(motor fuels tax), and North Dakota Administrative Code ch. 81-01.1-01 (all taxes).

- **Untimely protest:** If the Notice of Protest is not filed on time, our determination in the Notice of Determination or Notice of Refund Change becomes final.

## What Our Office Must Do to Respond to Your Protest

Upon receipt of your Statement of Grounds, our office must do the following:

### 1. Acknowledge Statement of Grounds

Within fifteen days of the date on which we receive your Statement of Grounds, we must notify you in writing that we received your Statement of Grounds and, if necessary, inform you that it is incomplete. If it is incomplete, we must specify the additional information needed to complete it and allow you thirty days to provide the additional information.

### 2. Respond to Statement of Grounds

Within ninety days of the postmark date of your Statement of Grounds (or the postmark date of any additional information requested to complete your Statement of Grounds), we must send you a Response to Statement of Grounds in which we respond to each objection specified in your Statement of Grounds. If you believe that our response is incomplete, you must notify our office within fifteen days of the date on which you receive our response, identify the problems, and allow us thirty days to provide the response.

### 3. Set up an informal conference (optional)

At your request, an informal conference may be set up in our Bismarck office to discuss the Notice of Determination or Notice of Refund Change and your protest to it.

## Have a Question?

If you have questions about the procedures described in this pamphlet, you may contact our office as follows:

### Call

- In the Bismarck-Mandan local calling area or from outside North Dakota:

| | |
|---|---|
| Individual income tax | 701.328.1247 |
| Corporation income tax | 701.328.1249 |
| Income tax withholding | 701.328.1248 |
| Motor fuels | 701.328.3657 |

- Toll free within North Dakota: 1.877.328.7088
- If speech or hearing impaired, call us through Relay North Dakota: 1.800.366.6888 (ask for 1.877.328.7088)

### Write

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

### Email

You may also email your question to us using one of the following addresses:

| | |
|---|---|
| Individual income tax | **individualtax@nd.gov** |
| Corporation income tax | **corptax@nd.gov** |
| Income tax withholding | **withhold@nd.gov** |
| Motor fuels tax | **fueltax@nd.gov** |

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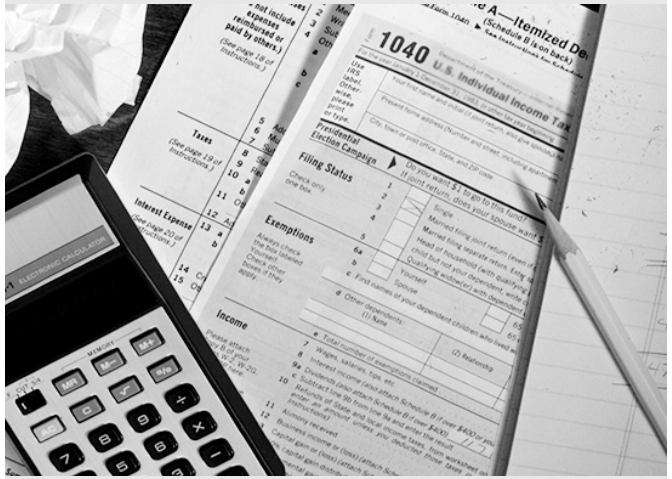
February 2016

Office of State Tax Commissioner
600 E Boulevard Ave. Dept. 127
Bismarck, ND 58505
www.nd.gov/tax

NDTax
North Dakota
Office of State Tax Commissioner

# How to Protest a Tax Assessment or a Denial of a Claim for Refund



The procedures for filing a protest to a Notice of Determination or Notice of Refund Change

Office of State Tax Commissioner
Ryan Rauschenberger

## A Note from the Commissioner

Dear Taxpayer:

Sometimes our office may assess additional tax or deny a claim for refund. We want you to know that you have the right to file a protest if this happens to you and you disagree with our decision.

This pamphlet explains how to file a protest of our decision. It also lets you know what we must do to respond to it.

You can contact our office (see page 5) if you have any questions about these procedures.

Ryan Rauschenberger

Ryan Rauschenberger
Tax Commissioner

## Purpose

These procedures apply if you receive one of the following documents from our office:

- **Notice of Determination:** This notice is used to inform you that you owe additional tax.*
- **Notice of Refund Change:** This notice is used to inform you that we have denied part or all of your claim for credit or refund.

These procedures do not apply if you receive a notice because of a mathematical or clerical error.

**** Note: In some cases, a Notice of Refund Change will be incorporated into a Notice of Determination when we deny a refund claim and assess additional tax.***

## What You Must Do To File a Protest

A protest consists of a Notice of Protest and a Statement of Grounds, as explained below.

### 1. Filing a Notice of Protest

Within thirty days (ninety days if you live outside the United States) of the postmark date of the Notice of Determination or Notice of Refund Change, you must file a Notice of Protest. To file a Notice of Protest, prepare a letter containing all of the following:

- Name, address, telephone number, and social security number (or federal employer identification number) of the taxpayer.
- Name, address, and telephone number of the taxpayer's designated representative, if applicable.
- Date of the Notice of Determination or Notice of Refund Change.
- Tax period or periods to which the tax applies.
- Amount of tax under protest for each tax period.
- Signature of the taxpayer or designated representative. (If signed by a designated representative, attach Form 500.)

Protesting by phone or email: A timely protest will be accepted by telephone or email **only if** it is made or sent within thirty days of the post mark date of the Notice of Determination or Notice of Refund Change, and the written Notice of Protest is filed to confirm the protest.

### 2. Filing a Statement of Grounds

Within ninety days of the postmark date of the Notice of Determination or Notice of Refund Change, you must file a Statement of Grounds. To file a Statement of Grounds, prepare a letter stating your specific objections for filing the protest.

***Note: You may combine the Notice of Protest and Statement of Grounds into one letter provided you file the letter within thirty days (ninety days if you live outside the United States) of the postmark date of the Notice of Determination or Notice of Refund Change.***

### 3. Mailing your Notice of Protest and Statement of Grounds

Mail your Notice of Protest and Statement of Grounds to the following address:

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

***Note: It is recommended, but not required, that you use certified mail.***

## Other Information You Need to Know

- **Extension of time to file:** You may request an extension of time to file any of the documents required under these procedures.
- **Special mailing rules:** If the last day of a time period falls on a Saturday, Sunday, or legal holiday, the time period extends to the end of the next day that is not a Saturday, Sunday, or legal holiday. Add three days (six days if out of state) to allow for mail delivery.

  *Example: If a Notice of Determination postmarked May 15 is mailed inside North Dakota, the Notice of Protest must be postmarked no later than June 17. If June 17 falls on a Saturday or Sunday, the Notice of Protest must be postmarked no later than the following Monday.*
- **Law:** These procedures are based on North Dakota Century Code §§ 57-38-39 and 57-38-40 (income tax), § 57-43.1-17

More on back ⇨