State of North Dakota

Office of State Tax Commissioner

Cory Fong, Tax Commissioner

Taxpayer Bill of Rights

The North Dakota Taxpayer Bill of Rights is not a mere restatement of existing laws, rules, and policies.

It represents a joint effort of the public and private sectors, where mutual respect and fair play allowed compromise on many important issues. It represents significant change that provides for greater uniformity, consistency, and equity.

While taxes are inevitable, they do not have to be overly complicated or intimidating. As a taxpayer, you deserve to know how the system works and where to get help if you need it.

The mission of the Office of State Tax Commissioner is to fairly and effectively administer the tax laws of North Dakota. We work hard to ensure that tax laws are enforced correctly and that honest taxpayers do not shoulder an unfair burden. This publication highlights your basic rights and responsibilities as a taxpayer. Your confidence in the integrity, efficiency, and fairness of our state's tax system depends, in part, on these rights. We encourage you to learn about them and exercise them to the fullest.

Appeal & Explanation

If you do not agree with an assessment made by the Tax Commissioner, you have the right to appeal. We must explain to you how to appeal an assessment.

Courtesy

You have the right to courteous and considerate treatment. These criteria will be taken into account when evaluating an employee's performance. If you feel that you are not being treated with fairness, courtesy, and consideration by any department employee, please speak with the employee's supervisor.

Fairness

You are liable only for the correct amount of tax that is due under the law. We must apply the law consistently and fairly to all taxpayers. No part of an employee's evaluation may be based on the results of compliance or audit work performed.

Confidentiality

You have the right to confidentiality of information provided on tax returns for individual income tax, corporation income tax, financial institution tax (formerly bank taxes), sales and use taxes, and estate taxes. This information may be released only if you give written authorization.

Recording Conversations

You and the Tax Commissioner have the right to record, electronically or otherwise, any audit conference or meeting, provided advance notice is given of intent to record.

Penalty & Interest Waiver

You have the right to request a waiver of penalty and interest charges. Part or all of these charges may be waived for "good cause."

Taxpayer Representative

You have the right to represent yourself or to designate someone else, such as a CPA or an attorney, to represent you. Contact the Office of State Tax Commissioner for the proper written authorization forms necessary to designate someone else to represent you.

Note: *The above information applies only to taxes administered and collected by the North Dakota Office of State Tax Commissioner. Because locally assessed Property Taxes are not administered by the Office of State Tax Commissioner, the information above does not apply to locally assessed Property Taxes.*

North Dakota Taxpayer Bill of Rights

Individual Income Tax
Corporation Income Tax
Financial Institutions Tax
Oil & Gas Gross Production Tax
Oil Extraction Tax

Tax Commissioner's Deadlines

In certain cases, when the Tax Commissioner does not complete an activity within the prescribed time period, you may be entitled to a waiver of interest.

Extensions

In certain cases, if you are unable to respond within the prescribed time period, you may request and receive an extension of time.

Records Requests

You may protest the Tax Commissioner's request for records by challenging a subpoena in North Dakota District Court.

Deadlines

A deadline is computed using the postmark of the notice or statement. Counting begins the day after the postmark and includes the last day. A deadline falling on a Saturday, Sunday, or legal holiday moves to the next business day. Three days are added to a deadline if a notice is sent by mail (six days if mailed out of state).

Time for Assessment & Refund

Individual & Corporation Income Taxes and Financial Institutions Tax

- 3 years for assessments and refunds
- 6 years if there is a 25% change in taxable income or tax liability

Oil & Gas Gross Production Tax and Oil Extraction Tax

- 3 years for assessments and refunds
- 6 years if there is a 25% change in tax liability

Refund Denials

You have the right to protest a refund denial (Notice of Refund Change). The process for protesting a refund denial is identical to the process for protesting an assessment.

Independent Hearing Officer

An independent hearing officer must be appointed to preside at your Administrative Hearing. An independent hearing officer may participate earlier in the hearing process, once an administrative complaint has been filed, if you so request.

For More Information

Office of State Tax Commissioner
Tax Administration Division
600 E. Boulevard Ave. Dept 127
Bismarck, ND 58505-0599

Web site: www.nd.gov/tax
Phone: 701.328.2014

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Audit

An audit is an examination of your records for the purpose of verifying a tax return or determining whether a tax liability exists.

Notice of Determination

A Notice of Determination (NOD) stating the amount and reason for the assessment is sent to you by the Tax Commissioner no later than 12 months, plus extensions, from the commencement of the audit.

Protest

A Protest stating your disagreement with the assessment is sent by you to the Tax Commissioner within 30 days of the NOD.

