

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: S3/18/03 H4/10/03

A Bill

SENATE BILL 340

5 By: Senators Wooldridge, Miller, Glover
6
7

For An Act To Be Entitled

9 AN ACT TO CLARIFY THE DEFINITION OF TAXPAYER FOR
10 PURPOSES OF THE ARKANSAS TAX PROCEDURE ACT; TO
11 CLARIFY THE TIME DURING WHICH AN OVERPAYMENT OF
12 TAX BY A TAXPAYER WHO IS NOT REQUIRED TO FILE A
13 RETURN MUST BE CLAIMED; TO CLARIFY THE PROCEDURE
14 FOR APPEALING A TAX ASSESSMENT AFTER PAYMENT; AND
15 FOR OTHER PURPOSES.
16

Subtitle

17 TO CLARIFY THE DEFINITION OF TAXPAYER,
18 THE TIME FOR CLAIMING REFUND OF OVERPAID
19 TAX, AND THE PROCEDURE FOR APPEALING A
20 TAX ASSESSMENT AFTER PAYMENT.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 26-18-104(14), pertaining to the definition
27 of taxpayer as used in the Arkansas Tax Procedure Act, is amended to read as
28 follows:

29 (14) "Taxpayer" means:

30 (A) Any person subject to or liable for any state tax;

31 (B) Any person required to file a return, or to pay, or withhold
32 and remit any tax required by the provisions of any state tax law; ~~or~~

33 (C) Any person required to obtain a license or a permit or to
34 keep any records under ~~the provisions of~~ any state tax law; or

35 (D) Any person who files a return and pays a reported tax
36 without regard to whether he or she was required to file the return.



1
2 SECTION 2. Arkansas Code § 26-18-306(i)(1), pertaining to time limits
3 for tax refund claims, is amended to read as follows:

4 (i)(1)(A) An amended return or verified claim for credit or refund of
5 an overpayment of any state tax ~~for which the taxpayer is required to file a~~
6 ~~return~~ shall be filed by the taxpayer within three (3) years from the time
7 the return was filed or two (2) years from the time the tax was paid,
8 whichever of the periods expires the later.

9 (B) The provisions of § 26-18-306(i)(1)(A) shall not apply
10 to a tax paid as a result of an audit or proposed assessment.

11
12 SECTION 3. Arkansas Code § 26-18-401(a)(2), pertaining to the
13 assessment and collection of taxes, is amended to read as follows:

14 (2) The proposed assessment shall be made by recording the
15 liability of the taxpayer in the office of the director in accordance with
16 rules or regulations prescribed by the director.

17
18 SECTION 4. Arkansas Code § 26-18-401(b)(2), pertaining to the
19 assessment and collection of taxes, is amended to read as follows:

20 (2) ~~As soon as practicable after the making of assessment of a~~
21 ~~state tax, the director shall give notice to each person liable for the~~
22 ~~unpaid tax, stating the amount and demanding payment within ten (10) days.~~

23 (A)(i) The director shall issue a final assessment to each
24 taxpayer liable for the unpaid tax.

25 (ii) The final assessment shall state the amount of
26 the assessment and demand payment within ten (10) days of the assessment.

27 (iii) The final assessment shall not be issued
28 before the expiration of time for the taxpayer to request an administrative
29 hearing under § 26-18-404.

30 (B) If the taxpayer has requested administrative relief
31 under § 26-18-404, the final assessment shall be issued according to § 26-18-
32 405.

33 (C)(i) If the taxpayer has paid the assessment before the
34 time for the issuance of the final assessment, then no final assessment shall
35 be issued.

