

***RULES OF PROCEDURE
OF THE ARKANSAS
TAX APPEALS COMMISSION***

Title, Definitions, and Statement of Organization and
Operations

Information for Public Guidance
and Requests Under the Freedom of Information Act

General Organization

Rulemaking

Tax Appeals

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Rule 1 Title, Definitions, and Statement of Organization and Operations

§ 1-101 Title, Severability

(a) The following Rules 1 through 5 shall be known as the Rules of Procedure of the Arkansas Tax Appeals Commission.

(b) The provisions of these rules are severable. If any provision or its application is held invalid, the invalidity does not affect other provisions or applications that can be given effect without the invalid provision or application.

§ 1-102 Definitions

As used in these rules, these terms have the following meanings:

(a) "Authorized representative" means an individual authorized by a party to act on the party's behalf in cases before the Commission in accordance with § 5-103.

(b) "Commission" means the Arkansas Tax Appeals Commission.

(c) "Days" means calendar days unless otherwise specified.

(d) "Department" means the Arkansas Department of Finance and Administration.

(e) "Expedited case" means a case required by law to be expedited with a shorter petition deadline, hearing deadline, decision deadline, or a combination thereof.

(f) "Presiding Commissioner" means the Commissioner designated by the Chief Commissioner to preside over a case as provided in § 5-102.

(g) "Taxpayer" means an individual or entity that:

(1) Is challenging the state's taxing jurisdiction; or

(2) Has standing to challenge a decision by the Department:

(A) Imposing liability for a tax, penalty, or interest;

(B) Denying a credit or deduction;

(C) Denying a refund, credit, or incentive claim or application;

(D) Canceling, refusing, or revoking a license or permit under Arkansas Code §§ 26-18-601, 26-52-803, 26-55-219, 26-55-224, 26-55-231, 26-56-204, 26-56-311, 26-57-413, 26-57-419, or 26-62-204;

(E) Closing a business;

(F) Relating to a jeopardy assessment;

(G) Seizing a vending device or a coin-operated amusement device;

or

(H) Taking any other action that provides a right to a hearing with the Commission under state law.

§ 1-103 Organization

(a) The Commission is an independent agency with tax expertise to resolve tax disputes between the Department and Taxpayers. The Commission was created by Act 586 of the 2021 regular session, the Independent Tax Appeals Commission Act, Arkansas Code § 26-18-1101 et seq.

(b) The Legislature has authorized the Commission to adjudicate certain disputes between Taxpayers and the Department.

(c)(1) The Commission is comprised of three Commissioners appointed by the Governor.

(2) The Governor designates one of the Commissioners as Chief Commissioner and can change the designation at any time. The Chief Commissioner is charged with administration of the Commission.

(d) The Commission is an independent agency within the Department of Inspector General.

(e) The Commission principally adjudicates tax disputes. From time to time, the Commission promulgates rules relating to its procedures.

§ 1-104 Hours of Operation

The Commission's office hours shall be 8:00 a.m. to 4:30 p.m., Monday through Friday, except state legal holidays.

Rule 2 Information for Public Guidance and Requests Under the Freedom of Information Act

§ 2-101 Freedom of Information Act Requests

(a)(1) The Commission employs persons holding certain responsibilities for handling Freedom of Information Act (FOIA) requests or other questions so that the public may obtain information about the Commission or make submissions or requests.

(2) Commission adjudicative hearings and associated files, proceedings, and records are confidential, closed to the public, and exempt from the FOIA. Arkansas Code § 26-18-1115.

(b) The names, mailing addresses, telephone numbers, and electronic addresses for handling FOIA requests or other informational inquiries may be obtained from the Commission's office or website, www.tac.arkansas.gov.

§ 2-102 Availability of Forms, Decisions, and Other Documents

(a) The Commission maintains a list and copies of official forms used by the Commission and formal, written statements of policy issued by the Commission, which may be obtained from the Commission's office or website.

(b) The Commission indexes and publishes redacted decisions resulting from adjudications on its website.

Rule 3 General Organization

§ 3-101 Public Meetings

(a) The Chief Commissioner presides over public meetings or may designate another Commissioner to preside.

(b) The Commission will hold public meetings for rulemaking.

(1) All public meetings are conducted in conformity with the Arkansas Freedom of Information Act.

(2) All public meetings will be specially scheduled.

(3) Special meetings are held on the call of the Chief Commissioner or two Commissioners.

(c) A quorum for the transaction of business in non-adjudicative matters is all three Commissioners, or two Commissioners if there is a vacancy on the Commission.

(d) Meeting agenda.

(1) The Chief Commissioner will prepare the agenda for public meetings.

(2) The order of the agenda items is intended to be flexible and may be adjusted to meet the needs of the Commission.

(3) Additionally, the agenda may be amended by appropriate motion.

§ 3-102 Adjudicative Meetings

A meeting of the Commission in connection with adjudication of one or more matters is confidential, closed to the public, and not publicly announced. Arkansas Code § 26-18-1115. Adjudications are further addressed in Rule 5.

Rule 4 Rulemaking

§ 4-101 Authority

(a) The purpose of this rule is to inform the public how to initiate rulemaking and how to comment on a proposed rule.

