

**SPECIAL PROPERTY TAXES**

**CHAPTER 285**

**MONEY, CREDITS**

**285.01 DEFINITIONS**

**HISTORY.** RS 1851 c 12 s 3; PS 1858 c 9 s 3; 1860 c 1 s 7; 1862 c 6 s 7; GS 1866 c 11 s 7; 1878 c 1 s 4; GS 1878 c 11 s 4; GS 1894 c 1511; RL 1905 s 798; 1907 c 328 s 1; 1911 c 285 s 1; 1923 c 102 s 1; Mason's 1927 s 2337; 1939 c 126 s 1; 1943 c 596 s 1.

**285.021 MONEY AND CREDITS EXEMPTED FROM TAXATION**

One commencing mandamus action to require the county assessor to make and certify to the county auditor a tax assessment on relator's moneys and credits over two months after completion of all official assessment duties of the assessor, auditor, and county board of equalization, is not entitled to a writ as issuance thereof would be futile. *State v Haviland*, 223 M 89, 25 NW(2d) 474.

The statute authorizing any county or city of any class, village, borough or town, notwithstanding any village limitation imposed by law or home rule charter, to levy in excess thereof, but not in excess of tax on money and credits assessed in 1942 and apportioned in 1943, was designated to relieve cities from financial difficulty caused by repeal of the money and credits law, and is construed as applying to all cities, regardless whether their tax levy limitations were on a village or a per capita basis. *Governmental Research Bureau v Borgen*, 224 M 313, 28 NW(2d) 761.

The assessed valuation of money and credits in the city of Benson as equalized in 1942 is not to be included in determining "assessed valuation" of taxable property within the meaning of the city charter. Section 285.143 controls. The city of Benson may, notwithstanding any millage limitation imposed by law or its charter, levy a tax in an amount equal to the amount apportioned to the city upon the basis of the 1942 assessment of money and credits in the city of Benson. OAG Sept. 12, 1950 (614-R).

**282.023 EXEMPTION OF MONEY AND CREDITS**

**HISTORY.** 1943 c 596 s 2; 1949 c 724 s 1.

**285.143 AUDITOR TO COMPUTE TAXES; LIST; COLLECTION**

The statute authorizing any county or city of any class, village, borough or town, notwithstanding any village limitation imposed by law or home rule charter, to levy in excess thereof, but not in excess of tax on money and credits assessed in 1942 and apportioned in 1943, was designated to relieve cities from financial difficulty caused by repeal of the money and credits law, and is construed as applying to all cities, regardless whether their tax levy limitations were on a village or a per capita basis. *Governmental Research Bureau v Borgen*, 224 M 313, 28 NW(2d) 761.

The council is without authority to obligate its city beyond the revenues then in possession of such city or embraced in its then current and uncollected tax levy. If the city enters into an agreement in excess of the amount authorized by section 411.40, the officers might incur a personal obligation to perform but the city would be in no way obligated by the agreement. Where warrants are legally issued in anticipation of taxes that are legal obligations of the city the holder of such warrants may require the officers to perform their duties and pay such warrants when the taxes have been collected and are available for that purpose. OAG July 14, 1948 (519-C) (59-A-49).

# MINNESOTA STATUTES 1953 ANNOTATIONS

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## REGISTRY TAX, REAL ESTATE MORTGAGES 287.04

### 285.15 LIMITATIONS IN PROCEEDINGS FOR ASSESSMENT OF TAXES ON MONEY AND CREDITS

Although many of the repairs to a drainage ditch were made in the six years prior to the levy assessments for the cost, section 272.10 applies and the general statute of limitations is no bar to the right to levy and collect such assessments. *Wilkling v Chippewa*, 225 M 425, 31 NW(2d) 437.

## CHAPTER 287

### REGISTRY TAX, REAL ESTATE MORTGAGES

#### 287.01 DEFINITIONS

An assignment of rents from real estate wherein the amount involved is more than \$50,000, in the absence of a court decision, warrants the payment of the mortgage registration tax. Because of the seriousness to the mortgagee of a failure to pay the proper amount of the registration tax, it is safe to pay the tax then, if there is any doubt as to the necessity of payment, to bring an action to obtain a rebate. OAG May 5, 1953 (418-A-1).

Supplemental mortgage indentures, one which provided for reduction of interest and both of which provided for substitution of other securities for canceled bonds and increase of securities, did not subject the indentures to the imposition of a mortgage registration tax. OAG Sept. 29, 1950 (418-A-11).

A contract for deed in which a city is the vendor is exempt from the mortgage registry tax. OAG April 30, 1953 (418-B-5).

The mortgage registry tax is computed on the mortgage and on the extension agreement separately even though both are executed on the same date. OAG April 29, 1949 (418-B-13).

#### 287.02 EXECUTORY CONTRACT FOR SALE OF LAND, WHEN A MORTGAGE

In a contract for a deed where the total purchase price is \$10,000, \$5,000 of which is payable six months after the date of the contract and the balance payable one year after the deed of the contract and where the contract provides that the vendee is entitled to possession only after making the first \$5,000 payment, the mortgage registration tax is due and payable on the entire \$10,000. OAG Oct. 18, 1951 (418-B-6).

#### 287.04 MORTGAGES EXEMPTED

Where under a supplemental indenture it was proposed to issue \$5,000,000 as the principal amount of a series of bonds, and where it was proposed to use \$2,400 of the new issue to retire old bonds of an equal amount, the mortgage registry tax must be based upon the entire new issue of \$5,000,000. New bonds were not exchanged for old bonds. Funds from the new issue were used to retire part of the old bonds. There is a difference between exchanging old bonds for new and issuing the funds derived from the new in retiring certain old bonds. OAG Oct. 14, 1948 (418-A-11).

Where a corporation executes a mortgage designated as a second mortgage on its property for the amount of \$47,000 and resides therein, that \$2,500 of the amount received is to be used for refunding an existing \$2,500 mortgage and the balance to be used in improvements. The registration tax must be based upon the amount of \$4,700. OAG Dec. 5, 1949 (418-B-17).

Where on Jan. 1, 1948, an indenture of mortgage and first supplemental indenture maturing Jan. 1, 1978, were issued, and the mortgage registration tax de-