

CHAPTER 271

TAX COURT

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271.001 [Repealed, 1977 c 307 s 31]

271.01 CREATION OF TAX COURT; JURISDICTION.

Subdivision 1. **Membership, appointment, qualifications.** There is hereby created a tax court as an independent agency of the executive branch of the government. The tax court is a court of record. The tax court shall consist of three judges, each of whom shall be a citizen of the state, appointed by the governor, by and with the advice and consent of the senate, for a term of six years commencing at the expiration of the preceding term. Any vacancy shall be filled by the governor for the unexpired term, subject to confirmation by the senate. The terms of the judges shall end on the first Monday in January. The terms of the judges shall be staggered, the term of one judge expiring on the first Monday of each odd-numbered year. Judges may serve until their successors are appointed and qualify. They shall be selected on the basis of their experience with and knowledge of taxation and tax laws. The judges of the tax court shall be subject to the provisions of the Minnesota Constitution, article VI, section 6, the jurisdiction of the commission on judicial standards, as provided in sections 490.15 and 490.16, and the provisions of the Code of Judicial Conduct.

Subd. 1a. **Retired judges.** Upon the retirement of a judge of the tax court or the district court, the chief judge of the tax court may, with the retired judge's consent, assign the retired judge to hear any case properly assignable to a judge of the tax court and to act on it with the full powers of a judge of the tax court. A retired judge performing this service shall receive pay and expenses in the amount and manner provided by law for judges serving on the court, less the amount of retirement pay the judge is receiving under chapter 352 or 490.

Subd. 2. [Repealed, 1977 c 307 s 31]

Subd. 2a. [Repealed, 1977 c 307 s 31]

Subd. 3. [Repealed, 1976 c 134 s 79]

Subd. 4. [Repealed, 1971 c 753 s 2]

Subd. 4a. **Expenses.** Each judge of the tax court shall receive actual and necessary expenses paid or incurred in the performance of duties as provided in section 43A.04, subdivision 3.

Subd. 5. **Jurisdiction.** The tax court shall have statewide jurisdiction. Except for an appeal to the supreme court or any other appeal allowed under this subdivision, the tax court shall be the sole, exclusive, and final authority for the hearing and determination of all questions of law and fact arising under the tax laws of the state, as defined in this subdivision, in those cases that have been appealed to the tax court and in any case that has been transferred by the district court to the tax court. The tax court shall have no jurisdiction in any case that does not arise under the tax laws of the state or in any criminal case or in any case determining or granting title to real property or in any case that is under the jurisdiction of the probate court. The small claims division of the tax court shall have no jurisdiction in any case dealing with property valuation

or assessment for property tax purposes until the taxpayer has appealed the valuation or assessment to the town or city board of equalization and to the county board of equalization, except for those taxpayers whose original assessments are determined by the commissioner of revenue. The tax court shall have no jurisdiction in any case involving an order of the state board of equalization unless a taxpayer contests the valuation of property. Laws governing taxes, aids, and related matters administered by the commissioner of revenue, laws dealing with property valuation, assessment or taxation of property for property tax purposes, and any other laws that contain provisions authorizing review of taxes, aids, and related matters by the tax court shall be considered tax laws of this state subject to the jurisdiction of the tax court. This subdivision shall not be construed to prevent an appeal, as provided by law, to an administrative agency, board of equalization, or to the commissioner of revenue. Wherever used in this chapter, the term commissioner shall mean the commissioner of revenue, unless otherwise specified.