(b) The Commission has been authorized by the General Assembly to promulgate rules. Arkansas Code §§ 25-15-203, 25-15-215, 26-18-1112, 26-18-1115, 26-18-1120.

(c) In rulemaking, the Commission follows the procedural requirements of the Arkansas Administrative Procedure Act, specifically Arkansas Code §§ 25-15-203, 25-15-204, and 25-15-218; Arkansas Code § 10-3-309; and any Executive Order of the Governor applicable at the time that rulemaking is initiated.

(d) This rule does not provide a comprehensive description of the entire rulemaking process.

§ 4-102 Initiating Rulemaking

(a) The process of adopting a new rule or amending or repealing an existing rule (hereinafter referred to as “rulemaking”) may be initiated:

(1) At the request of the Commission; or

(2) By third persons outside the Commission, who may petition for the issuance, amendment, or repeal of any rule in accordance with Arkansas Code § 25-15-204. The petition to initiate rulemaking must contain:

(A) The name, address, telephone number, and email address of the petitioner and the petitioner’s attorney, if represented by counsel;

(B) The specific rule or action requested;

(C) The reasons for the rule or action requested;

(D) Facts showing that the petitioner is regulated by the Commission or has a substantial interest in the rule or action requested; and

(E) The date of the request.

§ 4-103 Public Comment

(a) If the Commission proceeds with the rulemaking process, it will provide the public with a reasonable opportunity to comment on a proposed rule.

(b) The public comment period will last at least thirty (30) days.

(c) The Commission will begin the public comment period by publishing notice of the proposed rulemaking.

(1) The notice will include the terms or substance of the proposed rule, or a description of the subjects and issues involved.

(2) The notice will include a description of the time, location, and manner in which interested parties may submit their views.

(3) The notice will be published in compliance with Arkansas Code § 25-15-204. The Commission shall also publish the notice and the draft rules on its website.

(d) If the Commission chooses to or is required to hold a hearing at which the public may appear and comment on the proposed rule, such hearing will comply with the requirements of Arkansas Code § 25-15-213.

(e) The Commission shall accept and consider public comments as required by Arkansas Code § 25-15-204.

(f) The Commission shall track and respond to public comments as necessary to comply with Arkansas Code § 25-15-204(a)(2) and the rules of the Administrative Rules Subcommittee of Legislative Council.

§ 4-104 Decision to Adopt a Rule

(a) The Commission will not finalize language of the rule or decide whether to adopt a rule until the period for public comment has expired.

(b) Prior to adoption, the Commission will consider the factors described in Arkansas Code § 25-15-204.

(c) The Commission may use its own experience, specialized knowledge, and judgment in the adoption of a rule.

§ 4-105 Legislative Approval, Final Filings, and Effective Date

(a) After the necessary legislative approvals are obtained, the Commission will file the final rule with the Secretary of State.

(b) The final rule will be effective ten (10) days after filing with the Secretary of State unless a later date is specified in the rule itself or by law.

§ 4-106 Public Inspection and Records

(a) After the expiration of the thirty (30) day public comment period and before the effective date of the rule, the Commission shall take appropriate measures to make

the final rule known to the persons who may be affected by the rule, pursuant to the specifications in Arkansas Code § 25-15-204.

(b) The Commission's rules shall be available for public inspection at its business address and on its website, www.tac.arkansas.gov.

(c) The Commission shall maintain copies of all filings and documentation associated with rulemaking as necessary to comply with the Arkansas General Record Retention Schedule.

§ 4-107 Emergency Rules

(a) Need for Emergency Rule

(1) The Commission may enact an emergency rule if it finds that an imminent peril to the public health, safety, or welfare, or that compliance with a law or regulation, requires the adoption of a rule on less than thirty (30) days' notice.

(2) The Commission shall state in writing its reasons for that finding.

(b) Filings and Effective Date of Emergency Rule.

(1) The Commission will follow the process required by Arkansas Code § 25-15-204 and any applicable Executive Order of the Governor to enact an emergency rule.

(2) After receiving approval from both the Governor and the Legislature, an emergency rule may become effective immediately upon filing with the Secretary of State or at a stated time less than ten (10) days after filing if the Commission finds that such effective date is necessary due to imminent peril to the public health, safety, or welfare.

(3) The Commission will take appropriate measures to notify those who may be affected by the Emergency Rule.

Rule 5 Tax Appeals

§ 5-101 Applicability

(a) This rule applies in all administrative adjudications conducted by the Commission and describes the process by which the Commission hears appeal petitions challenging decisions of the Department within the jurisdiction of the Commission.

(b) The Commission may determine the parties' compliance with this rule.

(c) Unless a statute or rule expressly precludes it, the presiding Commissioner may waive application of these rules if, in the Commissioner's discretion, fairness requires.

§ 5-102 Assignment of Cases

(a) Once a Petition is filed with the Commission, the Chief Commissioner or staff of the Commission at the Chief Commissioner's direction shall designate a Presiding Commissioner and assign the case to one Commissioner or to all available Commissioners sitting en banc, depending on the nature and significance of the case.

