

State of Arkansas
77th General Assembly
Regular Session, 1989

HOUSE BILL

1352

By: Representative Capps

"AN ACT TO AMEND THE ARKANSAS CODE OF 1987 ANNOTATED, SECTION 28-50-101 TO PROVIDE THAT THE STATUTE OF NONCLAIM SHALL NOT APPLY TO DEBTS FOR STATE TAXES; TO AMEND THE ARKANSAS CODE OF 1987 ANNOTATED §§26-18-101 - 26-18-707, BY ADDING A NEW §26-18-708 TO PROHIBIT STATE COURTS FROM TEMPORARILY STAYING, ENJOINING OR IMPOSING CONDITIONS UPON THE ASSESSMENT, COLLECTION OR ADMINISTRATION OF STATE TAXES; TO PROHIBIT STATE COURTS FROM AWARDING ATTORNEY FEES IN STATE TAX CASES; AND FOR OTHER PURPOSES."

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

SECTION 1. The Arkansas Code of 1987 Annotated Section 28-50-101 is hereby amended by adding a new subsection (g) to read as follows:

"(g) TAXES NOT AFFECTED. Nothing in this section shall affect or prevent the Commissioner of Revenues from filing a claim against the estate when, at the time of death, the decedent had an assessed income tax liability to the State of Arkansas, or the Commissioner of Internal Revenue for the United States had changed and corrected decedent's income tax return as returned to the United States Treasury Department and decedent had not reported said correction and change to the Commissioner of Revenues of the State of Arkansas as required by law. It is the responsibility of the personal representative of the estate to ensure that all taxes owed to the State of Arkansas are paid in full before closing the estate. If the personal representative knows or should have known of the tax liability to the State of Arkansas and closes the estate without having paid the tax liability in full, the personal representative shall be personally liable for the taxes. The Commissioner of Revenues shall have one (1) year from the date of the final

assessment or date of the Internal Revenue Service's Revenue Agent's Report, whichever date is later, in which to file his claim against decedent's estate."

SECTION 2. The Arkansas Tax Procedure Act, Ark. Code Ann. §§26-18-101 - 26-18-707 (1987), is hereby amended by adding a new §26-18-708 to read as follows:

"26-18-708. Limitations on Relief in State Tax Cases. (a) No imposition, assessment, collection, deposit, disbursement or other administration of any state tax shall be stayed or prevented by any injunction, writ or order issued during the pendency of any action in a court in this state, and no limitation, condition or restriction shall be imposed upon the imposition, assessment, collection, deposit, disbursement or other administration of any state tax during the pendency of any action in a court in this state. Provided, however, that this act is not intended, nor shall it be construed, to prohibit or limit the right granted under Article 16, Section 13 of the Arkansas Constitution to bring suit for protection against illegal exactions. The intent of this subsection of this act is to prohibit the courts in this state from temporarily enjoining, limiting, restricting or placing conditions upon state tax imposition and administration during the pendency of a lawsuit.

(b) In no action brought in any court of this state shall any attorney fees be taxed or allowed in favor of any party when such action is brought to obtain any relief from the imposition, assessment, collection, deposit, disbursement or other administration of any state tax. Provided, however, that this subsection is not intended, nor shall it be construed, to prohibit or limit the authority of circuit and chancery courts under section 26-35-902 of the Code to apportion a reasonable part of the recovery to attorneys of record in a case brought under Article 16, Section 13 of the Arkansas Constitution where the court orders any city, county or town to refund or return moneys illegally exacted by the city, county or town."

SECTION 3. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