Subd. 6. [Repealed, 1989 c 324 s 29]

History: (2362-10) 1939 c 431 art 6 s 10; 1943 c 533 s 1; 1965 c 698 s 2,3; 1969 c 1125 s 1; 1971 c 226 s 2; 1971 c 753 s 1; 1973 c 582 s 3; 1974 c 355 s 36; 1976 c 134 s 61,62,78; 1977 c 307 s 2-4,29; 1977 c 432 s 5; 1978 c 672 s 1; 1981 c 210 s 54; 1984 c 502 art 11 s 2; 1984 c 592 s 82; 1985 c 305 art 12 s 5; 1Sp1985 c 14 art 20 s 1; 1Sp1985 c 16 art 2 s 26; 1986 c 444; 1986 c 473 s 3; 1987 c 404 s 158; 1988 c 719 art 19 s 12; 1989 c 324 s 7,8

271.02 OFFICERS.

The judges of the tax court shall choose a chief judge. The chief judge shall coordinate and make hearing assignments, and appoint employees who shall be in the unclassified service. The chief judge may delegate administrative duties to the employees appointed. The court administrator of district court in each county shall be the court administrator of the tax court in that county. Filing fees and library fees deposited with the court administrator of district court in the capacity of court administrator of the tax court and in cases originally commenced in district court and transferred to the tax court shall be retained by the court administrator of district court. The court administrator of the tax court in each county shall be subject to the supervision of the administrator in tax court matters.

History: (2362-11) 1939 c 431 art 6 s 11; 1965 c 698 s 3; 1976 c 134 s 78; 1977 c 307 s 5,29; 1978 c 672 s 2; 1981 c 356 s 338; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1989 c 324 s 9

271.03 SEAL.

The tax court shall have a seal, engraved with the words, "State of Minnesota, Tax Court." Such seal may be used to authenticate the official acts of the tax court or any judge thereof, but failure to use the seal shall not invalidate any such act.

History: (2362-12) 1939 c 431 art 6 s 12; 1965 c 698 s 3; 1976 c 134 s 78; 1977 c 307 s 29

271.04 HEARINGS; VENUE.

Subdivision 1. **Generally.** The tax court shall hold hearings and meetings as may be prescribed by the rules of the tax court. The principal office of the tax court shall be in Saint Paul, but it shall hold hearings at any other place within the state, so that taxpayers may appear before the court with as little inconvenience and expense to the taxpayer as is practicable. The tax court shall be allowed to use the district court court room in all of the counties. The administrator of the tax court shall consult with the court administrator of the district court involved before a schedule of court room to be used by the tax court is established. Each tax court judge may hear and decide cases. Upon petition by a party to a case, or upon a motion by a tax court judge, and approval by a majority of the tax court, a case may be tried before the entire tax court. When

an appeal is taken by a resident taxpayer from an order of the commissioner, not involving property taxes, venue for the case shall be, at the election of the taxpayer, in Ramsey county or in the district court judicial district in which the taxpayer resides. Venue shall be in Ramsey county for an appeal taken by a nonresident taxpayer from an order of the commissioner. Venue for all other cases arising under the tax laws of the state shall be in the same judicial district as if the case was being tried in district court.

Subd. 2. [Repealed, 1992 c 511 art 2 s 60]

History: (2362-13) 1939 c 431 art 6 s 13; 1965 c 698 s 3; 1976 c 134 s 78; 1977 c 307 s 6; 1978 c 672 s 3; 1989 c 324 s 10; 1991 c 291 art 1 s 8

271.05 POWER TO REVIEW.

The tax court shall have power to review and redetermine orders or decisions of the commissioner of revenue upon appeal therefrom in the cases authorized by law.

History: (2362-14) 1939 c 431 art 6 s 14; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 29

271.06 APPEALS FROM ORDERS.

Subdivision 1. **Manner.** Except as otherwise provided in section 270.07, subdivision 1, paragraph (a), or any other law, an appeal to the tax court may be taken, in the manner herein provided, from any official order of the commissioner of revenue respecting any tax, fee, or assessment, or any matter pertaining thereto, including the imposition of interest and penalty, or any matter over which the court is granted jurisdiction under section 271.01, subdivision 5, 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 in case the attorney general, upon request, shall refuse to appeal. Notwithstanding subdivision 2, when an appeal is taken to the tax court in any case dealing with property valuation, assessment, or taxation for property tax purposes, the provisions of section 274.19, subdivisions 4 and 5, section 277.011, and chapter 278 shall apply as if the appeal had been taken to the district court.