(b) It is presumed that:

(1) A controversy involving twenty-five thousand dollars (\$25,000) or less, exclusive of interest and penalties, should be assigned to one Commissioner;

(2) A controversy involving an expedited case under § 5-204 should be assigned to one Commissioner; and

(3) A controversy involving over two hundred fifty thousand dollars (\$250,000), exclusive of interest and penalties, should be assigned to all Commissioners sitting en banc.

(c) The Chief Commissioner may reassign a case.

(d) A party may request en banc consideration by filing a motion under § 5-301. Such motion shall be decided by the Chief Commissioner after consulting with the assigned Presiding Commissioner.

§ 5-103 Appearances and Representation

(a)(1) Any Taxpayer has the right, at his or her own expense, to be represented by an authorized representative, who can be an attorney, certified public accountant, or any other individual.

(2) Alternatively, ~~the~~ Taxpayer may ~~appear on his or her own behalf~~ be self-represented, including ~~appearances~~ self-representation by an owner ~~or~~, officer ~~of~~,

managing member, partner, trustee, or similar individual with authority for an entity Taxpayer.

(b) A Taxpayer's authorized representative must have a completed Power of Attorney form on file with the Commission before representing a Taxpayer in a case. The Commission's form must be used.

(c) The Department shall be represented by an authorized representative licensed to practice law in the state of Arkansas. The Department is not required to obtain approval from the Commission for substitution of representatives.

(d) Service on an authorized representative is the equivalent of service on the party represented.

(e) On written motion served on the party represented and all other parties of record, the Presiding Commissioner may grant a Taxpayer's authorized representative leave to withdraw.

§ 5-104 In-Person Hearings Outside of Little Rock

(a) The Commission may arrange for the use of state or local government facilities to allow it to conduct hearings throughout the state.

(b) A Taxpayer may request, in writing in the petition or on motion, to have an in-person hearing at a location more convenient than Little Rock.

(c) The Presiding Commissioner may grant such request or may require that the Taxpayer choose between an in-person hearing in Little Rock, a teleconference, or a videoconference.

(d) The Department may elect to appear by teleconference or videoconference.

§ 5-105 Consolidation

(a) If there are separate matters that involve similar issues of law or fact and identical or related parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy, and inexpensive resolution of the cases and would not unduly prejudice the rights of a party, including the Taxpayer's right to confidentiality.

(b) A Presiding Commissioner may deconsolidate ~~due to changed~~ circumstances for any reasonable cause.

§ 5-106 Filing and Service

(a) Unless a filing is rejected by the Commission, a document is deemed filed on the earlier of:

(1) The date the document was submitted electronically via the electronic filing system; or

(2) The date the document is received by the Commission, whether by in-person delivery, United States Mail, or otherwise.

(b) A filing that is delivered to the Commission by United States Mail after the deadline shall be deemed filed as of the postmark date.

(c) The Commission shall establish a system for electronic filing and service. See § 5-601 et seq.

(d) Every pleading, except for the appeal petition, and every other document filed for the case shall be served by the filing party on the other party's authorized representative or, if the party is not represented, on the party itself. Service shall be to the address provided by the authorized representative or party.

(1) If both parties or their authorized representatives are users of the Commission's electronic filing system, service shall be as directed under the electronic filing system.

(2) If either the sending or the receiving party is not a user of the electronic filing system, then service on the party shall be by:

(A) First class mail;

(B) Hand delivery; or

(C) Email if agreed to in writing by the parties.

(3) The Taxpayer shall not serve the appeal petition on the Department. Service by the Taxpayer of the appeal petition upon the Department shall be void. The petition is served on the Department by the Commission within fifteen (15) days of the filing date of the petition electronically or, if the Commission cannot serve the petition on the Department electronically, by hand-delivery.

(e) A party or authorized representative shall file with the Commission a notice of any change of address, phone number, or email address within ten (10) days of such change.

§ 5-107 Computing Time

(a) Any period of time set forth in these rules or in the Independent Tax Appeals Commission Act, Arkansas Code § 26-18-1101 et seq., unless otherwise provided by law, shall begin on the first day following the day of the act that initiates the period.

(b) When the last day of the period is a day on which the Commission is closed, the period shall run until the end of the next business day.

(c) For the purpose of computing time to respond, any document served on a day when the Commission is closed shall be deemed served on the next business day.

§ 5-108 Noncompliance

(a) If a Petition, Answer, Reply, or other document is timely filed but determined by the ~~presiding~~Presiding Commissioner to be noncompliant, the party shall be allowed fourteen (14) days from the date of notice to cure, except that, for cure of a Power of Attorney, thirty (30) days shall be allowed. The ~~presiding~~Presiding Commissioner may extend the deadline. The corrected document shall be deemed filed on the date originally submitted.

(b) Any deadline to Answer, Reply, or otherwise respond to a filing is automatically tolled pending cure of the noncompliant filing.

(c) After the cure period has expired, a Petition, Answer, Reply or other document that is noncompliant may be rejected by the Commission.

§ 5-109 Ex Parte Communications

(a) A Commissioner shall not initiate, permit, or consider ex parte communications or other communications made outside the presence of the parties or their representatives concerning a pending or impending matter.

(b) When circumstances require it, non-substantive communication for scheduling, administrative, or emergency purposes is permitted, provided the Commissioner reasonably believes that no party will gain a procedural, substantive, or tactical advantage.

