

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: S3/3/11
A Bill

SENATE BILL 332

5 By: Senator Files
6

7 **For An Act To Be Entitled**

8 AN ACT TO EXPEDITE ADMINISTRATIVE TAX APPEALS AND
9 PROMOTE ACCESS TO JUSTICE; AND FOR OTHER PURPOSES.
10

11 **Subtitle**

12 TO EXPEDITE ADMINISTRATIVE TAX APPEALS
13 AND PROMOTE ACCESS TO JUSTICE.
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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 § 26-18-405(d), concerning hearings on
20 proposed assessments, is amended to read as follows:

21 (d)(1)(A) All written protests filed with the director shall be
22 delivered promptly to the hearing officer.

23 (B) The hearing officer shall set the time and place for the
24 hearing on ~~the a~~ written ~~protests~~ protest and shall give the taxpayer
25 reasonable notice of the hearing.

26 (C) If it is not possible for the hearing officer to hold a
27 hearing and issue a decision on a protest of a proposed assessment within one
28 hundred eighty (180) days after the taxpayer files a written protest for
29 reasons that the hearing officer determines are beyond the taxpayer's
30 control, the director shall waive the interest for the period from the time
31 the protest is filed until the final assessment is issued.

32 (2) At the hearing, the taxpayer may be represented by an
33 authorized representative and may present evidence in support of his or her
34 position.

35 (3) After the hearing, the hearing officer shall render his or
36 her decision in writing and shall serve copies upon both the taxpayer and the



1 section or division of the Department of Finance and Administration which
2 proposed the assessment or the denial of the claim for refund.

3 (4)(A)(i) If the proposed assessment or denial of a claim for
4 *refund is sustained, in whole or part, the taxpayer or legal counsel for the*
5 *director may request in writing, within twenty (20) days of the mailing of*
6 *the decision, that the director revise the decision of the hearing officer.*

7 (ii) No request for revision will be considered
8 unless it is received by the director within twenty (20) days of the mailing
9 of the hearing decision.

10 ~~(ii)~~ (iii) *Either the taxpayer or legal counsel for*
11 *the director ~~must~~ shall provide a copy of any written request for revision to*
12 *the other.*

13 (iv) *The director may hold the supplemental*
14 *proceedings on any request for revision and shall issue a decision on the*
15 *request within sixty (60) days of the receipt of the request for revision.*

16 (B) *If the director refuses to make a revision or if the*
17 *taxpayer or legal counsel for the director does not make a request for*
18 *revision, then the director ~~will~~ shall send either:*

19 (i) A final assessment to the taxpayer, as provided
20 by § 26-18-401, that is made upon the final determination of the hearing
21 officer that sustained a proposed assessment of tax; or

22 (ii) A notice in writing to both the taxpayer and
23 legal counsel for the director, if a revision was requested, of his or her
24 decision not to revise a decision that resulted in no tax due, including the
25 denial of a claim for refund.

26 (C)(i) If the director revises the decision of the hearing
27 officer, the director shall send the final decision of the director to the
28 taxpayer and to the legal counsel for the director.

29 (ii) A notice of final assessment shall be made upon
30 the decision of the director if the director's decision sustained a proposed
31 assessment of tax.

32 (iii) No further notice will be issued for a final
33 decision of the director that results in no tax due, including the denial of
34 a claim for refund.

35 (D) A taxpayer may not request revision of a decision
36 issued by the director under this subdivision (d)(4).

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2 SECTION 2. Arkansas Code § 26-18-406(e), concerning judicial relief,
3 is amended to read as follows:

4 (e)(1) In any court proceeding under this section, the:

5 (A) Prevailing ~~prevailing~~ party may be awarded a judgment
6 for court costs; and

7 B) Taxpayer may be awarded reasonable attorney fees if
8 the:

9 (i) Director revised a decision of the hearing
10 officer in favor of the taxpayer under § 26-18-405;

11 (ii) Taxpayer is the prevailing party in an action
12 for judicial relief from the determination of the director under § 26-18-406;
13 and

14 (iii) Court finds that the director's revision was
15 without a reasonable basis in law and fact.

16 (2) A judgment of court costs entered by the court in favor of
17 either party or of attorney fees awarded in favor of the taxpayer shall be
18 treated, for purposes of this chapter, in the same manner as an overpayment
19 or deficiency of tax, except that ~~no~~ interest or penalty shall not be allowed
20 or assessed with respect to any judgment for court costs.

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22 /s/Files
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25 **APPROVED: 03/23/2011**
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