



Guideline

Property Tax Exemption of Certain New Single Family Residential Properties

North Dakota Century Code § 57-02-08(35)(36)

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This legislation exempts certain new single family residential properties and condominium and townhouse properties from property taxes for the first two taxable years after the taxable year in which construction is begun, provided that certain conditions are met.

Governing Body Must Pass Resolution

1. Depending upon where the property is located, the city governing body or the county governing body must pass a resolution stating that the exemption will be allowed.
2. The governing body may place restrictions on the exemptions, including limitations on the length of time during which an exemption is allowed.
3. The governing body need pass only one resolution to allow the exemption.
4. Once the governing body has passed the resolution, there can be no discretion on its part regarding who shall receive the exemption if the requirements set out in the statute and the resolution are met.
5. The resolution may be rescinded or amended at any time.

Taxes And Specials Not Delinquent

General taxes and installments on special assessments may not be delinquent.

Ownership Requirements

6. The first owner after the builder must reside on the property. If that person sells the property, the second owner is not eligible to receive the exemption. North Dakota Century Code § 57-02-41 provides that the property may then be assessed for the portion of the year it is not exempt.
7. The builder of a single family residential property is eligible for the exemption and need not reside on the property. The building does not have to be completed in order to qualify for the exemption.
8. A single family residence which continues to be owned by its builder is eligible for the exemption if it is incidentally rented or occupied by the builder while it is actively for sale.
9. The "builder" of a single family residence includes:
 - a person who constructs his or her own residence; or
 - a person who, in addition to another occupation, constructs a residence for sale.

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10. The builder of a condominium or townhouse is not eligible for the exemption unless the builder is also the first owner and resides in the condominium or townhouse. The exemption for condominiums and townhouses is available on prorated basis to the first owner after the builder who purchases the property after the February 1 assessment date and who also resides on the property.

Properties That Are Eligible

- *11. All new single family residential property constructed after passage of the resolution is eligible.
- *12. All new condominium and townhouse residential property constructed after passage of the resolution is eligible.
13. Duplexes which have separate legal descriptions and owners are to be considered as townhouses.
14. Outbuildings and other improvements normally associated with residential living are included in the exemption.
15. The residence must qualify for the exemption in order for outbuildings and other improvements to qualify. For example, if a residence was built in 2003 and a garage was built on the same description after January 1, 2004, the garage would qualify because the residence qualified. The garage would be exempt as long as the residence qualified for exemption.
16. Modular, off-site built residences, etc., are eligible for the exemption. The governing body must have proof of when construction began.
17. If a residence that is built off site is not placed on the site until after February 1 of the first taxable year after construction of the residence began, there is no exemption for the first taxable year because there is no tax for that year. For example, if construction began in 2004 and the residence was placed on the site in March 2005, the residence would be exempt for 2006 only, the second taxable year after construction began.

Additional Conditions

18. If the current year's assessment has not been finalized by the state board of equalization, either the assessor or the county auditor may file an application for abatement pursuant to N.D.C.C. § 57-23-05.
19. If the current year's assessment has been finalized by the state board of equalization, the person claiming the exemption may file an application for abatement pursuant to N.D.C.C. ch. 57-23.
20. Where occupancy is a requirement, the property does not have to be occupied on the assessment date.
21. Exemption applies to a maximum \$75,000 of true and full valuation of improvements only. The land is not exempt.
22. The allowable value of improvements is exempt for a maximum of two years following the year in which construction was begun if other requirements are met.

* Indicates significant change since last revised.