(c) A Commissioner may consult with other Commissioners or with employees of the Commission or the Department of Inspector General, provided the Commissioner does not abrogate the responsibility personally to decide the matter.

(d) If a Commissioner receives an unauthorized ex parte communication bearing upon the substance of a matter, the Commissioner shall notify the parties of the substance of the communication and provide the parties with an opportunity to respond.

(e) The parties shall not communicate or cause communication with employees of the Department of Inspector General regarding cases, except in connection with such officers or employees providing technical or administrative support to the Commission.

§ 5-201 Appeal Petition

(a)(1) Only a Taxpayer or a Taxpayer's authorized representative can file an appeal petition to the Tax Appeals Commission. The definition of "Taxpayer" limits petitions to protesting certain actions or decisions of the Department that have become final or without more will become final after the expiration of time, such as a proposed assessment or a refund claim denial.

(2) The Commission cannot hear a petition protesting an interim Department action such as day-to-day administration of an ongoing audit.

(b) The Taxpayer is responsible for meeting the petition deadline, and the Commission cannot extend petition deadlines.

(1) Unless otherwise provided by law, petitions must be filed within ninety (90) days of the date of the action or decision of the Department.

(2) Certain actions of the Department can result in expedited cases that impose petition deadlines as short as five business (5) days. The petition shall indicate whether the case is required to be expedited. See § 5-204, Expedited Cases.

(c)(1) The Commission encourages Taxpayers to submit petitions online at its website. An appeal petition shall be filed using the Petition form approved by the Commission or in such other form prepared by the Taxpayer.

(2) Regardless of the form used, the petition shall:

(A) State facts sufficiently clear to identify the Taxpayer, including name and address, and the Taxpayer's reasons for opposing the proposed assessment, denial of a claim for refund, or other action of the Department, including the relief sought; and

(B) Reasonably specify the matter, including identifying the relevant Department account, and other identifying information for consideration by the Commission.

(d) The petition shall include whether the Taxpayer elects for the hearing to be in person, by teleconference, by videoconference, or by a combination thereof, or no hearing with the matter to be decided solely on written submissions.

(e) Petitions should not be made regarding the following, for which the Commission does not have jurisdiction:

(1) A tax that is excepted from the Arkansas Tax Procedure Act under Arkansas Code § 26-18-102;

(2) A question regarding the constitutionality of the application of statutes to a Taxpayer or the constitutionality of rules promulgated by the Department;

(3) A claim against enforcement of an illegal exaction under Arkansas Constitution, Article 16, § 13;

(4) A claim ~~for which the Office of Hearings and Appeals has already issued an administrative decision or held a prehearing or hearing;~~

~~(5) A claim~~ that is the subject of pending litigation; or

~~(6)~~ A claim for a tax not administered by the Department, including without limitation the following: local ad valorem property tax, local advertising and promotion tax on lodging or restaurants, federal tax, tax of another state, or tax of a foreign country.

~~(7)~~ An appeal from a final assessment for which a notice of proposed assessment was previously issued.

§ 5-202 Answer

(a) The Department shall file an answer to an appeal petition within sixty (60) days of receipt of the petition from the Commission.

(b) An answer is not required in an expedited hearing. See § 5-204.

(c) The answer shall state the Department's reasons for opposing the Petition, in all or in part, such that the Commission can understand the Department's position in the dispute and the Taxpayer can fairly reply.

(d) An answer shall not be filed in lieu of a motion for voluntary dismissal or for withdrawal from consideration. See § 5-301.

§ 5-203 Reply

The Taxpayer may respond to the answer by filing a reply within thirty (30) days of service of the answer but is not required to do so. A reply may not exceed the scope of the petition or answer.

§ 5-204 Expedited Cases

(a) Certain types of cases are required by law to be heard on an expedited basis, including shortened petition deadlines.

(b) The petition shall indicate that it is a type of case that must be expedited.

(c) For an expedited case, the hearing, if any, shall be scheduled within the applicable deadline after the petition is filed, and no other pleadings are required. The Department may elect to file an answer.

(d) Joint refund offset cases under Arkansas Code § 26-36-315 have specific requirements:

(1) The petition must include the following items:

(A) A copy of the notice of refund offset at issue.

(B) The signature of the nondebtor taxpayer to the petition.

(C) A certification from the claimant agency that the nondebtor taxpayer is not a debtor of the claimant agency.

(i) This certification may use the form promulgated by the Commission or other form of certification issued by the agency.

(ii) The Commission may provide a Taxpayer with the relevant claimant agency contact information for obtaining this certification.

(D) Tax documentation necessary to determine each taxpayer's proportionate share of the refund. In general, copies of the full Arkansas income tax return and all [Forms W-2s or 1099](#) or other documentation showing sources of income and tax payment are needed.

(2) Taxpayers cannot petition the Commission to dispute the validity or amount of the debt to the claimant agency.

§ 5-205 Amended Pleadings

(a) The Taxpayer may amend the appeal petition at any time before the period for filing an answer expires, once per petition.

(b) The Department may amend the answer at any time before the period for filing a reply expires, once per answer.

(c) Either party may amend a petition, answer, or reply after the period for responding to a pleading, if any, expires:

(1) With the written consent of the adverse party; or

(2) With the permission of the Commission.