Subd. 2. **Time; notice; intervention.** Except as otherwise provided by law, within 60 days after notice of the making and filing of an order of the commissioner of revenue, the appellant, or the appellant's attorney, shall serve a notice of appeal upon the commissioner and file the original, with proof of such service, with the tax court administrator or with the court administrator of district court acting as court administrator of the tax court; provided, that the tax court, for cause shown, may by written order extend the time for appealing for an additional period not exceeding 30 days. The notice of appeal shall be in the form prescribed by the tax court. Within five days after receipt, the commissioner shall transmit a copy of the notice of appeal to the attorney general in all cases where the amount at issue exceeds \$100. The attorney general shall represent the commissioner, if requested, upon all such appeals except in cases where the attorney general has appealed in behalf of the state, or in other cases where the attorney general deems it against the interests of the state to represent the commissioner, in which event the attorney general may intervene or be substituted as an appellant in behalf of the state at any stage of the proceedings.

Upon a final determination of any other matter over which the court is granted jurisdiction under section 271.01, subdivision 5, the taxpayer or the taxpayer's attorney shall file a petition or notice of appeal as provided by law with the court administrator of district court, acting in the capacity of court administrator of the tax court, with proof of service of the petition or notice of appeal as required by law and within the time required by law. As used in this subdivision, "final determination" includes a notice of assessment and equalization for the year in question received from the local assessor, an order of the local board of equalization, or an order of a county board of equalization.

The tax court shall prescribe a filing system so that the notice of appeal or petition filed with the district court administrator acting as court administrator of the tax court is forwarded to the tax court administrator. In the case of an appeal or a petition concerning property valuation for which the assessor, a local board of equalization, a county board of equalization or the commissioner of revenue has issued an order, the officer issuing the order shall be notified of the filing of the appeal. The notice of appeal or petition shall be in the form prescribed by the tax court.

Subd. 3. Pleadings. Within 30 days after the service and filing of the notice of appeal, unless the appeal be theretofore dismissed, the commissioner shall make, certify, and file with the tax court a return composed of a copy of any application or petition by which the proceeding was instituted and any other material paper preceding the order of the commissioner, a copy of the order appealed from, all relevant correspondence or other communication, and a denial, admission, or explanation with respect to each allegation of fact in the notice so far as not covered by the order; provided, that the tax court, for cause shown, may extend the time for filing such return for an additional period not exceeding 30 days. Where the commissioner is required to transmit a copy of the notice of appeal to the attorney general, the commissioner shall, within ten days after service of the notice of appeal upon the commissioner, transmit to the attorney general a complete copy of all papers required for the return. Allegations of new matter in the return shall be deemed to be denied by the appellant.

Subd. 4. Appeal fee. At the time of filing the notice of appeal the appellant shall pay to the court administrator of the tax court an appeal fee of \$50; provided, that no appeal fee shall be required of the commissioner of revenue, the attorney general, the state or any of its political subdivisions. In small claims division, the appeal fee shall be \$5. The provisions of chapter 563, providing for proceedings in forma pauperis, shall also apply for appeals to the tax court.

Subd. 5. Modification or rescission of orders. At any time before final determination of an appeal by the tax court, 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.

Subd. 6. Hearings; determination of issues; default. The tax court shall hear, consider, and determine without a jury every appeal de novo. A tax court judge may empanel an advisory jury upon the judge's motion. The tax court shall hold a public hearing in every case. All such parties shall have an opportunity to offer evidence and arguments at the hearing; provided, that the order of the commissioner or the appropriate unit of government in every case shall be prima facie valid. When an appeal to the tax court has been taken from an order or determination of the commissioner or from the appropriate unit of government, the proceeding shall be an original proceeding in the nature of a suit to set aside or modify the order or determination. In case no appellant shall appear the tax court shall enter its order affirming the order of the commissioner of revenue or the appropriate unit of government from which the appeal was taken. If the department of revenue's sales ratio study is introduced in tax court as evidence, the sales ratio data from the study shall be admissible as evidence only as provided in section 278.05, subdivision 4.

