

CHAPTER 274

ASSESSMENTS; REVIEW, CORRECTION, EQUALIZATION

274.01 BOARD OF REVIEW

HISTORY. Amended, 1949 c 543 s 1.

As to real estate taxes, where relief is available under Laws 1935, Chapter 300, establishing a method whereby taxpayers can have their rights determined with reference to such taxes without incurring a penalty and without running the risk of having the payment considered voluntary, proceedings under the Declaratory Judgments Act, MSA, Chapter 555, are not permitted. As to personal property taxes illegally levied, where the remedy provided by section 277.02 is unsatisfactory because payment before delinquency may be considered voluntary, while payment after delinquency may involve penalties, and where no method of obtaining relief comparable to that in the case of real estate taxes has been provided by the legislature, it is held, under the circumstances, that at the present time relief from illegally levied personal property taxes may be had under the Declaratory Judgments Act.

Demurrer to complaint is sustained where allegations showed that dairy company, which was in possession of the personal property assessed, was a private corporation which had agreed to pay the taxes thereon and therefore was not in a position to claim relief because of the interest of the United States Government (which was not a party) in the property in question. *Land O'Lakes Dairy v Village of Sebeko*, 225 M 540, 31 NW(2d) 660; *Land O'Lakes v Hintzen*, 225 M 535, 31 NW(2d) 474.

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.

There was no denial of due process of law by refusal to open a default judgment against partners for delinquent personal property taxes. Refusal to permit partners to answer, setting up ownership of the property by a corporation, to which the property was alleged to have been conveyed in April, 1946, is not a denial of due process of law in view of the fact that under the provisions of 274.01 a hearing was available to the partners. *State v Castner*, 226 M 422, 33 NW(2d) 35.

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).

Under section 274.01 it is the duty of the supervisor of assessments or the county assessor to fix a date for the meeting of the board of review. The charter provision of the city of Rochester fixing such date is superseded by the statute. OAG June 28, 1950 (406-C).

A town board of review at its meeting in June, 1948, increased the assessments of the properties of certain individuals within the township without first having notified such individuals of intent so to do, and the county board of equalization adopted the assessment figures of the town board of review. Section 274.01 are directory rather than mandatory, and failure to give notice does not invalidate the assessment. OAG May 13, 1949 (406-D).

Where the commissioner of taxation orders the reassessment of village property, the village council does not have the right to act as a board of review prior to the return of the reassessment to the commissioner. OAG April 7, 1948 (406-E).

Council members are not entitled to extra compensation for services on the board of review other than that prescribed in section 412.181. OAG Dec. 29, 1950 (406-E).

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

274.013 BOARD OF EQUALIZATION, COMPENSATION

HISTORY. 1951 c 59 s 1.

Councilmen of a city of the first class in operating under a home rule charter do not receive compensation while acting as a board of review under section 274.01. OAG June 11, 1952 (406-C).

274.02 Repealed, 1949 c 543 s 2.

274.04 ASSESSOR'S RETURN TO AUDITOR

HISTORY. 1860 c 1 s 27; 1861 c 1 s 7; GS 1866 c 11 s 35; 1878 c 1 s 41; GS 1878 c 11 s 41; GS 1894 s 1549; RL 1905 s 850; MS 1927 s 2037; 1935 c 118 s 2; 1945 c 146 s 1.

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 the assessment books conform to the provisions of section 274.04, the fact that the town assessor employed an assistant would not in any way vitiate the assessment nor would the county auditor have the authority to refuse to accept the books, and the assessor should be paid his compensation. OAG July 10, 1947 (12-E-1).

274.05 AUDITOR'S CERTIFICATE; WHERE FILED

If the assessment books conform to the provisions of section 274.04, the fact that the town assessor employed an assistant would not vitiate the assessment nor would the county auditor have authority to refuse to accept the books, and the assessor should be paid his compensation. OAG June 10, 1947 (12-E-1).

274.06 Repealed, 1949 c 543 s 2.

274.07 LIST BY PERSON SICK OR ABSENT

HISTORY. 1860 c 1 s 18; GS 1866 c 11 s 27; 1878 c 1 s 42; GS 1878 c 11 s 42; GS 1894 s 1550; RL 1905 s 851; MS 1927 s 2041.

274.09 CORRECTING FALSE LISTS AND RETURNS

HISTORY. 1860 c 1 s 32; GS 1866 c 11 s 47; 1878 c 1 s 112; GS 1878 c 11 s 112; GS 1894 s 1630; RL 1905 s 853; MS 1927 s 2043.

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).

274.13 COUNTY BOARD OF EQUALIZATION

HISTORY. 1860 c 1 s 37; 1864 c 7 s 1; GS 1866 c 11 s 81; 1878 c 1 s 44; GS 1878 c 11 s 44; 1885 c 2 s 2; 1885 c 119; GS 1894 s 1552; 1901 c 298; RL 1905 s 859; MS 1927 s 2049; 1945 c 401 s 1; 1949 c 543 s 3.

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

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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).

Under its charter the Chaska board of equalization may modify the county assessor's aggregate assessment, but under Laws 1949, Chapter 243, Section 3, the county board of equalization has jurisdiction over the property in the city of Chaska. OAG July 28, 1950 (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).

The county board of equalization has authority to reduce values in certain cases but cannot reduce the aggregate value of property returned by assessors with additions made by the auditor. OAG July 7, 1953 (406-B).

Local boards of review and county boards of equalization have authority in reviewing the work of local assessment officials to order changes in classification; and this applies to the assessor's classification as to urban or rural property. OAG Aug. 2, 1948 (474-C).

274.14 LENGTH OF SESSION; RECORD

HISTORY. Amended, 1949 c 543 s 4.

County commissioners are entitled to mileage in going to and returning from a session while acting as members of the board of equalization. They are not entitled to mileage for each day of the session in going to and returning from the session to their place of residence. OAG July 20, 1951 (124-A).

274.15 COMPENSATION OF BOARD

HISTORY. Amended, 1947 c 127 s 1.

County commissioners are entitled to mileage in going to and returning from a session while acting as members of the board of equalization. They are not entitled to mileage for each day of the session in going to and returning from the session to their place of residence. OAG July 20, 1951 (124-A).

274.16 CORRECTED LISTS; ABSTRACT, FILING

HISTORY. Amended, 1949 c 543 s 5.

274.17 RECORD; ABSTRACT TO COUNTY AUDITOR

HISTORY. 1860 c 1 s 40; GS 1866 c 11 s 84; 1878 c 1 s 47; GS 1878 c 11 s 47; 1881 c 10 s 9; GS 1894 s 1556; 1897 c 134; RL 1905 s 864; MS 1927 s 2053.