36 (ii) The taxpayer may seek to recover the payment of

1 the assessment only if §§ 26-18-403 or 26-18-406 apply.
2

3 SECTION 5. Arkansas Code § 26-18-401(b)(3), pertaining to the
4 assessment and collection of taxes, is amended to read as follows:

5 (3) Upon receipt of ~~notice and demand~~ the final assessment from
6 the director, the person liable for the tax shall pay the stated amount
7 including any interest, additions to tax, and assessable penalties at the
8 place and time stated in the ~~notice and demand~~ final assessment.
9

10 SECTION 6. Arkansas Code § 26-18-406(a), pertaining to judicial
11 relief from tax assessments, is amended to read as follows:

12 (a) After the issuance and service on the taxpayer of the ~~notice and~~
13 ~~demand for payment~~ final assessment of a deficiency in tax ~~established by an~~
14 ~~audit determination~~ that is not protested by the taxpayer under § 26-18-403,
15 or a final determination of the hearing officer or the director under § 26-
16 18-405, a taxpayer may seek judicial relief from the final determination or
17 assessment by ~~either~~:

18 (1)(A) Within one (1) year of the date of the final assessment,
19 paying the entire amount of state tax due, for any taxable period or periods
20 covered by the final assessment and filing suit to recover that amount within
21 one (1) year of the date of payment.

22 (B) The director may proceed with collection activities,
23 including the filing of a certificate of indebtedness as authorized under §
24 26-18-701, within thirty (30) days of the issuance of the final assessment
25 for any assessed but unpaid state taxes, penalties, or interest owed by the
26 taxpayer for other taxable periods covered by the final assessment, while the
27 suit for refund is being pursued by the taxpayer for other taxable periods
28 covered by the final assessment; ~~or~~

29 (2)(A) Within thirty (30) days of the issuance and service on
30 the taxpayer of the ~~notice and demand for payment~~ final assessment, filing
31 with the director a bond in double the amount of the tax deficiency due and
32 by filing suit within thirty (30) days thereafter to stay the effect of the
33 director's determination.

34 (B) The bond shall be subject to the condition that the
35 taxpayer shall file suit within thirty (30) days after filing the bond, shall
36 faithfully and diligently prosecute the suit to a final determination, and

1 shall pay any deficiency found by the court to be due and any court cost
2 assessed against him or her.

3 (C) A taxpayer's failure to file suit, diligently
4 prosecute the suit, or pay any tax deficiency and court costs, as required by
5 subsection (a) of this section, shall result in the forfeiture of the bond in
6 *the amount of the assessment and assessed court costs*; or

7 (3) Within one (1) year of the date of the final determination
8 of the hearing officer or the director under § 26-18-405, filing suit to
9 recover assessed tax, penalty and interest paid prior to the time for
10 issuance of the final assessment.

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12 SECTION 7. Arkansas Code § 26-18-406(c), pertaining to judicial
13 relief from tax assessments, is amended to read as follows:

14 (c)(1) Jurisdiction for a suit to contest a determination of the
15 director under this section shall be in the Pulaski County ~~Chancery Circuit~~
16 Court or the ~~chancery circuit~~ court of the county in which the taxpayer
17 resides or has his or her principal place of business, where the matter shall
18 be tried de novo.

19 (2) An appeal will lie from the ~~chancery circuit~~ court to the
20 Arkansas Supreme Court, as in other cases provided by law.

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22 SECTION 8. Arkansas Code § 26-18-406, concerning judicial relief from
23 tax assessments, is amended to add an additional subsection to read as
24 follows:

25 (f) If a taxpayer pays the tax, penalty, and interest assessed under §
26 26-18-403 and does not request administrative relief according to § 26-18-
27 404, then:

28 (1) The taxpayer may seek judicial relief from the assessment
29 only if the taxpayer files suit in circuit court within one (1) year from the
30 date of payment of the assessment; and

31 (2) The provisions of § 26-18-507 shall not apply to the
32 payments.

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34 SECTION 9. Arkansas Code § 26-18-507, concerning claims for tax
35 refunds, is amended to add an additional subsection to read as follows:

36 (f)(1) This section shall not apply to taxes paid as a

1 result of an audit or proposed assessment.

2 (2) Taxes paid as a result of an audit or proposed assessment

3 may not be recovered unless § 26-18-406 applies.

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5 */s/ Wooldridge, et al*

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