Subd. 7. Rules. (a) The rules of evidence and civil procedure for the district court of Minnesota shall govern the procedures in the tax court, where practicable. The tax court may adopt rules under chapter 14. The rules in effect on January 1, 1989, apply until superseded.

(b) Notwithstanding paragraph (a), information, including income and expense figures, verified net rentable areas, and anticipated income and expenses, for income-producing property which is not provided to the county assessor at least 45 days before any hearing under this chapter, is not admissible except if necessary to prevent undue

shall value and assess the same in the same manner that other real property is valued and assessed, and shall designate in each case the purpose for which the property is used.

History: (1995) *RL s 812; 1925 c 211 s 1*

273.19 LESSEES AND EQUITABLE OWNERS.

Subdivision 1. Except as provided in subdivision 3 or 4, tax-exempt property held under a lease for a term of at least one year, and not taxable under section 272.01, subdivision 2, or under a contract for the purchase thereof, shall be considered, for all purposes of taxation, as the property of the person holding it. In this subdivision, "tax-exempt property" means property owned by the United States, the state, a school, or any religious, scientific, or benevolent society or institution, incorporated or unincorporated, or any corporation whose property is not taxed in the same manner as other property. This subdivision does not apply to property exempt from taxation under section 272.01, subdivision 2, paragraph (b), clauses (2), (3), and (4).

Subd. 1a. For purposes of this section, a lease includes any agreement permitting a nonexempt person or entity to use the property, regardless of whether the agreement is characterized as a lease. A lease has a "term of at least one year" if the term is for a period of less than one year and the lease permits the parties to renew the lease without requiring that similar terms for leasing the property will be offered to other applicants or bidders through a competitive bidding or other form of offer to potential lessees or users.

Subd. 2. The provisions of subdivision 1 shall not apply to any property owned by a seaway port authority exempt from taxation under the provisions of section 272.01, subdivision 3.

Subd. 3. The net tax capacity of property held under a lease for a term of at least one year which (i) is located within a federal reservation; (ii) has been conveyed to the state of Minnesota by the federal government; and (iii) had been occupied and used by a branch of the armed services of the United States, shall be no greater than the value added to the property by improvements to the property made by the lessee.

Subd. 4. Property held under a lease for a term of at least one year which is owned by the United States and located within a national park shall be exempt, provided the property was acquired by the United States by condemnation or purchased by the United States under threat of condemnation, and within a reasonable time leased back for noncommercial residential purposes to the person owning the property at the time of acquisition by the United States. If property exempt under this subdivision is subsequently leased or subleased for a term of at least one year to another person, it shall no longer qualify for the exemption provided in this subdivision and shall be placed on the assessment rolls as provided in section 272.02, subdivision 4, and taxed pursuant to subdivision 1 of this section.

The value of improvements made to property otherwise exempt pursuant to this subdivision which are owned by the lessee or to which the lessee has salvage rights shall be taxable to the lessee pursuant to subdivision 1.

Subd. 5. Notwithstanding the provisions of subdivision 4, real and personal property used or to be used primarily for the production of hydroelectric or hydromechanical power and leased from the state or a local governmental unit pursuant to section 103G.535 may be exempt from taxation or payments in lieu of taxes.

The exemption from taxation or payments in lieu of taxes provided by this subdivision does not apply to hydroelectric or hydromechanical facilities operated at any time between January 1, 1980 and January 1, 1984.

History: (1996) *RL s 813; Ex1959 c 1 s 2; 1967 c 865 s 2; 1978 c 756 s 1,2; 1980 c 607 art 2 s 16; 1Sp1981 c 1 art 2 s 13,14; 1984 c 502 art 3 s 15; 1985 c 300 s 9; 1987 c 268 art 8 s 4-7; 1988 c 719 art 5 s 84; 1989 c 239 s 2; 1989 c 329 art 13 s 20; 1990 c 391 art 8 s 34*

court or has agreed in writing that the decision upon appeal or review shall be conclusive, all rights of action or defenses in the courts of the state respecting any tax, fee, or assessment, now afforded the taxpayer by law shall be preserved.