(d) An amended petition shall not confer jurisdiction on a matter that would otherwise not come within the jurisdiction of the Commission, including matters that are time-barred.

(e) Upon filing of an amended pleading, the Commission shall provide deadlines to the parties for filing an answer, reply, or both, as applicable.

§ 5-206 Jurisdictional Objections or Deficiencies

(a) (1) Any objection to Commission jurisdiction shall be raised by filing a motion to dismiss under § 5-301.

(2) The Commission may raise a jurisdictional matter on its own.

(b) All case deadlines, including the deadline for the Department to file an answer, are automatically tolled upon the filing of such a motion to dismiss or the Commission's notice or order raising a jurisdictional matter.

(c) For a case assigned to the Commission en banc, whether the Commission has jurisdiction shall be decided en banc. For a case assigned to a single Commissioner, that Commissioner shall decide.

(d)(1) After notice and an opportunity for a response, if it is determined that the Commission lacks jurisdiction, the case shall be dismissed. The dismissal shall explain the legal basis and shall be published under § 5-502.

(2) If it is determined that the Commission has jurisdiction, at least in part, then an order shall be issued, including setting the deadline for any answer, and the case shall proceed. Any jurisdictional objection and the decision thereon shall be explained in the subsequent decision on the merits under § 5-501.

§ 5-301 Motions

(a) All requests for relief shall be by motion.

(1) Motions must be in writing or made during a hearing or conference.

(2) Motions must fully state the action requested and the grounds relied upon.

(3) Written motions shall be filed with the Commission and served on the opposing party, consistent with § 5-106.

(4) When time allows, the other party may, within seven (7) days of the service of the written motion, file a response in opposition.

(5) When time allows, within seven (7) days of the service of the response, the moving party may, but is not required to, file a reply.

(6) The Commission may grant any motion not responded to without further notice.

(7) The Presiding Commissioner may conduct such proceedings and enter such orders as are deemed necessary to address issues raised by the motion.

(8) A party that disputes the Commission's jurisdiction or authority shall not file a notice or other document declaring limitations of the Commission's jurisdiction or authority. Any such dispute shall be brought before the Commission by appropriate motion.

(b) A motion for summary judgment is not allowed.

(c) The Presiding Commissioner may grant a motion for continuance of a hearing or extension of a deadline for good cause shown, except that the Commission cannot extend an appeal petition deadline. A request for the extension of a deadline should be filed prior to the expiration of the original deadline, but failure to timely file shall not preclude the Presiding Commissioner from extending a deadline. Stipulations of the parties for continuances will not be recognized.

(1) Such a motion shall be made in writing or made during a hearing or conference.

(2) The motion must state the grounds to be considered and be made as soon as practicable and for hearings, except in cases of emergencies, no later than five (5) days prior to the date noticed for the hearing.

(3) In determining whether to grant a continuance or extension, the Presiding Commissioner may consider:

- (A) Prior continuances or extensions;
- (B) The interests of all parties;
- (C) The likelihood of informal settlements;
- (D) The existence of an emergency;
- (E) Any objection;
- (F) Any applicable time requirement;
- (G) The existence of a conflict of the schedules of parties, their authorized representatives, or witnesses;
- (H) The time limits of the request; and
- (I) Other relevant factors.

(4) The Presiding Commissioner may require documentation of any grounds for continuance or extension.

(d) A request from a party that is not styled as a motion may be deemed a motion by the Presiding Commissioner.

(e)(1) A party or parties may move for voluntary dismissal or withdrawal from consideration based on:

(A) Department withdrawal of the action or decision at issue;

(B) Taxpayer withdrawal of the petition;

(C) Settlement by the parties under Arkansas Code § 26-18-1111;

(D) Mootness; or

(E) Any other resolution such that the Commission does not need to reach a decision or jurisdictional dismissal in the case.

(2) The filing of such a motion automatically tolls any pending case deadlines, including the deadline for the Department to file an answer.

§ 5-302 Case Management

(a) In any case, the Presiding Commissioner may direct the parties to appear for a conference.

(b) This conference may consider:

(1) The simplification of issues;

(2) The status of efforts to stipulate pursuant to § 5-403;

(3) The necessity or desirability of amendments to the petition, answer, or reply;

(4) The possibility of settlement;

(5) The scheduling of the hearing and other case events or deadlines; and

(6) Such other matters as may aid in the disposition of the action.

(c) After the conference, the Presiding Commissioner may make an order which recites the action taken at the conference, any amendments allowed to the pleadings and the agreements made by the parties as to any of the matters considered and which limits the issues for hearing to those not disposed of by stipulation or other agreement of the parties; and such order, when entered, controls the subsequent course of the case, unless subsequently modified.

§ 5-303 On-Site Observation

(a) The Commission may conduct on-site observation of tangible personal property, real property, and activities that are relevant to a controversy.

(b) On-site observation may occur only with the consent of the Taxpayer and with all parties invited to observe and record.

(c) A party may request on-site observation by motion. See § 5-301.

§ 5-304 No Discovery

(a) There is no discovery in Commission adjudications, including without limitation: interrogatories, requests for admission, requests for production, depositions, and requests for inspections.

