

**N.D.A.G. Letter to Meier (Aug. 19, 1986)**

August 19, 1986

Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, ND 58501

Dear Secretary Meier:

Thank you for your letter of July 17, 1986, regarding whether filing fees for annual reports of business corporations may be retained even though the annual reports are not filed.

N.D.C.C. Ch. 10-23 governs the filing of domestic and foreign business corporation annual reports and provides, in pertinent part, as follows:

10-23-02. FILING OF ANNUAL REPORT OF DOMESTIC CORPORATION -- PENALTY FOR LATE FILING. . . . If the secretary of state finds that such report conforms to the requirements of section 10-23-01, the report shall be filed. If the report does not so conform, it shall be returned to the corporation for any necessary corrections

...

10-23-03. FILING OF ANNUAL REPORT OF FOREIGN CORPORATIONS -- PENALTY FOR LATE FILING. . . . If the secretary of state finds that such report conforms to the requirements of section 10-23-01, the report shall be filed. If the report does not so conform, it shall promptly be returned to the corporation for any necessary corrections . . .

10-23-04. FEES FOR FILING DOCUMENTS AND ISSUING CERTIFICATES. The secretary of state shall charge and collect for:

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21. Filing annual report of domestic corporation, twenty dollars; of foreign corporation, twenty dollars; any other statement or report of either, ten dollars.

Clearly, the \$20.00 fee that is assessed is for the actual filing of an annual business corporation report. Moreover, the provisions of N.D.C.C. Ch. 10-23 fail to provide that the fee is non-refundable. Therefore, it is my opinion that the filing fee must be refunded if an annual business corporation report is not filed.

Sincerely,

Nicholas J. Spaeth

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