Subd. 3. Tax due obligation. At the time of the taking of an appeal to the tax court, the taxpayer shall pay at least the amount of the tax or other obligation conceded by the taxpayer to be due, if any, when it becomes due provided that this shall not relieve the taxpayer from complying with any other requirements of law. The provisions of sections 274.19, subdivision 5, 277.011, subdivision 3, and 278.03 shall govern the filing with the tax court of an appeal dealing with property valuation, assessment, or taxation for property tax purposes, as if the appeal had been taken to the district court.

History: (2362-18) 1939 c 431 art 6 s 18; 1963 c 740 s 25; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 15-17,29

271.10 REVIEW BY SUPREME COURT.

Subdivision 1. Certiorari. A review of any final order of the tax court may be had upon certiorari by the supreme court upon petition of any party to the proceedings before the tax court. Such review may be had on the ground that the tax court was without jurisdiction, that the order of the tax court was not justified by the evidence or was not in conformity with law, or that the tax court committed any other error of law.

Subd. 2. Service of writ. Within 60 days after notice of the making and filing of the order of the tax court, or the making and filing of an order on a petition for rehearing, the petitioner for review shall obtain from the supreme court a writ of certiorari, and shall serve the same upon all other parties appearing in the proceedings before the tax court, and shall file the original, with proof of such service, with the court administrator of the tax court. Every petitioner, except the attorney general, the commissioner of revenue, the state and its political subdivisions, shall also pay to the court administrator the fee prescribed by rule 103.01 of the rules of civil appellate procedure which shall be disposed of in the manner provided by that rule, and file a bond or make a deposit in like manner and amount as in case of an appeal from the district court. The fee shall be disposed of as in such case. Return upon the writ shall be made to the supreme court and the matter shall be heard and determined by the court as in other certiorari cases, subject to the provisions hereof and to such rules as the court may prescribe for cases arising hereunder.

History: (2362-19) 1939 c 431 art 6 s 19; 1943 c 174 s 4; 1965 c 698 s 3; 1971 c 686 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1976 c 239 s 40; 1977 c 307 s 18,29; 1Sp1981 c 1 art 8 s 2; 1Sp1986 c 3 art 1 s 82

271.11 [Repealed, 1977 c 307 s 31]

271.12 WHEN ORDER EFFECTIVE.

No order for refundment by the commissioner of revenue, the appropriate unit of government, or the tax court shall take effect until the time for appeal therefrom or review thereof by all parties entitled thereto has expired. Otherwise every order of the commissioner, the appropriate unit of government, or the tax court 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 thereafter 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 accordingly; and provided further, the tax court may enjoin enforcement of the order of the commissioner being appealed. 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 the person 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 the rate specified in section 270.76 from the date of payment of the tax, unless a different rate of interest is otherwise provided by law, in which case such other rate shall apply, upon certification by the commissioner of revenue, the appropriate unit of government, the tax court or the supreme court.

If, within 120 days after a decision of the tax court becomes final, the commissioner does not refund the overpayment determined by the court, together with interest, on motion by the taxpayer, the tax court shall have jurisdiction to order the refund of the overpayment and interest, and to award reasonable litigation costs for bringing the motion. 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 therewith.

History: (2362-21) 1939 c 431 art 6 s 21; 1945 c 604 s 26; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 19,29; 1Sp1985 c 14 art 15 s 5; 1986 c 444; 1990 c 604 art 1 s 19

271.13 MAY COMPEL ATTENDANCE OF WITNESSES.

The tax court and each judge of the tax court 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 an order of the tax court or any subpoena or refusal by any witness to be sworn 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 order or subpoena in the district court of the county where the order was made or 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 a judge of the tax court or the court administrator of the tax court on behalf of the tax court, as the case may be.

