

ARTICLE 81-01 GENERAL ADMINISTRATION

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CHAPTER 81-01-01 ORGANIZATION OF DEPARTMENT

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81-01-01-01. Definitions.

For the purposes of title 81, the terms "North Dakota tax department" and "tax department" mean the office of the tax commissioner or the tax commissioner of North Dakota as provided in North Dakota Century Code chapter 57-01 and section 2 of article V of the Constitution of North Dakota.

History: Amended effective July 1, 2016.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 57-01; NDCon V, § 12

81-01-01-02. Organization and functions of the North Dakota tax department.

1. **History.** During the period from 1890 to 1912 the functions currently performed by the tax commissioner were performed by the state auditor. From January 1912 to August 1, 1919, a nonpartisan tax commission composed of three commissioners appointed by the governor, by and with the advice and consent of the senate, administered the tax laws on the state level. Beginning August 1, 1919, these duties were assumed by a governor-appointed tax commissioner who served a six-year term. The appointment was subject to approval by the senate. The present office of tax commissioner was created by an amendment of section 12 of article V of the Constitution of North Dakota which was approved by the voters at a statewide election held on June 25, 1940. These provisions are now found in section 2 of article V of the Constitution of North Dakota. Section 4 of article V of the Constitution of North Dakota provides that the tax commissioner must be at least twenty-five years old and must have the qualifications of a state elector. Under section 5 of article V of the Constitution of North Dakota the tax commissioner is elected for a four-year term. The first tax commissioner was elected at the fall election of 1940 and took office in January 1941.
2. **Divisions.** The tax department consists of the following six divisions:
 - a. Commissioner's division. The commissioner's division is responsible for the general administration of the tax department. This division also serves as the tax department's primary research, communication, and public information center. Management planning and human resource administration are under direct control of the commissioner's division. The tax commissioner is assisted by the deputy commissioner, research and communications section staff, an executive assistant, a human resource officer, and other staff.
 - b. Fiscal management division. The fiscal management division of the tax department consists of two sections: accounting, and procurement. The accounting section maintains records of tax revenue and tax department expenditures, maintains inventory records of fixed assets and bonds, processes accounts receivable payments, prepares the tax department executive budget, and maintains an internal budget. The procurement

section is responsible for the purchase of office supplies and equipment, secures contracts for services and maintenance of equipment, procures tax department printing goods and services, and secures leases for office space and equipment.

- c. Legal division. The legal division of the tax department is comprised of attorneys who research and prepare opinions answering tax-related questions posed by the commissioner, legislators, tax department staff, other officials, and citizens; who draft proposals for changes in tax laws; who conduct all litigation for the tax department and the state board of equalization; and who help draft rules and regulations for the administration of the various state taxes. The legal division serves in an advisory capacity to the commissioner so that the creation of new and changes in policy, procedures, and administration comply with state laws.
- d. Tax administration division. The tax administration division consists of eight sections: individual income and withholding taxes; corporate income taxes; sales and special taxes compliance; sales and special taxes audit; motor fuels, oil and gas, and estate taxes; registration; taxpayer services; and collections.

The individual income and withholding tax section is responsible for the administration of North Dakota Century Code chapters 57-38, 57-38.1, 57-38.3, 57-38.5, and 57-38.6, pertaining to individual income taxes and passthrough entities, the Uniform Division of Income Tax Act, setoff of income tax refunds, seed capital investment tax credit, and agricultural business investment tax credit.

The corporate income tax section is responsible for the administration of North Dakota Century Code chapters 57-38, 57-38.1, 57-38.4, 57-38.5, and 57-38.6, pertaining to corporate income taxes, the Uniform Division of Income Tax Act, water's edge election method, seed capital investment tax credit, and agricultural business investment tax credit. This section is also responsible for administration of North Dakota Century Code chapter 57-59, pertaining to the multistate tax compact.

Both the individual and corporate income tax sections review tax returns, perform audits and other compliance projects, and provide taxpayer assistance.