Statement of Grounds

A Statement of Grounds, stating in detail your reasons for the protest, is also sent by you to the Tax Commissioner. The Statement of Grounds may be filed up to 90 days after the NOD. If the Tax Commissioner believes the Statement of Grounds is incomplete, the Tax Commissioner must provide you with an opportunity to perfect your statement.

Tax Commissioner's Response

The Tax Commissioner must, within 90 days, provide to you a detailed response to your Statement of Grounds. If you wish further explanation, the Tax Commissioner must provide clarification.

Informal Conference

At any point in this process, you may request an informal conference with the Tax Commissioner to discuss the audit and assessment.

Notice of Reconsideration

No later than 9 months, plus extensions, after the Statement of Grounds, the Tax Commissioner must send to you a Notice of Reconsideration which states the amount of the final assessment and the reasons.

Administrative Complaint

If you still disagree with the Tax Commissioner's assessment, you may file an Administrative Complaint 30 days after the Notice of Reconsideration.

Notice of Intent to Proceed to Hearing

A Notice of Intent to Proceed to Hearing is sent by the Tax Commissioner to you no later than 30 days after the Administrative Complaint.

Administrative Answer

The Tax Commissioner must file an Administrative Answer in response to the Complaint no later than 20 days after the Notice of Hearing.

Administrative Hearing

An Administrative Hearing must be held no later than 18 months after the Administrative Complaint.

Decision of the Tax Commissioner

If at all possible, the Tax Commissioner must issue a decision no later than 30 days from the conclusion of the hearing.

You may appeal the Tax Commissioner's decision to the North Dakota District Court.

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Sales and Special Taxes

Tax Commissioner's Deadlines

In certain cases, when the Tax Commissioner does not complete an activity within the prescribed time period, you may be entitled to a waiver of interest.

Extensions

In certain cases, if you are unable to respond within the prescribed time period, you may request and receive an extension of time.

Records Requests

You may protest the Tax Commissioner's request for records by challenging a subpoena in North Dakota District Court.

Deadlines

A deadline is computed using the postmark of the notice or statement. Counting begins the day after the postmark and includes the last day. A deadline falling on a Saturday, Sunday, or legal holiday moves to the next business day. Three days are added to a deadline if a notice is sent by mail (six days if mailed out of state).

Time for Assessment & Refund

An assessment or refund may be issued any time within three years after the due date of the tax return. However, if the tax is understated by more than 25 percent, the assessment may be issued within six years.

Refund Denials

You have the right to protest a refund denial (Notice of Refund Change). The process for protesting a refund denial is identical to the process for protesting an assessment. You must submit a protest stating your disagreement with the refund denial to the Tax Commissioner within 30 days of the Notice of Refund Change. For more information, see the description of the assessment procedure on the reverse side of this page.

Independent Hearing Officer

An independent hearing officer may be appointed to preside at your Administrative Hearing. An independent hearing officer may participate earlier in the hearing process, once an administrative complaint has been filed, if you so request.

For More Information

Office of State Tax Commissioner
Tax Administration Division
600 E. Boulevard Ave. Dept. 127
Bismarck, ND 58505-0599

Web site: www.nd.gov/tax
Phone: 701.328.1246

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Audit

An audit is an examination of your records for the purpose of verifying a tax return or determining whether a tax liability exists.

Notice of Determination

A Notice of Determination (NOD) stating the amount and reason for the assessment is sent to you by the Tax Commissioner no later than 12 months, plus extensions, from the commencement of the audit.

Protest

A Protest stating your disagreement with the assessment is sent by you to the Tax Commissioner within 30 days of the NOD.

Statement of Grounds

A Statement of Grounds, stating in detail your reasons for the protest, is also sent by you to the Tax Commissioner. The Statement of Grounds may be filed up to 90 days after the NOD. If the Tax Commissioner believes the Statement of Grounds is incomplete, the Tax Commissioner must provide you with an opportunity to perfect your statement.

Tax Commissioner's Response

The Tax Commissioner must, within 90 days, provide to you a detailed response to your Statement of Grounds. If you wish further explanation, the Tax Commissioner must provide clarification.

Informal Conference

At any point in this process, you may request an informal conference with the Tax Commissioner to discuss the audit and assessment.

Administrative Complaint & Notice of Intent to Proceed to Hearing

No later than nine months after the Statement of Grounds, if the assessment remains unresolved, the Tax Commissioner must file an Administrative Complaint and a Notice of Intent to Proceed to Hearing.

Administrative Answer

No later than 20 days after the Complaint, you must file an Administrative Answer in response, if you wish to continue your appeal.

Administrative Hearing

An Administrative Hearing must be held no later than 18 months after the Administrative Complaint.

Decision of the Tax Commissioner

If at all possible, the Tax Commissioner must issue a decision no later than 30 days from the conclusion of the hearing.

