

As Engrossed: 2/22/91 3/27/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Dick Barclay**

A BILL ACT 998 OF 1991
HOUSE BILL 1574

For An Act To Be Entitled

8 *"AN ACT TO AMEND ARKANSAS CODE 26-18-810 TO ALLOW A TAX*
9 *RETURN PREPARER TO DISCLOSE INFORMATION REQUIRED IN A*
10 *QUALITY OR PEER REVIEW; TO ESTABLISH THE OFFICE OF*
11 *PROBLEMS RESOLUTION AND TAXPAYER INFORMATION; TO ESTABLISH*
12 *A TAX ADVISORY COUNCIL; TO ESTABLISH PROCEDURES FOR*
13 *REIMBURSEMENT OF ACTUAL DAMAGES INCURRED AS THE RESULT OF*
14 *ANY ERRONEOUS COLLECTION PROCEDURE; AND FOR OTHER*
15 *PURPOSES."*

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19 SECTION 1. Arkansas Code Section 26-18-810 is hereby amended to read as
20 follows:

21 "26-18-810. Disclosure or use of information by preparers of returns.

22 (a) Imposition of Penalty. If any person who is engaged in the
23 business of preparing, or providing services in connection with the
24 preparation of, returns of tax administered under the Arkansas Tax Procedure
25 Act, 26-18-101 et seq., or when any person who, for compensation prepares any
26 such return for any other person, and who:

27 (1) Discloses any information furnished to him for, or in connection
28 with, the preparation of any such return; or

29 (2) Uses any such information for any purpose other than to prepare,
30 or assist in preparing, any such return, shall pay a penalty of two hundred
31 fifty dollars (\$250) for each such disclosure or use, but the total amount
32 imposed under this subsection on such a person for any calender year shall not
33 exceed ten thousand dollars (\$10,000).

34 (b) Subsection (a) of this section shall not apply to a disclosure of
35 information if such disclosure is made either:

36 (1) Pursuant to any other provision of this subchapter; or

- 1 (2) Pursuant to an order of a court; or
- 2 (3) For quality or peer reviews, which are conducted under the auspices
- 3 of the American Institute of Certified Public Accountants or the Securities
- 4 and Exchange Commission.
- 5 (c) Subsection (a) of this section shall be in addition to the
- 6 provisions of Ark. Code Ann. §26-18-303."

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8 SECTION 2.(a) The Director of the Department of Finance and

9 Administration shall request the General Assembly to appropriate funds and

10 create positions for an office of Problems Resolution and Tax Information,

11 which shall resolve taxpayer problems directly and provide information to

12 taxpayers concerning tax law. This office shall report directly to the

13 Assistant Director, Commissioner of Revenues.

14 (b) The Commissioner of Revenues shall have the authority to establish

15 the duties of the Office of Problems Resolution and Tax Information. The

16 office shall give highest priority to reviewing taxpayer problems and taking

17 prompt and appropriate action to resolve problems and respond to taxpayers.

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19 SECTION 3. The Commissioner of Revenues shall establish a Tax Advisory

20 Council consisting of representatives of the Arkansas Bar Association, the

21 Arkansas Society of Certified Public Accountants, the Arkansas Society of

22 Public Accountants, the office of Problems Resolution and Tax Information,

23 other taxpayer-oriented groups and other representatives of the Revenue

24 Division of the Department of Finance and Administration. The Tax Advisory

25 Council shall meet annually to discuss tax law changes, compliance problems

26 and other related matters, and it shall study methods to expedite claims for

27 refund, protests, appeals, and cases which take an inordinate amount of time

28 to complete. The Tax Advisory Council will develop and submit a report to the

29 chairmen of the Revenue and Taxation Committees of the House of

30 Representatives and Senate.

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32 SECTION 4. The Commissioner of Revenues shall develop employee

33 evaluation criteria requiring compliance with the Taxpayer Bill of Rights,

34 Ark. Code Ann. § 26-18-801, et seq., and quality taxpayer assistance, which

35 shall be included in the annual evaluation of each employee whose job

1 responsibilities include taxpayer contact.

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3 SECTION 5. (a) A claim may be filed with the Department of Finance and
4 Administration for any actual damages sustained as a result of any erroneous
5 action taken in a collection activity. Each claimant applying for
6 reimbursement shall file a claim in such form as may be prescribed by the
7 Director of the Department of Finance and Administration. In order for the
8 claim to be granted, the claimant must establish that:

9 (1) The actual damage resulted from an error made by the Revenue
10 Division; and

11 (2) Prior to the actual damage, the taxpayer responded to all contacts
12 by the Revenue Division and provided all requested information or
13 documentation sufficient to establish the taxpayer's position. This provision
14 may be waived for reasonable cause.

15 (b) Claims made pursuant to this section shall be filed within ninety
16 (90) calendar days after the date the actual damage was sustained. Within
17 thirty (30) calendar days after the date the claim is received, the claim
18 shall be approved or denied. If a claim is denied, the taxpayer shall be
19 notified in writing of the reason for the denial of the claim.

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21 SECTION 6. The director shall promulgate regulations necessary to
22 implement this act no later than January 1, 1992.

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24 SECTION 7. All provisions of this act of a general and permanent nature
25 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
26 Revision Commission shall incorporate the same in the Code.

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28 SECTION 8. If any provision of this act or the application thereof to
29 any person or circumstance is held invalid, such invalidity shall not affect
30 other provisions or applications of the act which can be given effect without
31 the invalid provision or application, and to this end the provisions of this
32 act are declared to be severable.

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34 SECTION 9. All laws and parts of laws in conflict with this act are
35 hereby repealed.

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/s/Dick Barclay

APPROVED: 4/8/91