

General Requirement

On or after August 1, 2017, certain state and local tax incentives listed under North Dakota Century Code (N.D.C.C.) § 54-35-26 may not be granted to, or claimed by, a taxpayer unless the taxpayer has satisfied all state and local tax obligations and tax liens of record for taxes owed to North Dakota or a political subdivision.

Tax Clearance Record Requirement

Before a listed tax incentive may be granted or claimed, a taxpayer may have to obtain a property tax clearance record or a state tax clearance record. The type of tax clearance record required depends on the type of tax incentive applied for or claimed, as described below:

- **State Tax Incentive** – If a taxpayer is applying for or claiming a listed state tax incentive, the taxpayer may have to obtain a property tax clearance record. See “State Tax Incentive Requirements” on page two for details.
- **Local Tax Incentive** – If a taxpayer is applying for a listed local tax incentive, a city or county may not grant it unless the taxpayer obtains a state tax clearance record. In addition, if the taxpayer holds a 50% or more ownership in real property located in North Dakota, the taxpayer must obtain a property tax clearance record from each county in which this condition applies. See “Local Tax Incentive Requirements” on page three for more information.

Listed State and Local Tax Incentives

The state and local tax incentives that are subject to these requirements are listed below:

State Income Tax Incentives

- Agricultural commodity processing facility investment tax credit (N.D.C.C. Ch. 57-38.6)
- Angel fund investment tax credit (N.D.C.C. § 57-38-01.26; effective for investments made before 7/1/2017)
- Angel investor investment tax credit (N.D.C.C. § 57-38-01.26; effective for investments made after 6/30/2017)
- Biodiesel fuel blending tax credit (N.D.C.C. § 57-38-01.22)
- Biodiesel fuel equipment tax credit (N.D.C.C. § 57-38-01.23)
- Biodiesel fuel production facility construction or retrofit tax credit (N.D.C.C. § 57-38-30.6)
- Internship program tax credit (N.D.C.C. § 57-38-01.24)
- Manufacturing or animal agriculture automation equipment tax credit (N.D.C.C. § 57-38-01.41)
- New or expanding business income exemption (N.D.C.C. Ch. 40-57.1)
- Renaissance zone income exemptions and tax credits (N.D.C.C. Ch. 40-63)
- Research expense tax credit (N.D.C.C. § 57-38-30.5)
- Seed capital investment tax credit (N.D.C.C. Ch. 57-38.5)
- Soybean or canola crushing facility construction or retrofit tax credit (N.D.C.C. § 57-38-30.6)
- Workforce recruitment tax credit (N.D.C.C. § 57-38-01.25)

State Sales Tax Incentives

- Manufacturing and recycling equipment exemption (N.D.C.C. § 57-39.2-04.3)
- Fertilizer or chemical processing facility construction materials exemption (N.D.C.C. § 57-39.2-04.15)
- Exemption for materials relating to carbon dioxide usage in enhanced oil or natural gas recovery. (N.D.C.C. § 57-39.2-04.14)
- Qualified data center information technology equipment and computer software exemption. (N.D.C.C. § 57-39.2-04.13)

Local Tax Incentives

- Renaissance zone property tax exemptions (N.D.C.C. § 40-63-05)
- New or expanding business property tax exemption (N.D.C.C. Ch. 40-57.1)
- Development or renewal area property tax exemption (N.D.C.C. Ch. 40-58)

State Tax Incentive Requirements

Note: This section only applies if applying for or claiming a listed state tax incentive. If applying for a listed local tax incentive, see “Local Tax Incentive Requirements” on page three.

If a taxpayer holds a 50% or more ownership interest in real property located in North Dakota, the taxpayer must obtain a property tax clearance record from each North Dakota county in which the taxpayer meets this condition. Real property means property that is subject to property tax, such as a personal residence, land, apartment building, office building or other residential or commercial real estate.

In addition, if a taxpayer is a corporation or a passthrough entity, the property tax clearance record requirement also applies to any officer, partner, governor, or managing member responsible for the business’s tax obligations if that person holds a 50% or more ownership interest in real property in North Dakota. A passthrough entity means a partnership, S corporation or limited liability company treated like a partnership or S corporation.

How to Obtain a Property Tax Clearance Record

To obtain a property tax clearance record, a taxpayer must complete the Property Tax Clearance Record form. A separate form must be completed for each county from which a property tax clearance record is required. The taxpayer must complete Part 1 of the form and then mail, fax or take the form to the county treasurer or auditor’s office to complete Part 2 of the form. The county will complete and sign Part 2 if the taxpayer is current on property taxes in the county; however, if there is a property tax delinquency, the county will not complete or sign Part 2 of the form.

What to do with the Completed Property Tax Clearance Form

A taxpayer must provide the completed Property Tax Clearance Record form(s), including any for a responsible officer, partner, governor or managing member, to the Office of State Tax Commissioner as follows:

- Application Form - If an application form must be filed to qualify for a listed state tax incentive, attach the required clearance record(s) to the application form. If the incentive is granted and the taxpayer must file a North Dakota tax return to claim the incentive, the required clearance(s) must also be attached to the tax return on which the incentive is claimed. -- See “Tax Return” on next page.

- **Tax Return** - If a listed state tax incentive is claimed on a North Dakota tax return, attach the required clearance record(s) to the tax return. This applies even if a taxpayer filed an application form to qualify for the incentive. A new property tax clearance record must be obtained and attached to the tax return for each year the state tax incentive is claimed. If a return is electronically filed, submit each property tax clearance record as a PDF attachment to the return; however, if a PDF attachment cannot be provided, the taxpayer must retain the property tax clearance record and, if requested, make it available to the Office of State Tax Commissioner.
- **Claim for Sales Tax Refund** - If a claim is filed for a refund of sales tax exempted under a listed sales tax incentive, attach the required clearance record(s) to the refund claim document. A new property tax clearance record must be obtained and attached to each new claim filed.

Local Tax Incentive Requirements

Note: This section only applies if applying for a listed local tax incentive. If applying for or claiming a listed state tax incentive, see "State tax incentive requirements" on page two.

The listed local tax incentives are administered at the city or county level. Contact the city or county office where the application for the local tax incentive is filed for information and assistance with satisfying the tax clearance record requirements that may apply.

How to Obtain a State Tax Clearance Record

If a taxpayer is required to provide a state tax clearance record to a city or county, the taxpayer must complete the Request For Renaissance Zone Certificate of Good Standing Or State Tax Clearance Record form and submit it to the Office of State Tax Commissioner. See the form for more information and where to send the completed form.

Property Tax Clearance Record

If acceptable to a city or county, the Property Tax Clearance Record form may be used by a taxpayer, or the city or county, for purposes of satisfying the property tax clearance record requirement in the case of an application for a local tax incentive. (Note: The form was developed by the Office of State Tax Commissioner primarily for taxpayers applying for or claiming a state tax incentive; however, if helpful, a city or county may use the form as is or adapt it to its own use.)

Reference: N.D.C.C. § 57-01-15.1