You may appeal the Tax Commissioner's decision to the North Dakota District Court.

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Property Taxes

Assessment Process

All real property subject to taxation is assessed according to its value on February 1 of each year. When the value of property changes, there should be a corresponding change in the property's valuation for tax purposes. The assessor must notify the property owner whenever the total true and full valuation is increased more than 10 percent over the last assessment. The notice must be delivered in writing to the property owner, mailed in writing to the property owner's last-known address, or provided to the property owner by electronic mail directed with verification of receipt to an electronic mail address at which the property owner has consented to receive notice. Delivery of the notice must be completed at least 15 days before the meeting of the local board of equalization. The notice must provide the true and full values used by the assessor to make the assessment and the dates, times, and locations of both the local and county boards of equalization meetings.

The Appeal Process

In North Dakota there are two procedures for appealing an assessment (valuation).

One procedure is informal and allows a property owner to appeal the current year's assessment by contacting the local assessor and the various boards of equalization before the assessment is finalized. This method will not result in any court action.

The other procedure is formal and allows a property owner to appeal either a current or prior year's assessment by completing and filing an Application for Abatement and Refund of Taxes. This procedure begins after the assessment is finalized, follows a strict schedule of hearings, and may result in court action as the final step of appeal.

- *The steps for* **informal** *and* **formal appeals** *are on the next page.*
- *Also, the following pages provide you with helpful information regarding the* **application process** *and* **compromise of unpaid taxes**.

For More Information

Contact your local (township, city, or district) assessor, county director of tax equalization or:

Office of State Tax Commissioner
Property Tax Division
600 E. Boulevard Ave. Dept. 127
Bismarck, ND 58505-0599

Web site: www.nd.gov/tax
Phone: 701.328.3127

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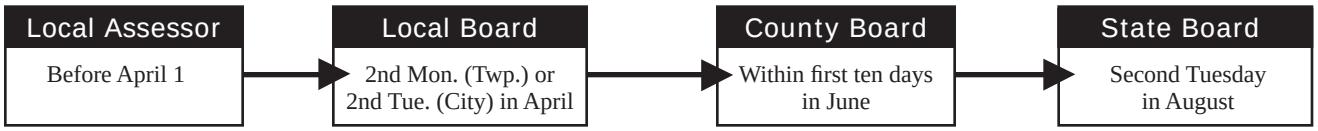
Informal Appeal



A property owner who has questions about an assessment (valuation) should contact the local (township, city or district) assessor before April 1.

A property owner may appeal the assessor's valuation for the current year to the local board of equalization. The township board normally meets the second Monday in April; the city board normally meets the second Tuesday in April. The local board may reduce an assessment upon the property owner's presentation of evidence to support the appeal.

The property owner may continue the appeal to the county board of equalization, which meets during the first ten days in June. The county board may reduce an assessment upon the property owner's presentation of evidence to support the appeal. A property owner may appeal to the county board without first appealing to the local board.

The final step is an appeal to the State Board of Equalization. The State Board meets the second Tuesday in August and may reduce an assessment only if the property owner has appealed to both the local and county boards of equalization. The decision of the State Board is final. However, a property owner may file an Application for Abatement and Refund of Taxes by following the procedures described on the next page.

Formal Appeal

Who May Apply

Any person who has an estate, right, title or interest in a property may file an Application for Abatement or Refund of Taxes if the person claims an assessment is excessive or illegal. This includes, but is not limited to, the property owner, lessee, contract for deed purchaser, person who paid the tax, or person who has an interest in the property. Mobile home owners have the same right to abatement or refund as do owners of real property. Special assessments are not subject to abatement procedures.

Grounds for Abatement

- The assessment is invalid, inequitable or unjust.
- An error has been made in the entry, description, valuation or extension of tax.
- The improvements did not exist on the assessment date (February 1).
- The applicant had no taxable interest in the property on the assessment date.
- The property is exempt.
- The taxes were erroneously paid.
- The property was assessed and taxed more than once in the same year.
- The building, mobile home, structure, or improvement was destroyed or damaged by fire, flood, tornado, or other natural disaster.
- The applicant is eligible to receive the property tax credit for senior citizens or disabled persons.

Time for Filing Application

A person may file an application for abatement of the current year's assessment after the State Board of Equalization finalizes valuations following the August meeting. The application must be filed by November 1 of the year following the year in which the tax becomes payable. For example, the application for abatement of a 2007 tax (payable in 2008) must be filed no later than November 1, 2009.

You may appeal the Tax Commissioner's decision to the North Dakota District Court.

Application Procedures

File Application

Applications are available from the county auditor or county director of tax equalization or go to the Tax Department's web site at www.nd.gov, click on Property Tax on the left side, select Forms, and select Application for Abatement. The applicant files two copies of the completed application with the county auditor. By filing the application, the applicant agrees to allow assessment officials to inspect the property.

