

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 87th General Assembly  
3 Regular Session, 2009  
4

# A Bill

SENATE BILL 769

5 By: Senator Teague  
6 By: Representative Ingram  
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## For An Act To Be Entitled

10 AN ACT TO AMEND THE TAXPAYER BILL OF RIGHTS TO  
11 PROVIDE UNIFORM GUIDELINES FOR THE STRICT  
12 CONSTRUCTION OF A TAX EXEMPTION, DEDUCTION OR  
13 CREDIT; TO SET THE STANDARD FOR REVIEW OF  
14 ADMINISTRATIVE TAX DETERMINATIONS ON APPEAL; AND  
15 FOR OTHER PURPOSES.  
16

## Subtitle

17 TO PROVIDE UNIFORM GUIDELINES FOR THE  
18 STRICT CONSTRUCTION OF A TAX EXEMPTION,  
19 DEDUCTION, OR CREDIT; AND TO SET THE  
20 STANDARD FOR REVIEW OF AN ADMINISTRATIVE  
21 TAX DETERMINATION ON APPEAL.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code Title 26, Chapter 18, Subchapter 8,  
28 concerning the "Taxpayer Bill of Rights", is amended to add an additional  
29 section to read as follows:

30 26-18-813. Construction of state tax laws.

31 (a) When a taxpayer claims an exemption, deduction, or credit under  
32 the Income Tax Act of 1929, §26-51-101 et seq., the Arkansas Gross Receipts  
33 Act of 1941, §26-52-101 et seq., the Arkansas Compensating Tax Act of 1949,  
34 §26-53-101 et seq., or any other state tax law, the tax law providing the  
35 exemption, deduction, or credit shall be strictly construed.

36 (b) Strict construction under this section requires that the



1 interpretation of a tax law that allows an exemption, deduction, or credit be  
2 fairly and reasonably construed and consider:

- 3 (1) The purpose and spirit of tax law;
- 4 (2) Public policy at the time the tax law was enacted;
- 5 (3) Legislative intent; and
- 6 (4) Other well-settled rules of statutory construction.

7 (c)(1) Words used in a tax law that provides an exemption, deduction,  
8 or credit shall be given their plain and ordinary meaning.

9 (2) The context of the words, a defined term in the tax law, the  
10 legislative intent, or other rules of strict construction may establish a  
11 different meaning.

12 (d)(1) The standard of proof for the taxpayer to establish facts that  
13 support a claim for an exemption, deduction, or credit is a preponderance of  
14 the evidence.

15 (2) If there is no preponderance of evidence to support a claim  
16 for an exemption, deduction, or credit after applying strict construction  
17 under this section, then the tax law will be interpreted against the claim  
18 for exemption, deduction, or credit.

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20 SECTION 2. Arkansas Code Section 26-18-406 Judicial Relief, Subsection  
21 (c) is amended to read as follows:

22 (c)(1) Jurisdiction for a suit to contest a determination of the  
23 director under this section shall be in the Pulaski County Circuit Court or  
24 the circuit court of the county in which the taxpayer resides or has his or  
25 her principal place of business where the matter shall be tried de novo.

26 (2) An appeal will lie from the circuit court to the Supreme Court, as  
27 in other cases provided by law.

28 (3) A presumption of correctness or weight of authority will not  
29 attach to a determination of the director in a trial de novo or an appeal  
30 under this section.

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33 SECTION 5. Emergency Clause. It is found and determined by the General  
34 Assembly of the State of Arkansas that many manufacturers and other  
35 businesses have found that it is substantially more difficult to prove they  
36 are entitled to a tax exemption, deduction, or credit in Arkansas than in

1 most other states based on the court interpretation that the taxpayer must  
2 present facts that establish their right to a tax exemption, deduction, or  
3 credit “beyond a reasonable doubt” and “to doubt is to deny” exemptions; that  
4 it is in the best interest of Arkansas taxpayers to clarify the standards for  
5 interpreting statutes establishing a tax exemption, deduction, or credit to  
6 more closely follow the rules for the strict construction of tax laws that  
7 prevail on the federal level and in other states; that if there is a doubt,  
8 to consider legislative intent; and that in trials de novo or appeals within  
9 the judicial system, no presumption of correctness should attach to positions  
10 of taxing authorities at the administrative level. Therefore, an emergency is  
11 declared to exist and this act being immediately necessary for the  
12 preservation of the public peace, health, and safety shall become effective  
13 on:

- 14 (1) The date of its approval by the Governor;
- 15 (2) If the bill is neither approved nor vetoed by the Governor,  
16 the expiration of the period of time during which the Governor may veto the  
17 bill; or
- 18 (3) If the bill is vetoed by the Governor and the veto is  
19 overridden, the date the last house overrides the veto.

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