



UNDERSTANDING NEW MEXICO'S PROPERTY TAX SYSTEM



Presents

Understanding NM's Property Tax System

**A NM Real Estate Commission
Course approved for 8 CE Hours.**

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UNDERSTANDING NEW MEXICO'S PROPERTY TAX SYSTEM

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Chapter 11

Filing a Claim of Refund

Chapter Objectives:

At the completion of this Chapter, you should be able to explain:

- The difference between filing a property tax protest and a claim of refund
- The deadline for filing a claim of refund



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In the event the property tax owner misses the deadline to for a property tax protest, the NM Property Tax Code has one additional provision- the Claim of Refund.

The following represents an excerpt from the property tax code that covers the Claim of Refund:

7-38-39. PROTESTING VALUES--CLAIM FOR REFUND

After meeting his property tax bill and after making payment prior to the delinquency date of all property taxes due in accordance with the bill, a property owner may protest the value or classification determined for his property for property taxation purposes, the allocation of value of his property to a particular governmental unit, the application to his property of an administrative fee adopted pursuant to Section 7-38-3C.1 NMSA 1978 or a denial of a claim for an exemption by filing a claim for refund in the district court.

Laws 1983, Chapter 215, Section 2

7-38-40. CLAIMS FOR REFUND--CIVIL ACTION

Claims for refund shall be filed by the property owner as a Civil action in the district court for the county in which the valuation was determined if the property was locally valued or in the district court for Santa Fe county if valued by the department. Claims shall:

be filed against the director as party defendant if the property was valued by the department or against the county as party defendant if the property was valued by the assessor and shall be filed no later than the sixtieth day after the first installment of the property tax for which a claim for refund is made is due;

state the property owner's name and address and the name and address of any person other than the property owner to whom the tax bill was sent;

state the basis of the claim for refund;

state the amount of the refund to which the property owner believes he is entitled, the amount of property taxes admitted as legally due and the property taxes paid; and

demand the refund to him of the amount to which he claims entitlement.

The director shall notify the appropriate county treasurer immediately when a claim for refund is filed against the director. The property owner, the county or the director may appeal to the court of appeals from any final decision or order of the district court in a claim for refund case in which they are parties.

Upon the final determination of the property owner's claim filed against the director, the director shall send a copy of the final order to the county treasurer and shall order the county assessor to change the valuation records to clearly reflect the final determination of the property owner's claim. The department shall change its valuation records accordingly.

Upon the final determination of the property owner's claim filed against the county, the treasurer shall send a copy of the final order to the county assessor and to the director. The county assessor and the department shall change their respective valuation records to clearly reflect the final determination of the property owner's claim.

Laws 1982, Chapter 28, Section 171

PTC 38-40:1 PROTEST IS WAIVER OF RIGHT TO CLAIM FOR REFUND

The initiation of a protest under Section 7-38-22 or 7-38-24 constitutes an unconditional and irrevocable waiver of the right to claim for refund under this section.

See Section 7-38-21 NMSA 1978 and PTC 38-21:1.

Originally adopted PTD REGULATION 38-40: 1, PTD Rule 82; Renumbered PTC 38-40: 1, December 29, 1994, PTC Rule 95.



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The following table compares the property tax protest process vs. the claim of refund process:

	Filed Property Tax Protest	Filed Claim of Refund
Deadline	30 days from notice of value (often May 1 st)	60 days from November tax bill (often January 10 th)
Venue	Assessor's office	District Court
Cost	Free if self represented Or fee to tax consultant	Legal Fees
Amount of time to resolve case	Usually less than 6 months, sometimes less than a year	Months, sometimes years
Negotiated Settlement:	Often in informal conferences	Rarely
When your "case" and reports need to be completed and turned in	After you file the protest, prior to a formal tax hearing, often at the informal conferences	When you file your claim of refund
Retroactive prior to this year?	No	Can be
First layer of decision maker	Appraiser/Assessor	District Court
Second layer of decision maker	Formal Tax Board	
Third Layer of decision maker	District Court	
Property taxes need to be paid and current	No	Yes (thus the refund)
Other	If you file a protest, you can't later file a claim of refund	You can file a claim of refund for past years, and then file a tax protest for current years.