The sales and special taxes compliance and audit sections are responsible for the administration of the following chapters of the North Dakota Century Code, which are primarily related to retail sales: chapter 57-34, gross receipts tax on telecommunications carriers; chapter 57-39.2, retail sales tax; chapter 57-39.4, streamlined sales and use tax agreement; chapter 57-39.5, farm machinery gross receipts tax; chapter 57-39.6, alcoholic beverage gross receipts tax; chapter 57-40.2, use tax; chapter 57-40.3, motor vehicle excise tax; chapter 57-40.4, motor vehicle excise tax refund; and chapter 57-40.5, and aircraft excise tax. In addition, these sections administer wholesale taxes on alcoholic beverages imposed under North Dakota Century Code chapter 5-03, wholesale taxes on tobacco products imposed under chapter 57-36, and taxes levied under section 47-21-08 on selling and licensing performing rights of music or dramatico-musical composition. Both sales and special taxes sections provide taxpayer assistance, review refund requests, and conduct programs to ensure compliance with the law; however, the audit section's major focus is on the audit of sales and use tax accounts.

The motor fuel, oil and gas, and estate taxes section is responsible for the administration of the following chapters and sections of the North Dakota Century Code: chapter 57-37.1, estate taxes; chapter 57-43.1, motor vehicle fuels and importer for use taxes; chapter 57-43.2, special fuels and importer for use taxes; chapter 57-43.3, aviation fuel tax; chapter 57-51, oil and gas gross production taxes; and chapter 57-51.1, oil extraction taxes. These taxes are collected, administered, and audited by the motor fuel, oil and

gas, and estate taxes section. This section also issues the motor fuel tax refund to those consumers using motor fuel for agricultural or industrial purposes.

The registration, taxpayer services, and collection sections are all function-based and involved with all taxes administered by the tax administration division. The registration section processes registration information for businesses new to North Dakota or that require an annual license renewal. The taxpayer services staff review returns during processing, and assist taxpayers with tax filing requirements and processes. The collections section is responsible for collecting delinquent taxes for all tax types administered by the tax commissioner's office.

- e. **Property tax division.** The property tax is a source of revenue for the financing of county, city, township, school district, and other local governments. While local government has the responsibility of assessing and taxing all classes of real property, this division provides assistance and helps to establish uniformity of procedures. It also develops rules and regulations for the taxation of mobile homes under North Dakota Century Code chapter 57-55, which tax is administered by the county directors of tax equalization and collected by the county treasurers of the various counties. This division also provides administrative services to the state board of equalization relating to new and expanding business property tax incentive and primary sector business and tourism exemption applications made under the provisions of North Dakota Century Code chapter 40-57.1, and to assessment and sales ratio statistical analyses.

The property tax division also makes annual tentative valuations of railroad and utility properties for use by the tax commissioner to make tentative assessments. The tentative assessments are submitted to the state board of equalization which makes the final assessments. The property tax division also administers the following North Dakota Century Code chapters: 57-33.2, taxation of electric generation, distribution, and transmission companies; 57-34, taxation of telecommunications carriers; 57-60, privilege tax on coal conversion facilities; and 57-61, coal severance tax.

- f. **Information management and technology division.** This division has two functional areas: information technology and processing. The information technology section implements and supports both hardware and software components relating to the tax department's information technology infrastructure. The processing section manages all mail, imaging, printing, data entry, and records management processes for the tax department. This division also manages contracts entered into by the tax department with software vendors who support the integrated tax system, electronic filing of tax returns, disaster recovery tools, and other applications.
- 3. **Inquiries - Submissions - Requests.** The public may obtain information or make submissions of reports and other matters or make requests regarding any of the tax matters described in subdivisions d and e of subsection 2 by directing any inquiries, submissions, or requests to the North Dakota tax commissioner or to the division of the North Dakota tax department responsible for the administration of the tax involved. The mailing address for the North Dakota tax commissioner and for the North Dakota tax department is:

State Capitol, Department 127
Bismarck, North Dakota 58505-0599

- 4. **Tax department functions subject to North Dakota Century Code chapter 28-32.** For purposes of its administration of the various tax laws, the tax department is an "administrative agency" subject to North Dakota Century Code chapter 28-32.

History: Amended effective December 31, 1981; June 1, 1984; January 1, 1998; July 1, 2016.

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