(b) Neither the Commission nor a party or authorized representative shall issue subpoenas to the parties or outside parties in connection with cases before the Commission.

(c) A Taxpayer may contact the Department if the Taxpayer wants to obtain his or her tax records. The Commission does not hear disputes concerning the production of documents by the Department under the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq., or Arkansas Code § 26-18-403.

§ 5-305 Closure of Record in Written Submissions Cases

(a) For non-expedited cases to be decided on written submissions without a hearing, after the reply has been filed or the deadline to do so has passed under § 5-203, the Commission shall schedule the closure of the written record, as a deadline for briefs, motions, or other submissions.

(b) Once the record is closed, the deadline for the Commission to issue a decision shall commence.

§ 5-401 Hearing Scheduling

(a) The Presiding Commissioner shall schedule the hearing, which, except in expedited cases, shall be held within ninety (90) days of the date the reply was filed or the expiration of the deadline to file the reply. For expedited cases, see § 5-204.

(b) A Notice of Hearing shall be provided to the parties within thirty (30) days of the filing of the reply or the expiration of the deadline to file a reply.

(c) The Presiding Commissioner may order hearing by a means other than the means elected by the taxpayer for good cause, or when it is in the interest of justice.

§ 5-402 Pre-Hearing, Hearing, and Post-Hearing Procedures

(a) The Presiding Commissioner presides at the hearing, presides over pre-hearing, post-hearing, and other case conferences and matters, including if a hearing has been waived altogether, and may rule on motions, require briefs, and issue such orders as will ensure the orderly conduct of the case.

(b) Parties have the right to participate or to be represented by an authorized representative in all hearings or other proceedings related to their appeal.

(c) Pre-hearing conferences and reports may be delegated by the Presiding Commissioner to Commission staff, provided that staff may not rule on motions.

(d) Parties have the right to introduce evidence that is probative of material fact, cross-examine witnesses as necessary for a full and true disclosure of the facts, and present evidence in rebuttal.

(e)(1) The Presiding Commissioner may require disclosure of all witnesses, identifying those witnesses who may testify and those expected to testify, by a specified date in advance of the hearing.

(2) Advance disclosure of witnesses is never required in expedited cases under § 5-204.

(f) The Presiding Commissioner is charged with maintaining the decorum of the hearing and may refuse to admit, or may expel, anyone whose conduct is disorderly. The Presiding Commissioner may limit the time allowed for arguments.

(g) The Presiding Commissioner will conduct the hearing in the following manner:

(1) The parties will be allowed to present their cases in the sequence determined by the Presiding Commissioner, taking into consideration the burden of proof.

(2) Each witness must be sworn or affirmed by the Presiding Commissioner and be subject to examination and cross-examination as well as questioning by Commissioners. The Presiding Commissioner may limit questioning in a manner consistent with the law.

§ 5-403 Stipulation

(a) The parties to a case shall, in good faith, make every reasonable effort to stipulate all relevant and nonprivileged facts to the fullest extent to which a complete or qualified agreement can or fairly should be reached.

(b) The Commission may decide a case based on stipulated facts.

(c) Efforts to stipulate are not required in expedited cases under § 5-204.

(d) If the amount of tax in dispute is less than ten thousand dollars (\$10,000), it is presumed that efforts to stipulate are not reasonable and thus unnecessary, unless the Presiding Commissioner specifies otherwise.

§ 5-404 Evidence

(a) The Presiding Commissioner shall admit relevant evidence, including hearsay, if it is probative of a material fact in controversy.

(b) Irrelevant, immaterial, and unduly repetitive evidence shall be excluded.

(c)(1) The Presiding Commissioner may require prefiling of exhibits by a specified date in advance of the hearing.

(2) Prefiling of exhibits is never required in expedited cases under § 5-204.

(d) Spreadsheets or workbooks shall be provided electronically. See § 5-604.

§ 5-405 Recording of Hearing

(a) The parties may record the hearing. Only audio recordings shall be permitted. Broadcasting of hearings in any form is prohibited.

(b) If a party desires to have a written transcript made of the hearing, the requesting party shall bear all costs of having it prepared. The Commission is not required to prepare a transcript of a hearing.

(c) A party may arrange for a hearing to be reported verbatim by a court reporter. Such party shall pay all associated costs and provide notice to the Commission and the other party prior to the hearing. Such party shall provide the other party a verbatim copy, if transcribed, at no cost to the recipient.

(d) The Commission may record the hearing and may provide a copy of the recording to the parties upon request.

§ 5-406 Failure to Appear at Hearing or Prosecute Case

(a) If a party fails to appear or participate in a hearing after proper service of notice, the Commission may proceed with the hearing and render a decision notwithstanding the party's failure to appear or participate.

(b)(1) If a taxpayer stops communicating with the Commission or becomes unreachable, the ~~presiding~~Presiding Commissioner may issue a warning to the taxpayer

of potential dismissal for nonprosecution, which provides at least ten (10) days to respond.

(2) If the taxpayer fails to respond to the warning, the ~~presiding~~Presiding Commissioner may issue an Order to Show Cause why the case should not be dismissed for nonprosecution, which provides at least ten (10) days to respond.

(3) If the taxpayer fails to respond to the Order to Show Cause, the Commission may dismiss the case.