The next three pages contain a blank sample of a Claim of Refund document. The inclusion of this document is not to preclude using an attorney. Going to court without legal representation is a unwise plan. The inclusion of this document is to assist the property tax owner and their team in recognizing the items they need to be able to answer to file a claim of refund.



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**STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT**

STORAGE FACILITIES PARTNERS,

_____,
Plaintiff

v.

Case No.

COUNTY ASSESSOR,

Defendant.

COMPLAINT FOR TAX REFUND OF PROPERTY TAXES PAID

Plaintiff _____, complain against defendant Karen L. Montoya in her capacity as Bernalillo County Assessor:

Parties and Venue

1. This is a civil action under §§ 7-38-39, -40 of the Property Tax Code (N.M. Stat. Ann. §§ 7-38-1 et seq. (1978)) for recovery of residential property tax unlawfully assessed against and collected from plaintiff and a corresponding reduction in the assessed value of the residential property at issue.
2. Defendant _____ County Assessor. Plaintiffs' claims are stated against _____ only in his/her official capacity as the _____ County Assessor.
3. The Second Judicial District is proper venue for this action.

General Allegations



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4. Plaintiff _____ owns real property in _____ County, New Mexico located at _____, recorded in defendant's records as parcel number _____ (the "Property").

5. On or about November 1, 2010, a bill for the 2010 property tax based on the 2010 value of the Property was sent to plaintiff.

6. The name and address of any person other than the property owner to whom the 2010 tax bill was sent is _____.

7. For tax year 2010, defendant assessed property taxes against plaintiff in the amount of _____ based on the 2010 valuation of the Property.

8. Plaintiff has paid total taxes for the tax year which is the subject of this Complaint in the amount of \$_____. Any additional payment of \$_____ is not due until May 1st, 2011

9. Plaintiff believes the correct amount of annual property tax due is \$_____. The remaining amount of assessed 2010 property tax equal to \$_____ is unlawfully assessed and must be abated or refunded.

Count I – Property Tax Refund

10. Plaintiffs incorporate the prior allegations herein as though separately stated herein.

11. For the taxable year 2010, defendant determined the value of the Property for property taxation purposes to be \$_____.

12. The correct value of the Property for property tax purposes for the taxable year 2010, determined by application of the sales of comparable property or cost method of valuation or by income approach or by a combination of these methods, is \$_____.

13. Defendant's valuation of the Property for property tax purposes for the taxable year 2010 is erroneous and overstated.



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14. The portion of 2010 property taxes attributable to the over-valuation of the Property for 2010 was unlawfully assessed against and/or collected from plaintiff.

15. Plaintiff is entitled to recover the full amount of such property tax that is over assessed and/or overpaid on account of defendant's erroneous valuation, plus statutory interest thereon as provided by law, which sums are due and owing to plaintiffs from defendant.

WHEREFORE, Plaintiffs pray for the following relief:

A. That a money judgment be entered in plaintiff's favor and against defendant in the principal amount equal to \$_____, being the difference between the 2010 property tax actually assessed on the value of the Property and the 2010 property tax assessable on the correct value of such property, or such other amount to be established at trial, plus statutory pre-judgment and post-judgment interest thereon as provided by law, plus costs of this action to the fullest extent permitted by law;

B. That a declaratory judgment be entered in plaintiffs' favor and against defendant declaring that the 2010 valuation of the Property is \$_____ or such lesser amount to be established at trial; and

C. Such other and additional relief as the Court deems just and proper

Respectfully submitted,

By_____



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Self Assessment questions for Claim of refunds:

1. List the document that should be attached to the claim of refund:

2. The titles of the two processes to obtain a lower value state their true intent. Write a short explanation for each:
 - a. Property Tax Valuation Protest :

 - b. Claim of refund :



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Resources for claim of refund cases:

The website www.nmcourts.gov is an invaluable tool for looking up past court cases. Under the "Name" filed enter the county assessor and click on name search and it will return with that years cases. You can then take the case number to that district court and request that they pull the file. You are allowed to make copies of the file, but expect a per page charge for doing so.

