

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

A Bill

SENATE BILL 332

4
5 By: Senator Files
6

For An Act To Be Entitled

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

Subtitle

10
11
12
13 TO EXPEDITE ADMINISTRATIVE TAX APPEALS
14 AND PROMOTE ACCESS TO JUSTICE.
15
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 26-18-405(d), concerning hearings on
20 proposed assessments, is amended to read as follows:

21 (d)(1) ~~The~~ A hearing officer shall ~~set~~;
22 (A) Set the time and place for the hearing on the a
23 written ~~protests~~ protest and shall give the taxpayer reasonable notice of the
24 hearing;

25 (B) Hold the hearing within one hundred twenty (120) days
26 after the taxpayer files the written protest unless the taxpayer requests an
27 extension of the hearing date; and

28 (C) Issue a decision within sixty (60) days following the
29 conclusion of the hearing.

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

33 (3) After the hearing, the hearing officer shall render his or
34 her decision in writing and shall serve copies upon both the taxpayer and the
35 section or division of the Department of Finance and Administration which
36 proposed the assessment or the denial of the claim for refund.



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

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

(iii) If a request for revision is made, the director shall issue a decision on the request for revision within thirty (30) days of receiving the request for revision.

~~(ii)-(iv)~~ (iv) The ~~Either the taxpayer or legal counsel for the director must~~ shall provide a copy of any written request for revision to the ~~other~~ legal counsel for the director.

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

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

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

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

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

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

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

SECTION 2. Arkansas Code § 26-18-406(e), concerning judicial relief,

1 is amended to read as follows:

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

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

5 (B) Taxpayer may be awarded reasonable attorney fees if
6 the:

7 (i) Taxpayer prevails after filing a request for
8 administrative relief under § 26-18-404 that is denied in whole or in part;
9 and

10 (ii) Assessment or denial of the claim for refund is
11 without a reasonable basis in law and fact.

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