(4) Any warning or order to show cause issued under this subdivision shall be served on taxpayer by First Class mail and by electronic means if available.

§ 5-407 Bifurcation of Proceedings

(a) If the Commission determines that a resolution of a threshold issue, such as a statute of limitations, may dispose of a case, the Commission may bifurcate proceedings to hear and decide the threshold matter.

(b) If the determination of the threshold issue does not resolve the case, then an order shall be issued, and the case shall proceed. The determination of the threshold issue shall be explained in the subsequent decision on the merits under § 5-501.

§ 5-501 Issuance of Decision to the Parties

(a) The Commission will issue a written decision. The decision will include findings of fact and conclusions of law. It will grant or deny relief and issue orders as the Commission deems appropriate to carry out the decision.

(b) The Commission shall serve the decision on the parties. Service of the decision is the conclusion of substantive Commission proceedings to adjudicate the appeal petition.

(c) The decision shall be issued within ninety (90) days of the close of the hearing, submission of final post-hearing brief, or other close of the record, unless it is an expedited case with a shorter deadline. The Commission may extend this deadline for good cause by submitting a letter to the parties.

(d) A party may seek judicial relief by following the procedures stated in the Arkansas Tax Procedure Act, Arkansas Code § 26-18-101 et seq. Neither the Commission nor any Commissioner shall be made a party in a suit for judicial relief.

(e) A party may, within seven (7) days of the decision, move for reconsideration to correct a clear error of fact or law. Such a motion is optional and not required to seek judicial relief.

(f) The Commission may correct an error in a decision on its own initiative.

§ 5-502 Redaction and Publication of Decision

(a) The decision shall be published by the Commission on its website.

(b) Before publication of a decision, Taxpayer-identifying information shall be redacted.

(1) Taxpayer-identifying information includes Taxpayer names, identification or account numbers, addresses, and other information the disclosure of which would lead to identification of the Taxpayer.

(2) Taxpayer-identifying information does not include facts about the Taxpayer's activities or operations, particularly those facts that serve as the basis of the decision, unless publication of such facts would allow the public to identify the Taxpayer.

§ 5-503 En Banc Decisions

(a) In an en banc case, a Commissioner may join in, concur with, or dissent from a decision, in all or in part.

(b) A decision or portion of a decision in which two or more Commissioners join creates binding precedent as provided in Arkansas Code § 26-18-1116(d).

(c)(1) Where only two Commissioners are available, if the vote on the outcome of all or part of the case is split, then such a split shall be resolved by sustaining that part of the Department's action or decision that requires Taxpayer to bear the burden of proof and by resolving in favor of the Taxpayer that part of the Department's action or decision that requires the Department to bear the burden of proof.

(2) If there is disagreement between the participating commissioners as to which party bears the burden of proof under subdivision (c)(1) of this rule, the party bearing the burden shall be determined by the Presiding Commissioner.

§ 5-601 Scope and Application of Electronic Filing

(a) Use of the electronic filing system for filings after the petition is required for an authorized representative, except for an authorized representative with a disability that prevents the use of the electronic filing system. The petition should be filed electronically if possible.

(b) Use of the electronic filing system by a Taxpayer without an authorized representative is encouraged but not required.

(c) Filings shall be submitted by mail, hand delivery, or email in the event of electronic filing system errors or other technical problems under § 5-606.

(d) The Commission shall electronically file or issue any notice, order, decision, or other document prepared by the Commission. The Commission shall provide a paper copy of such document to any party not using the electronic filing system.

(e) An electronic document is the official record and has the same force and effect as a document filed conventionally.

(f) Conventional documents shall be scanned by the Commission and made part of the electronic record. Once scanned, conventional paper documents may be destroyed.

§ 5-602 Time of Filing

(a) An electronic document is submitted when the transmission to the electronic filing system is completed. It is the user's responsibility to confirm that the transmission of the electronic document was completed.

(b) After review and acceptance by the Commission, an electronic document shall be considered filed as of the date and time of submission.

(c) Notice of a rejection of a document will be provided to the filer electronically.

(d) The electronic filing system shall record the date of filing, which shall have the same force and effect as a manually affixed stamp.

(e) Any document received by the electronic filing system before midnight shall be deemed filed on that date.

§ 5-603 Signatures

(a) An electronic document shall be deemed to be signed by the registered user who files it.

(b) An electronic document may be signed by scanned or digital signature, or, for signatures other than a Taxpayer's signature on a Power of Attorney form, a typewritten name may be used.

§ 5-604 Format of Documents

(a) Electronic documents filed by the parties shall be legible and shall not contain hyperlinks to external sources.

(b) Upon request of the Commission, spreadsheets or workbooks shall be provided in both a static format readable by a document viewer, such as portable document format, and in an unlocked format compatible with commonly used spreadsheet software.

§ 5-605 Registration Requirements

Users shall furnish at least one email address for electronic service and other notices.

§ 5-606 Technical Failures

(a) A technical failure of the electronic filing system shall excuse an untimely filing.

(b) A user's technical problem that prevents submitting an electronic filing is not a technical failure of the electronic filing system. Users that encounter difficulties with their systems shall use alternative means to comply, including conventional filing.