The screenshot shows the 'New Mexico Courts Case Lookup' web application. At the top, there is a navigation bar with 'Name Search', 'Case Number Search', and 'DWI Search' tabs. Below this is a search form titled 'Search by any combination of Name, Driver License Information, and Date of Birth'. The form includes fields for NAME (with a sample 'Moshya Karah'), DRIVER LIC. #, DRIVER LIC. STATE, DATE OF BIRTH, and various filters for COURT TYPE, COURT LOCATION, and CASE CATEGORY. There are also checkboxes for 'LIMIT SEARCH TO CASE NUMBERS WITH:' and 'LIMIT SEARCH TO DATES IN RANGE:' with sub-options for 'FILING DATE' and 'HEARING DATE'. A 'RESULTS PER PAGE' dropdown is set to 20. At the bottom of the form is a 'Name Search' button. The footer of the page reads '©2007 New Mexico Courts'.



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Chapter 12 **Recent Changes in Tax Law**

Disclosure of Sales Information and other recent law changes - common misperceptions, legal ambiguities, and resources.

Chapter Objectives:

At the completion of this Chapter, you should be able to explain:

- the impact of disclosure law on potential future values
- how to estimate your value ranges
- exceptions to disclosure
- what resources exist to track down property tax information



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NM Counties and when they mail notices of value:

County	Phone	2010 Notice of Value to be mailed:	2009 Notice of Value Mailed	2008 Notice of Values mailed
Bernalillo	(505) 222-3702	4/1/2010	4/1/2009	4/1/2008
Catron	(575) 533-6577	4/1/2010	4/1/2009	4/1/2008
Chaves	(575) 624-6603		4/9/2009	3/31/2008
Cibola	(505) 285-2526	3/3/2010	haven't yet, hoping 4/30/09	4/1/2008
Colfax	(575) 445-2314	3/31/2010	3/31/2009	3/31/2008
Curry	(575) 763-5731	4/1/2010	4/1/2009	4/1/2008
DeBaca	(575) 355-7448	3/30/2010	3/30/2009	Last week Mar.
Dona Ana	(575) 647-7400	3/31/2010	3/31/2009	3/31/2008
Eddy	(575) 885-3813	4/1/2010	Will be mailed out on 4/13/09	First week of April
Grant	(575) 574-0030	4/1/2010	4/1/2009	4/1/2008
Guadalupe	(575) 472-3738	4/1/2010	4/1/2009	4/1/2008
Harding	(575) 673-2926			4/1/2008
Hidalgo	(575) 542-3433	4/1/2010	4/1/2009	4/1/2008
Lea	(575) 396-8521	3/31/2010	4/1/2009	3/31/2008
Lincoln	(575) 648-2306 x 4	After 4/1/2010	Hope to mail out 4/30/09	5/1/2008
Los Alamos	(505) 662-8030	4/1/2010	3/31/2009	4/1/2008
Luna	(575) 546-0404	No date yet - Apr/May	4/2/2009	4/15/2008
McKinley	(505) 863-3032		Hopefully 4/30/09	mailed already
Mora	(575) 387-5289	In April 2010	4/1/2009, second mailing 4/9/09	6/1/2008
Otero	(575) 437-5310	2/5/2010	2/8/2009	2/7/2008
Quay	(575) 461-1760	4/1/2010	4/1/2009	4/1/2008
Rio Arriba	(575) 588-7726 or		Probably on April 30th.	2nd week of April
Roosevelt	(575) 356-6971	Before 4/1/2010	2/19/2009	1/30/2008
San Juan	(505) 334-6157	4/1/2010	4/1/2009	4/1/2008
San Miguel	(505) 454-4980	4/1/2010	In May	5/1/2008
Sandoval	(505) 867-7562	4/1/2010	3/17/2009	5/1/2008
Santa Fe	(505) 986-6300	4/1/2010	Supposed to be mailed out 4/30	2nd Week of April
Sierra	(575) 894-2589	4/1/2010	3/31/2009	4/1/2008
Socorro	(575) 835-0714	4/1/2010	4/1/2009	4/1/2008
Taos	(575) 737-6360	Mid April 2010	4/1/2009	April sometime
Torrance	(505) 246-4727	4/1/2010	4/1/09 - from website	
Union	(575) 374-9441	4/1/2010	3/30/2009	
Valencia	(505) 866-2068		Supposed to be mailed out 4/30	4/1/2008

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