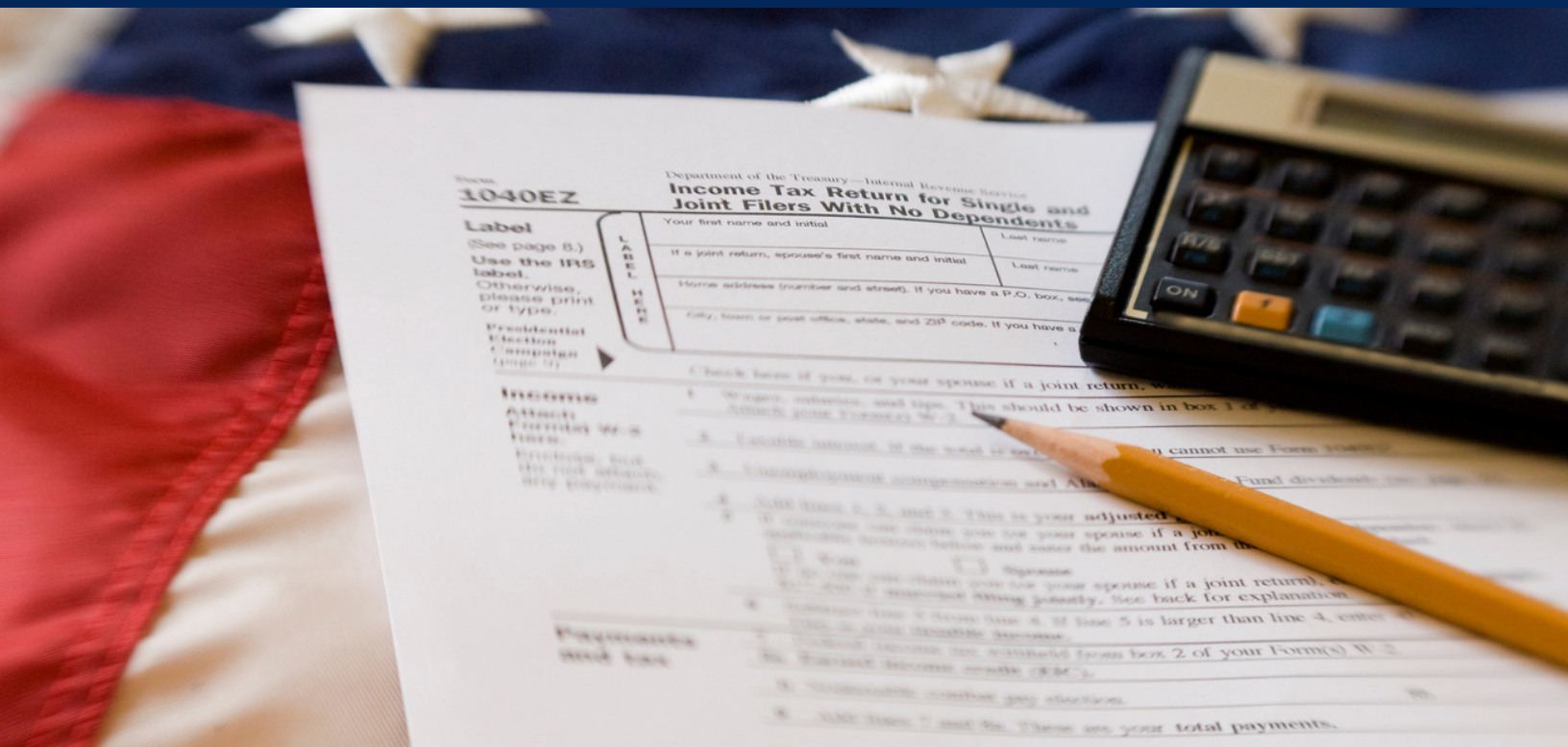


# TAXPAYER BILL OF RIGHTS



TAX COMMISSIONER BRIAN KROSHUS

NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER

2023



# NORTH DAKOTA TAXPAYER BILL OF RIGHTS

The North Dakota Taxpayer Bill of Rights represents a joint effort of the public and private sectors. It 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 North Dakota 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 North Dakota's tax system depends, in part, on these rights. We encourage you to learn about them and exercise them to the fullest.

## **Appeal and Explanation**

If you do not agree with an assessment made by the Office of State 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.

## **Confidentiality**

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

## **Recording Conversations**

You and the Office of State 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 and 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 certified public accountant (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 property taxes are locally assessed, the information above does not apply to property taxes.

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

Website: [tax.nd.gov](http://tax.nd.gov)

Phone: 701-328-7088  
877-328-7088 (toll free)  
800-366-6888 (TTD)

## INDIVIDUAL INCOME TAX, CORPORATION INCOME TAX, OIL & GAS GROSS PRODUCTION TAX, OIL EXTRACTION TAX

### Office of State Tax Commissioner's

#### Deadlines

In certain cases, when the Office of State 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 Office of State 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 and Refund

Individual & Corporation Income Taxes:

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

Oil and Gas Gross Production Tax and Oil Extraction Tax:

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

# INCOME TAX & OIL TAX AUDIT & ASSESSMENT PROCEDURE

## **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 stating the amount and reason for the assessment is sent to you by the Office of State Tax Commissioner no later than 12 months, plus extensions, from the commencement of the audit.

## **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.

## **Protest**

A protest stating your disagreement with the assessment is sent by you to the Office of State Tax Commissioner within 30 days of the Notice of Determination.

