in a municipality is listed and assessed where situated. If any personal property owned by the power and light company does not have a fixed status in a city or village, it should be listed with and assessed by the commissioner of taxation in the county where situated and assessed at the percentage of full and true value as fixed by law. To this will be added the value of money and credits for the year 1942. OAG July 29, 1948 (519-D).

273.43 PERSONAL PROPERTY OF CERTAIN COMPANIES, WHERE LISTED

HISTORY. 1878 c 1 s 11; GS 1878 c 11 s 11; GS 1894 s 1519; RL 1905 s 829; 1913 c 25 s 1; MS 1927 s 2013.

273.67 PROCEDURE WHEN OWNER DOES NOT LIST OR IS NOT SWORN

HISTORY. 1860 c 1 s 18; GS 1866 c 11 s 27; 1878 c 1 s 36; GS 1878 c 11 s 36; GS 1894 s 1544; RL 1905 s 845; MS 1927 s 2032.

273.68 FAILURE TO OBTAIN LIST

HISTORY. 1860 c 1 s 18; 1866 c 11 s 27; GS 1878 c 11 s 38; GS 1894 s 1546; RL 1905 s 846; MS 1927 s 2033.