

**ADMINISTRATIVE RULES SUBCOMMITTEE
OF THE
ARKANSAS LEGISLATIVE COUNCIL**

**Thursday, November 17, 2022
1:00 p.m.
Room B, MAC
Little Rock, Arkansas**

A. Rules Filed Pursuant to Ark. Code Ann. § 10-3-309 to Be Considered Pending Suspension of Subcommittee Rules Due to Public Comment Period Expiring After October 15, 2022 Deadline

1. DEPARTMENT OF INSPECTOR GENERAL, TAX APPEALS COMMISSION (Tammera Harrelson, Jeff Moore, Matt Boch)

a. SUBJECT: Rules of Procedure of the Arkansas Tax Appeals Commission

DESCRIPTION: The Department of Inspector General seeks review and approval of the Rules of Procedure of the Tax Appeals Commission. In the regular session of 2021, the legislature passed Act 586, An Act to Create the Independent Tax Appeals Commission. The Act was codified at Ark. Code Ann. § 26-18-1101 *et seq.* The legislature required that the Tax Appeals Commission promulgate rules to govern the practice and procedure before the Commission.

The proposed rule establishes procedures for the Tax Appeals Commission regarding: 1) statement of organization and operations; 2) information or public guidance; 3) general organization; 4) rule-making; and 5) adjudicatory proceedings. The rule also includes forms for a state tax appeal, expedited appeal, and power of attorney.

PUBLIC COMMENT: A public hearing was held on November 10, 2022. The public comment period expired on November 12, 2022. Due to the volume of comments received, the public comment summary can be found electronically on the paperclip for the November 17, 2022 meeting of the Administrative Rules Subcommittee.

Suba Desikan, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses thereto:

1. §1-102(h)(2)(E): The language in the definition of “taxpayer” does not appear to match the language in 26-18-1104 in certain areas. In relation to

the identified section, could you please explain why “noncompliant taxpayer’s” was omitted in the rule? **RESPONSE:** Yes, the Commissioners left out the ‘noncompliant taxpayer’ because, as I understand, they thought it was not needed. Under the tax statutes, the “closure of a business” used in §1-102(h)(2)(E) is the remedy against a noncompliant taxpayer. Therefore, it was thought that adding the language was superfluous. Obviously, that is a minor change that we’ll be happy to make if you feel it is needed. [Bureau Staff Note: Bureau Staff offered no direction on whether the change was needed. The Commission, however, did change the definition to track the statute.]

2. A set of forms that were submitted with the rule. Are these forms being promulgated as part of the rule? **RESPONSE:** The only reason we attached forms to be promulgated is due to Ark. Code Ann. § 26-18-1120 which states, “The Tax Appeal Commission shall promulgate rules and forms to.....”

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the proposed rules do not have a financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 26-18-1120, the Tax Appeals Commission shall promulgate rules and forms to carry out the intents and purposes of the Independent Tax Appeals Commission Act, and to implement the duties assigned to the commission, including without limitation rules: 1) governing pleadings and service of process requirements to commence a hearing under the Independent Tax Appeals Commission Act and the practice and procedure rules of the commission; 2) to provide for expedited proceedings; 3) to establish guidelines for the redaction of personally identifying taxpayer information in published decisions; and 4) to establish a procedure for petitions and hearings under §§ 26-18-402, 26-18-601(b) and (c), 26-18-1002, 26-36-315, 26-55-219, 26-55-224, 26-55-231, 26-55-247, 26-56-204, 26-56-311, 26-57-413, 26-57-419, 26-57-1212, and 26-62-204.

The proposed rules implement Acts 586 and 593 of 2021, both sponsored by Representative Joe Jett. Act 586 amended the laws pertaining to the administration of state taxes, amended the administrative hearing procedures for state taxes, amended the procedures for taxpayer judicial relief, and created the Independent Tax Appeals Commission Act. Act 593 amended the law relating to the administration of state taxes, amended the law concerning the hearing and appeal of state tax disputes, and

provided conforming changes related to the creation of the Independent Tax Appeals Commission Act.

B. Adjournment.