



# Guideline

## Property Tax Abatement and Refund of Taxes

North Dakota Century Code ch. 57-23

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*Tax Commissioner*

*July 2007*

### Who May Apply

Any person having an estate, right, title or interest in the property who claims the assessment is excessive or illegal may apply. 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 tax.

### Grounds For Abatement

1. Error has been made in entry, description, valuation or extension of tax.
2. Improvements did not exist on assessment date.
3. Complainant or property is exempt.
4. Applicant had no taxable interest in the property on the assessment date.
5. Taxes were erroneously paid.
6. Property was assessed and taxed more than once in the same year.
7. Building, mobile home, structure or improvement was destroyed or damaged by fire, flood or tornado or other natural disaster.
8. Assessment is invalid, inequitable or unjust.

### Application

9. Application forms are available from the county auditor or county director of tax equalization.
10. The application must state in detail the legal description of the property in question, the reason(s) for the requested adjustment, and the amount of adjustment requested.
11. The application must be signed by the applicant or the applicant's representative.

### Time For Filing Application

12. Applications must be filed on or before November 1 of the year following the year in which the tax becomes delinquent. For example, the application for abatement of a 2007 tax must be filed on or before November 1, 2009.

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13. An application for abatement of the current year assessment may be filed anytime after completion of equalization by the state board of equalization.
14. A person who pays a tax under protest has 60 days to apply in writing for an abatement, adjustment, or refund.
- \* 15. Whenever taxes have been paid under protest, the county treasurer shall deduct the uncontested amount of the taxes paid under protest and keep the contested amount in a “taxes paid under protest fund.” The uncontested amount may be allocated immediately. The uncontested amount is the amount that would be payable if the application for abatement, adjustment, or refund is approved by the board of county commissioners as submitted.

## **Procedures**

16. The aggrieved person files two copies of the completed application for abatement with the county auditor of the county in which the property is located.
17. By filing the application with the county auditor, the applicant agrees to allow inspection of the property in question by assessment officials.
18. The county auditor assigns a number to the application and records the date of filing in a reception book.
19. Within five business days of the filing date, the county auditor presents a copy of the application to the local governing body (city or township) for its recommendation.
20. Within 10 days after receiving the application, the local governing body must notify the applicant of the time and place of the hearing.
21. Applications for abatement for homestead credit (N.D.C.C. § 57-02-08.1) are not subject to the notification of hearing requirement.
22. The local hearing must be held within 60 days after the date of the notice of hearing.
23. The local board recommends either to grant or reject the application in whole or in part.
24. The local board returns the application with the board’s recommendation to the county auditor no later than 30 days after the date of the hearing.
25. At its next regular meeting, the board of county commissioners considers the application for abatement.
26. The applicant has the opportunity to present additional information at the hearing before the county board.
- \* 27. The applicant is limited to the relief claimed in the application for abatement submitted to the board of county commissioners. The applicant may not submit evidence during a hearing on an application for abatement suggesting a lower valuation, a lower tax levy, or a different taxable status than was requested in the application.

28. The record of the proceedings of the abatement hearing before the county board must be accurate and complete in the event that the decision is appealed to district court.
29. If the application for abatement is approved, the assessment is corrected or, if the tax has been paid, a refund is issued to the applicant. The refund must include the abated or compromised tax amount and any penalties and interest previously paid on the abated or compromised portion of the tax.
30. If the application for abatement is rejected in whole or in part, a written explanation of the rationale for the decision, signed by the chairman of the county board, must be attached to the application. A copy of the explanation must be sent to the applicant.
31. Once an application is acted on, the applicant may not file another application for the same year for the same reason.
32. The decision of the board of county commissioners may be appealed to district court. Notice of the appeal must be served upon one member of the county commission and the tax commissioner within 30 days of the decision of the county commissioners (N.D.C.C. § 11-11-41).

## **Mobile Homes**

33. Mobile home owners have the same right to abatement or refund as do owners of real property.

## **Homestead Credit**

34. Counties will be reimbursed by the state for property tax credits (N.D.C.C. § 57-02-08.1) granted through abatement proceedings.
- \* 35. If the value of a property for which a county has been reimbursed for a credit under N.D.C.C. § 57-02-08.1 is reduced through abatement, the county must refund the abated portion of the reimbursement to the state.

## **Special Assessments**

36. Special assessments are not subject to abatement (N.D.C.C. § 40-24-16).

## **Compromise Of Unpaid Taxes**

37. If a 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 authority, under certain conditions, to compromise a portion of unpaid taxes (N.D.C.C. § 57-23-07).
38. The compromise must be in the best interest of the county rather than the taxpayer.
39. The reason for compromise must be a valid cause such as depreciation in value.
40. A compromise of tax is subject to the approval of the tax commissioner.

## **Railroads And Utilities**

41. The operating property of railroads and public utility companies which is assessed by the state board of equalization is not subject to abatement pursuant to N.D.C.C. ch. 57-23. However, locally assessed non-operating property of railroads and public utilities may be abated pursuant to N.D.C.C. ch. 57-23.
  
42. Railroad and utility assessments are reviewed pursuant to N.D.C.C. ch. 57-08.