

N.D.A.G. Letter to Ficek (Jan. 19, 1987)

January 19, 1987

Mr. Vince H. Ficek
Dickinson City Attorney
P. O. Box 866
Dickinson, ND 58601-0866

Dear Mr. Ficek:

Thank you for your December 12, 1986, letter wherein you inquire about the deadline for filing an application for a tax abatement or refund pursuant to the provisions of North Dakota Century Code Ch. 57-23.

Applications for abatement or refund of ad valorem taxes are made pursuant to the provisions of N.D.C.C. § 57-23-04. This section provides, in part, that these applications must be "filed in the office of the county auditor on or before November first of the year following the year in which the tax becomes delinquent." This is the controlling language regarding deadlines for filing applications for abatement or refund.

You have also inquired whether the provisions of N.D.C.C. §§ 57-23-03 and 57-20-20 have any effect on the above quoted language from N.D.C.C. § 57-23-04.

The provisions of N.D.C.C. § 57-23-03 have no present effect since that section has been repealed. 1985 N.D. Sess. Laws, Ch. 604, § 22.

With respect to N.D.C.C. § 57-20-20, it "is a procedural statute in that it outlines the method for recovering taxes paid. It is not intended to grant any right to the board of county commissioners to authorize refunds of taxes." 1985 N.D. Op. Att'y Gen. 189.

Thus, if taxes are paid under protest pursuant to the provisions of N.D.C.C. § 57-20-20, no relief can be granted until an application for abatement or refund is filed pursuant to N.D.C.C. § 57-23-04.

In conclusion, the controlling language providing for the deadline for the filing of an application for abatement or refund of ad valorem taxes is in N.D.C.C. § 57-23-04.

If you wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

Nicholas J. Spaeth

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