## **Statement of Grounds**

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

## **Office of State Tax Commissioner's Response**

The Office of State Tax Commissioner must, within 90 days, provide to you a detailed response to your statement of grounds. If you wish further explanation, the Office of State Tax Commissioner must provide clarification.

## **Informal Conference**

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

## **Notice of Reconsideration**

No later than nine months, plus extensions, after the statement of grounds, the Office of State 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 Office of State Tax Commissioner's assessment, you may file an administrative complaint up to 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 Office of State Tax Commissioner to you no later than 30 days after the administrative complaint.

## **Administrative Answer**

The Office of State 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.

## **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.

## **Decision of the Office of State Tax Commissioner**

If at all possible, the Office of State Tax Commissioner must issue a decision no later than 30 days from the conclusion of the hearing. You may appeal the Office of State Tax Commissioner's decision to the North Dakota District Court.

## SALES & SPECIAL TAXES

### **Office of State 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 Office of State 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 and 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%, the assessment may be issued within six years.

# SALES & SPECIAL TAXES AUDIT & ASSESSMENT PROCEDURE

## **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 stating the amount and reason for the assessment is sent to you by the Office of State Tax Commissioner no later than 12 months, plus extensions, from the commencement of the audit.

## **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 Office of State Tax Commissioner within 30 days of the Notice of Refund Change.

## **Protest**

A protest stating your disagreement with the assessment is sent by you to the Office of State Tax Commissioner within 30 days of the Notice of Determination.

## **Statement of Grounds**

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

## **Office of State Tax Commissioner's Response**

The Office of State Tax Commissioner must, within 90 days, provide to you a detailed response to your statement of grounds. If you wish further explanation, the Office of State Tax Commissioner must provide clarification.

## **Informal Conference**

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

## **Administrative Complaint**

If the assessment remains unresolved, an administrative complaint must be filed with the Office of State Tax Commissioner. The administrative complaint may be filed by you or by the Office of State Tax Commissioner.

If the Office of State Tax Commissioner chooses to file an administrative complaint, it must be filed no later than nine months after receiving a final statement of grounds. This deadline may be extended by mutual agreement.

## **Notice of Intent to Proceed to Hearing**

If you file an administrative complaint, and the Office of State Tax Commissioner intends to proceed to a hearing, a Notice of Intent to proceed to hearing will be sent by the Office of State Tax Commissioner to you no later than 30 days after the administrative complaint is filed. If the Office of State Tax Commissioner chooses to file an administrative complaint, a Notice of Intent to proceed to a hearing must be served with the administrative complaint.

## **Administrative Answer**

An administrative answer, in response, must be filed no later than 20 days after service of the Notice of Intent to proceed to hearing.

## **Administrative Hearing**

An administrative hearing must be held no later than 18 months after the administrative complaint. Reasonable extensions shall be available from the hearing officer.

## **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.

## **Decision of the Office of State Tax Commissioner**

If at all possible, the Office of State Tax Commissioner must issue a decision no later than 30 days from the conclusion of the hearing. You may appeal the Office of State Tax Commissioner's decision to the North Dakota District Court.

# PROPERTY TAX

## 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 corresponding changes in the property's valuation for tax purposes.

Written notice must be sent to a property owner whenever the true and full value of a property has increased since the previous year's assessment to one or more of the following levels:

1. The assessor has increased the true and full valuation to a level of 10% or more and \$3,000 or more from the previous year's assessment. Delivery must occur at least 15 days prior to the local equalization meeting.
2. The township, city, or county board of equalization proposes to increase the true and full value returned by the assessor resulting in a cumulative increase of more than 15% from the amount of the previous year's assessment. Reasonable notice and opportunity to be heard regarding the intention of the board to increase the assessment must be given prior to the board taking action.
3. The township, city, or county board of equalization, or action by the State Board of Equalization has increased the true and full valuation to a level of 10% or more and \$3,000 or more from the previous year's assessment. Delivery must occur within 15 days after the meeting of the township, city, or county board that ordered the increase and within 30 days after the meeting of the State Board of Equalization if the state board ordered the increase.

The notice must be delivered 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 email address at which the property owner has consented to receive notice.

The notice must provide the true and full values used to make the assessment and the dates, times, and locations of the local, county, and state boards of equalization meetings.

## The Appeal Process

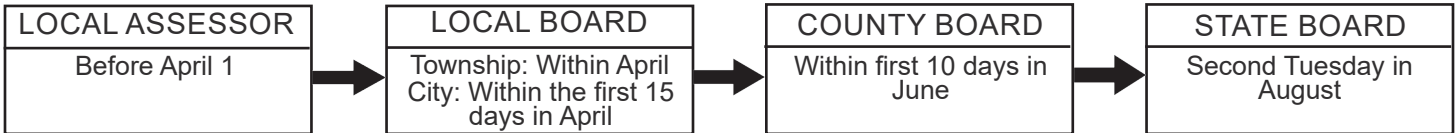
In North Dakota there are two procedures for appealing an assessment (valuation).

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.
- The following pages will also provide you with helpful information regarding the application process and compromise of unpaid taxes.

## PROPERTY TAX — 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 meets within the month of April. The city board meets within the first 15 days of 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 10 days in June.

The county board may reduce an assessment upon the property owner's presentation of evidence to support the appeal.

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 for formal appeals described below.

## PROPERTY TAX — 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. The application procedures are described on the next page. 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.

- 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 individuals with disabilities.

### 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.

### 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 2023 tax (payable in 2024) must be filed no later than November 1, 2025.



## PROPERTY TAX — APPLICATION PROCEDURES