History: (2362-22) 1939 c 431 art 6 s 22; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 20,29; 1Sp1986 c 3 art 1 s 82; 1989 c 324 s 16

271.14 [Repealed, 1977 c 307 s 31]

271.15 WHO MAY ADMINISTER OATHS.

Each judge of the tax court, the administrator and court administrators of the tax court, and all other officers and employees of the tax court 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 tax court.

History: (2362-24) 1939 c 431 art 6 s 24; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 21,29; 1Sp1986 c 3 art 1 s 82; 1987 c 384 art 1 s 24; 1989 c 324 s 17

271.16 [Repealed, 1977 c 307 s 31]

271.17 FILING OFFICERS.

The tax court administrator and the district court administrators shall be the filing officers and custodians of the books, files, and records of the tax court. The administrator and clerks, and their deputies shall have power to certify and authenticate copies of the books, files, and records in their custody for all purposes in like manner and with like effect as other custodians of public records. A judge of the tax court and any other officer or employee of the tax court thereto authorized by the tax court by written order filed with the administrator of the tax court shall also have like power to certify and authenticate copies of any books, files, and records of the tax court specified in the order.

History: (2362-26) 1939 c 431 art 6 s 26; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 22,29; 1Sp1986 c 3 art 1 s 82; 1989 c 324 s 18

271.18 EX-JUDGES NOT TO REPRESENT CLIENTS; EXCEPTION; VIOLATION.

No judge or employee of the tax court, except referees appointed for the small claims division, shall, within one year after the office or employment has terminated, act as counsel, attorney, or agent for a taxpayer in connection with any claim or proceeding pending in the department of revenue or in the tax court at the time of termination. No judge, referee, or employee shall, at any time after the termination of the office or employment, act as counsel, attorney, or agent in connection with any claim or proceeding of which the person terminated has knowledge which was acquired in the course of a term of office or employment in the tax court. Any violation of the provisions of this section shall be a gross misdemeanor.

History: (2362-27) 1939 c 431 art 6 s 27; 1965 c 698 s 3; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 23,29; 1986 c 444; 1989 c 324 s 19

271.19 COSTS AND DISBURSEMENTS.

Upon the determination of any appeal under this chapter before the tax court, or of any review hereunder by the supreme court, the costs and disbursements shall 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 the person, and the tax court or court shall determine that the person instituted the same merely for the purposes of delay, or that the taxpayer's position in the proceedings is frivolous, additional costs, commensurate with the expense incurred and services performed by the agencies of the state in connection with the appeal, but not exceeding \$5,000 in any case, may be allowed against the taxpayer, in the discretion of the tax court 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 payable therewith. To the extent described in section 3.761, where an award of costs and attorney fees is authorized under section 3.762, the costs and fees shall be allowed against the state, including expenses incurred by the taxpayer to administratively protest or appeal to the department of revenue the order, decision, or report of the commissioner that is the subject of the tax court proceedings. 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 chapter 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.

History: (2362-28) 1939 c 431 art 6 s 28; 1965 c 698 s 3; 1976 c 134 s 78; 1977 c 307 s 29; 1984 c 514 art 3 s 3; 1986 c 444; 1990 c 604 art 1 s 20; 1991 c 345 art 1 s 86

271.20 DECISIONS FILED WITHIN THREE MONTHS.

All questions of fact and law and all matters submitted to the judges of the tax court shall be disposed of and their decision filed with the court administrator of the tax court within three months after such submission, unless sickness or casualty shall prevent, or the time be extended by written consent of the parties. No part of the salary of any judge of the tax court shall be paid unless the voucher therefor be accompanied by the judge's certificate of full compliance with the requirements of this section. A tax court judge shall devote full time to the duties of the office and shall not engage in the practice of law.

History: (2362-30) 1939 c 431 art 6 s 30; 1965 c 698 s 3; 1976 c 134 s 78; 1977 c 307 s 24,29; 1986 c 444; 1Sp1986 c 3 art 1 s 82

271.21 SMALL CLAIMS DIVISION.

Subdivision 1. Division created; judges. There shall be a division of the tax court known as the small claims division. The judges of the tax court shall sit as judges of

the small claims division. Each judge shall have authority to hear and decide the cases heard as small claims judge.

