

Department of Finance and Administration

Legislative Impact Statement

Bill: SB695

Bill Subtitle: TO AMEND THE LAW GOVERNING THE TYPE AND MANNER OF NOTICE OF A PROPOSED ASSESSMENT THAT MUST BE GIVEN TO A TAXPAYER.

Basic Change :

Sponsor: Sen. A. Clark

SB695 amends the Arkansas Tax Procedure Act to require the Department of Finance and Administration (DFA) to provide additional information to a taxpayer with a Notice of Proposed Tax Assessment, including:

- All calculations used to arrive at the assessment; and
- All documents, facts, and evidence used to arrive at the proposed assessment.

Currently, DFA provides the taxpayer with an explanation for the basis of the proposed assessment and contact information for the taxpayer if they wish to obtain the facts and evidence supporting the assessment from DFA.

SB695 also requires DFA to send the notice to the taxpayer by registered mail when the proposed assessment or refund denial is at least \$5,000. The sixty-day time period for a taxpayer to file a written protest will not begin until the taxpayer has either signed for the registered mail or refused the registered mail.

Revenue Impact :

None.

Taxpayer Impact :

A taxpayer would be provided with all documents and facts including calculations supporting the proposed assessment to be sent to the taxpayer. A Notice of Proposed Assessment or Claim Denial wherein the amount assessed or refund denied is at least \$5,000 shall be sent by registered mail.

Resources Required :

Updates to procedures and training manuals will be required. Updates to computer programs will be required. Increases in postage, printing and personnel costs are as follows:

Additional postage per year	\$138,600
Additional 12 employees at \$40,000	\$480,000
Additional Printing Costs	\$50,000
Total additional annual costs	\$668,600

[For the April 2020 thru March 2021 period, DFA issued over 213,000 assessments not including those from Driver Services, Motor Vehicle and Tax Credits, of which more than 11,000 exceeded the \$5,000 threshold. This also does not include refund denials exceeding \$5,000. Cost for Registered mail has a cost of \$12.60 per item. Because SB695 requires DFA to include the documents, facts and

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evidence relied upon to arrive at the proposed assessment, this will require Sales Tax and Individual Income Tax to hire at least two additional employees and Withholding Tax, Miscellaneous Tax, Corporation Income Tax and each Field Audit District office to hire one additional employee to pull and copy documents and evidence to include with all assessments.

Time Required :

Additional time would be required for implementation.

Procedural Changes :

DFA will update current processes and procedures.

Other Comments :

None.

Legal Analysis :

Under current law, when DFA sends a taxpayer a Notice of a Proposed Assessment, the notice must include the following information:

- An explanation for the basis of the proposed assessment;
- A statement that if the taxpayer does not protest the proposed assessment, DFA will make a final assessment;
- A statement that the taxpayer does not have to file a protest in order to seek judicial review; and
- Contact information for the taxpayer to use to obtain from DFA the facts and evidence supporting the proposed assessment.

SB695 adds a new requirement that, in addition to stating the basis for the proposed assessment, the Notice of Proposed Assessment must include the calculations DFA used to arrive at the proposed assessment. This requirement will increase the length of many proposed assessments. Depending on the nature of the underlying audit and the number of items included, the calculations used to arrive at the assessment can be several pages in length. In many cases, the inclusion of this information with the proposed assessment will be duplicative of information that DFA provided to the taxpayer with the written Summary of Findings.

Under current law, the proposed assessment must include contact information for DFA for the taxpayer to use to obtain the facts and evidence supporting the proposed assessment. SB695 replaces that requirement with a requirement that the proposed assessment include all documents, facts, and evidence used to arrive at the assessment. Because DFA bases most audits on documents provided by the taxpayer, the primary effect of this requirement will be that DFA will provide the taxpayer with copies of the taxpayer's own documents. In some audits, these documents can include thousands of pages. Often, the taxpayer will choose to have the DFA conduct the audit and review documents on the taxpayer's premises rather than providing the DFA with copies of all of the taxpayer's records. In

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those situations, this bill would require DFA to make a copy of every document that it reviews at a taxpayer's facility so that it can give another copy back to the taxpayer at the end of the audit. DFA will need to identify and obtain additional electronic or physical storage space for all of those copies. Further, because DFA must issue a proposed assessment even when the taxpayer agrees with the audit results, DFA will have to give the taxpayer copies of all of its documents even if the taxpayer agrees with the assessment.

Under current law, service of a proposed assessment is presumptively complete when DFA sends the notice to the taxpayer by regular mail. The taxpayer then has 60 days to file a written protest. SB695 provides that for a proposed assessment or refund denial that is at least \$5,000, DFA must send the notice to the taxpayer by registered mail. The 60-day time period for the taxpayer to file a written protest will not begin until the taxpayer has either signed for the registered mail or refused the registered mail. The bill does not address circumstances where an assessment or refund claim denial is required to be sent by registered mail, but the mail is returned as undeliverable.