Hearing Notice (60 days)

The county auditor presents a copy of the application to the appropriate city auditor or township clerk within five business days after the filing date. Within ten days after receiving the application, the city auditor or township clerk notifies the applicant of the time and place of the hearing before the local governing body.

Local Hearing (30 days)

Within 60 days after the date of the hearing notice, the local governing body considers the application.

Recommendations

The local governing body recommends either to grant or reject the application in whole or in part, and sends the recommendation to the county auditor no later than 30 days after the local hearing.

Hearing Notice (10 days)

At least ten days before the hearing before the board of county commissioners, the county auditor notifies the applicant of the time and place of the hearing.

County Hearing

At its next regular meeting, the board of county commissioners considers the application. The applicant has the opportunity to present information in support of the appeal at the hearing. The applicant is limited to the relief claimed in the Application for Abatement submitted to the board of county commissioners.

County Action (30 days)

If the board of county commissioners approves the application, the assessment is corrected. If the tax has been paid, a refund is issued. If the board of county commissioners rejects the application in whole or part, it must mail a written explanation of the rationale for the decision to the applicant.

Court Appeal

The decision of the board of county commissioners may be appealed to North Dakota District Court. The notice of appeal must be filed with the clerk of court within 30 days of the county decision. A copy of the notice of appeal must be served on the board of county commissioners and the State Tax Commissioner. A property owner may want to consult with an attorney if contemplating an appeal to the court.

Compromise of Unpaid Taxes

- If the tax on any real estate remains unpaid after the second Tuesday in December in the year it is due, the board of county commissioners has the authority, under certain conditions, to compromise a portion of unpaid taxes.
- There is no time limitation for filing for compromise.
- The compromise must be in the best interest of the county rather than the taxpayer.
- The reason for compromise must be valid, such as depreciation in value.
- The State Tax Commissioner must approve any compromise of tax.

You may appeal the Tax Commissioner's decision to the North Dakota District Court.

North Dakota Taxpayer Bill of Rights

Collection Actions

Work out Problems

We are always willing to work with you in maintaining current filing of returns and payment of taxes. It is helpful if you make arrangements prior to the due date, if possible, or contact us as soon as a problem exists.

Notice

If you owe past-due tax, you are entitled to a notice which clearly identifies the tax, penalty, interest due, and any previous payments made.

Payment Due

Payment is due immediately upon notification. If full payment is not possible, we may agree to a reasonable payment plan.

Penalty & Interest

The law imposes penalty and interest charges if you do not pay your taxes on time. You are encouraged to pay as much as you can to lessen these charges.

Lien

You may receive notification before we file a lien against you. A tax lien is a public notice of debt and attaches to your property and your rights to property. It can be filed for continued failure to pay or to establish a payment agreement. A lien is a public record and may harm your credit rating.

Summons & Complaint

If, after you have been given the above opportunities, you still have not paid in full or established and maintained a payment plan, you may be served with a Summons and Complaint. If a Judgment is obtained, you may have to pay the tax, penalty, interest, and legal costs.

Wage Garnishment

You are entitled to notification before we send a wage levy to your employer. If a Judgment has been obtained, a garnishment may be served to require your employer to withhold from your wages to pay the past-due tax, penalty and interest.

Property Seizure

As a last resort, if a Judgment is obtained, the Sheriff may levy against or seize property to collect past-due tax, penalty, and interest. You will be notified by the Sheriff prior to the sale of your property at a Sheriff's auction.

For More Information

If you have questions or need assistance regarding collection actions, contact the Collections Section:

Address:
Office of State Tax Commissioner
Tax Administration Division
600 E. Boulevard Ave. Dept. 127
Bismarck, ND 58505-0599

Web site: *www.nd.gov/tax*

Phone: *701.328.1244*

Taxpayer Assistance

Timely Response

You have the right to prompt, courteous, and accurate answers to your questions. We will answer or acknowledge your inquiry within two weeks.

Written Opinion

You have the right to rely on a formal written "Opinion of the Tax Commissioner" if you have fully disclosed the facts and circumstances necessary for a proper opinion.

Help with Filing

You have the right to assistance with your North Dakota tax returns. Help is available year-round in our Bismarck office. Office hours are Monday through Friday (except holidays), 8:00 a.m. to 5:00 p.m. (Central Time).

For More Information

For confidential and personal assistance contact the Office of State Tax Commissioner.

Address:
Office of State Tax Commissioner
600 E. Boulevard Ave., Dept. 127
Bismarck, ND 58505-0599

Web site:
www.nd.gov/tax

Phone:
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