Subd. 2. Jurisdiction. At the election of the taxpayer, the small claims division shall have jurisdiction only in the following matters:

(a) in cases involving valuation, assessment, or taxation of real or personal property, if the taxpayer has satisfied the requirements of section 271.01, subdivision 5, and in the case of nonhomestead property, the assessor's estimated market value is less than \$100,000; or

(b) any other case concerning the tax laws as defined in section 271.01, subdivision 5, in which the amount in controversy does not exceed \$5,000, including penalty and interest.

Subd. 3. Appeal election. A taxpayer may elect to appeal in the small claims division instead of appealing to the regular division of the tax court. If the taxpayer elects to appeal to the small claims division, and 30 days have elapsed since the filing of the appeal, or briefs have been filed or a hearing held on the matter, whichever occurs first, the taxpayer shall not appeal to the regular division in the same matter. A taxpayer who elects to appeal to the regular division shall not appeal to the small claims division in the same matter.

Subd. 4. [Repealed, 1989 c 324 s 29]

Subd. 5. Commencement of proceeding. A taxpayer shall commence a proceeding in the small claims division by filing with the court administrator of the tax court a petition in the form prescribed by the rules of the tax court, which shall state the nature of the taxpayer's claim. Upon the filing of a petition by the taxpayer to the small claims division, the court administrator of the tax court shall give notice thereof to the commissioner or to the appropriate unit of government, who shall thereafter be deemed a party to the proceeding. In the event a petition is filed, the small claims division shall thereafter have exclusive jurisdiction over the case if it meets the requirements of subdivision 2.

Subd. 6. Hearing. The hearing in the small claims division shall be informal and without a jury. The judge may hear any testimony and receive any evidence the judge deems necessary or desirable for a just determination of the case except as provided in paragraph (b). Sales ratio studies published by the department of revenue may be admissible as a public record without foundation. All testimony shall be given under oath. A party may appear personally or may be represented or accompanied by an attorney. No transcript of the proceedings shall be kept.

Subd. 7. Dismissal. At any time prior to entry of judgment, a taxpayer may dismiss a case in the small claims division by notifying the court administrator of the tax court in writing. The dismissal shall be with prejudice and shall not revoke the election specified in subdivision 3.

Subd. 8. Judgment. The judgment in the small claims division shall be conclusive upon all parties and may not be appealed. The court may order the commissioner or the appropriate unit of government to modify or cancel an assessment, pay or allow a refund, or take other action necessary to effectuate the judgment. Notice that no appeal may be had from a small claims judgment shall appear prominently on the petition form. The judgment shall not be considered as judicial precedent and shall have no force or effect in any other case, hearing, or proceeding. No judgment shall be rendered in a case dealing with property valuation or assessment for property tax purposes until after the state board of equalization has issued its order, if any, for that area or property.

Subd. 9. Subpoenas. Subpoenas in a proceeding in the small claims division will be issued only at the discretion of the court.

Subd. 10. Referees. Whenever the small claims division trial docket becomes congested with appeals involving valuation, classification, and assessment of property for tax purposes, the judges of the tax court may appoint referees to hear the cases appealed to the small claims division. Each referee shall have authority to hear and decide the cases heard as small claims referee. Each referee shall be a citizen of Minnesota and

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shall have experience with and knowledge of tax law or property taxation and property values, depending on the case at issue. A referee shall be paid at a rate of 80 percent of the salary of the judges of the district court in that county, prorated by the length of time served as a referee. Each referee shall receive actual and necessary expenses paid or incurred in the performance of duties.

Subd. 11. Applicability. The provisions of sections 271.01 to 271.20, shall apply to proceedings in the small claims division unless this section expressly provides otherwise.

History: 1977 c 307 s 25; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 268 art 7 s 25; 1989 c 324 s 20,21; 1991 c 291 art 1 s 9; 1992 c 511 art 2 s 8

271.22 [Repealed, 1989 c 324 s 29]