

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Representative Clark

HOUSE BILL 2068

"AN ACT TO AMEND THE ARKANSAS TAX PROCEDURES ACT, ACT 401 OF
1979, AS AMENDED, AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

(HUE Tax Coverage)

SECTION 1. Section 2 of Act 401 of 1979, as amended, the same being
Arkansas Statute Ann. §84-47021, is hereby amended to read as follows:

"Purposes. The purpose of this Act is to provide, as far as possible,
uniform procedures and remedies with respect to all State taxes except the
following: (a) Certificates of Title - Registration - Anti-theft Provision,
Arkansas Statutes Annotated Sections 75-101 through 75-197; (b) Motor Vehicle
License and Fees, Arkansas Statutes Annotated Sections 75-201 through
75-293.2; (c) Operator and Chauffeur License, Arkansas Statutes Annotated
Sections 75-301 through 75-358; (d) Traffic on Highways--Definition--General
Provision, Arkansas Statutes Annotated Sections 75-401 through 75-427; (e)
Racing Commission--Horse Racing, Arkansas Statutes Annotated Sections 84-2727
through 84-2763; (f) Dog Races, Arkansas Statutes Annotated Sections 84-2816
through 84-2845; and (g) Boxing and Wrestling Exhibitions, Arkansas Statutes
Annotated Sections 84-2901 through 84-2912. Unless otherwise expressly pro-
vided in any State law, hereafter enacted, the provisions of this Act are to
be read in pari materia with all other State laws and in the event of conflict
with any State law this shall control. The provisions of this Act are to
apply to the tax imposed by Act 685 of 1983."

(FOIA Exclusion for all Tax Returns)

SECTION 2. Subsection (a) of Section 6 of Act 401 of 1979, as amended,
the same being Arkansas Statutes Annotated §84-4706, is hereby amended to read
as follows:

"(a) The Commissioner is the official custodian of all records and files required by any State tax law to be filed with the Commissioner and is required to take all steps necessary to maintain their confidentiality. Except as otherwise provided by this Act, the records and files of the commissioner concerning the administration of any State tax law are confidential and privileged. These records and files and any information obtained from these records or files or from any examination or inspection of the premises or property of any taxpayer shall not be divulged or disclosed by the Commissioner or any other person who may have obtained these records and files. It is the specific intent of this Act that all tax returns, audit reports and information pertaining to any tax returns, whether filed by individuals, corporations, partnerships or fiduciaries, shall not be subjected to the provisions of Act 93 of 1967, as amended."

(FOIA Exclusion for all Tax Returns)

SECTION 3. Subsection (c) of Section 6 of Act 401 of 1979, as amended, the same being Arkansas Statutes Annotated §84-4706(c), is hereby amended to read as follows:

"(c) The provisions of this section shall be strictly interpreted and shall not permit any other disclosures of tax information concerning a taxpayer (whether the taxpayer is an individual, a corporation, a partnership or a fiduciary) that is contained in the records and files of the Commissioner relating to income tax or any other State tax administered under this Act."

(Burden on Taxpayer)

SECTION 4. Act 401 of 1979, as amended, the same being Arkansas Statutes Annotated §84-4701 et seq., is hereby amended by adding Section 51 to read as follows:

"Section 51. Burden of Proof. Whenever any taxpayer claims to be entitled to a deduction or credit under the Income Tax Act of 1929, Act 118 of 1929, as now or hereafter amended, or any taxpayer claims to be entitled to an exemption from taxation under the Arkansas Gross Receipts Act of 1941, Act 386 of 1941, as now or hereafter amended, and/or the Arkansas Compensating Tax Act of 1949, Act 487 of 1949, as now or hereafter amended, and such claim by the taxpayer is contested by the State, the taxpayer shall have the burden of proving that he is entitled to the deduction, credit, or exemption so claimed."

The taxpayer's burden of proof when claiming a deduction, credit or exemption under said Act(s) shall be met by the taxpayer proving by a preponderance of the evidence that he is entitled to the deduction, credit or exemption, and the taxpayer shall not hereafter have to prove that he is entitled to such deduction, credit or exemption beyond a reasonable doubt."

(Severability)

SECTION 5. Severability. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to that extent, the provisions of this Act are declared to be severable.

(Repealer)

SECTION 6. Repealer. All laws and parts of laws in conflict with this Act are hereby repealed.

(Emergency)

SECTION 7. Emergency. It is hereby found and determined by the General Assembly that the intent of the General Assembly with regard to the administration of the State tax laws is not being met and that therefore an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect as of the date it is signed into law and that the provisions of this Act shall apply retroactively to any controversy involving the administration of any State Tax covered by this Act are Act 409 of 1979, as amended, whether an administrative or judicial proceeding, for which a judgment of a court of competent jurisdiction has not become final.

SECTION 8. The words appearing in parentheses () above each Section of this Bill are solely intended to be for the purpose of ease of identification during the legislative review process and are not to be considered as substantive provisions of this Bill.