(c) If a technical failure of the electronic filing system or other technical problem prevents a user from submitting an electronic filing, documents shall be submitted and served conventionally.

**ARKANSAS TAX APPEALS COMMISSION
PETITION**

(Important: See Petition Instructions)

Part I Taxpayer. Enter information regarding the taxpayer.

Taxpayer Name(s): _____
 Street Address: _____
 City: _____ State: _____ Zip: _____
 Phone Number: _____ Email: _____

Part II Decision Being Appealed. Identify what is being appealed. **Attach a copy of the DFA notice.**

Letter ID: _____ Account ID: _____
 Tax period(s): _____

Tax type (check one):

- | | |
|--|--|
| <input type="checkbox"/> Sales & Use Tax (SLS) | <input type="checkbox"/> Motor Vehicle Sales & Use Tax |
| <input type="checkbox"/> Individual Income Tax (IIT) | <input type="checkbox"/> Corporate Income Tax (CIT) |
| <input type="checkbox"/> Wage Withholding Tax (WHW) | <input type="checkbox"/> Pass-Through Entity Tax (PET) |
| <input type="checkbox"/> Fiduciary Income Tax (FIT) | <input type="checkbox"/> Composite Income Tax (ICT) |
| <input type="checkbox"/> Other (please specify): _____ | |

Type of DFA action or decision being appealed (check one):

	Description	Statute (Arkansas Code Annotated)	Deadline
<input type="checkbox"/>	Proposed tax assessment	§§ 26-18-1113, 26-18-403	90 days
<input type="checkbox"/>	Refund claim denial	§§ 26-18-1113, 26-18-507(e)(2)(B)	90 days
<input type="checkbox"/>	Joint refund offset <i>(and attach Joint Refund Offset Petition Addendum)</i>	§§ 26-36-315(c) or 26-18-507(e)(1)(B)(ii)	30 days
<input type="checkbox"/>	Business closure	§ 26-18-1002	5 business days
<input type="checkbox"/>	Emergency temporary license suspension	§ 26-18-601(b)	3 business days
<input type="checkbox"/>	Cancellation/non-issuance of license, permit, or registration	§ 26-18-601(c)	20 days
<input type="checkbox"/>	Other (please specify):		

If this appeal is related to an existing appeal with the Commission, provide:

Taxpayer Name(s): _____ Docket number: _____

Part III **Reasons for Your Appeal.** Specifically identify what you dispute, what relief is requested, and why. Attach additional pages if needed. See Instructions for more information.

Part IV **Authorized Representative (if any).** Enter representative information and attach Power of Attorney.

Name: _____ Title: _____

Firm Name, if applicable: _____

Street Address: _____

City: _____ State _____ Zip: _____

Phone Number: _____ Email: _____

Part V **Hearing Preference.** Indicate your preference by checking only one box below.

- In-person at the Commission’s office in Little Rock
- In-person at a location closer to Taxpayer, if outside of central Arkansas*
*Not permitted for expedited appeals.
- Teleconference (phone)
- Videoconference
- Combination of in-person and teleconference or videoconference (hybrid)
- Solely on written submissions (no hearing)**
**Not permitted for business closure, permit cancellation or denial, or certain other expedited appeals.

Part VI **Signature.**

I certify that I am the person identified as the taxpayer on Page 1 of this petition, or I am a corporate officer, partner, member, or other representative of the person or entity identified as the taxpayer, or I am authorized to sign this petition on behalf of the taxpayer under the provided Power of Attorney. I also certify that the foregoing information is true and correct [to the best of my knowledge](#).

Signature: _____ Date: _____

Print Name: _____ Title: _____

Instructions: Petition

(Rev. 11/23)

General Instructions for Filing a Petition

The Tax Appeals Commission recommends that this petition be filed online at <https://ig.arkansas.gov/tax-appeals-commission/petition/>. Alternatively, file this form: (1) by email to tac@arkansas.gov, (2) in person, Monday through Friday between 8:00 a.m. and 4:30 p.m. (except on state government holidays); or (3) by U.S. mail to:

Arkansas Tax Appeals Commission
900 West Capitol, Suite 310
Little Rock, AR 72201

There is no fee for filing this petition.

For more information concerning the appeal process and the Commission's Rules of Procedure, see the Commission's website, <https://tac.arkansas.gov>.

Questions regarding this form or the appeal process should be directed to the Commission by email to tac@arkansas.gov, phone at 501-682-2741, or mail at the above address. Commission staff can provide information about tax appeal procedures and requirements but cannot provide tax or legal advice.

Specific Instructions

Part I – Taxpayer Information

Enter the information of the taxpayer. If the taxpayer is an entity (corporation, partnership, LLC, trust, etc.), enter the entity's information. If phone number or email is provided, you consent to be contacted by the Commission by that method.

Part II – Action or Decision of the Department

Attach a copy of the Department of Finance and Administration (DFA) notice or other DFA action or decision that you are appealing, including any associated documents such as an explanation of adjustment or a summary of findings. The Tax Appeals Commission does not have access to DFA records and cannot look up your account.

Letter ID, Account ID and Tax Period(s)

Provide this information about the DFA action or decision, which can be found on the notice issued to you by DFA.

Tax Type at Issue

Mark the relevant tax type. If the tax type you are appealing is not listed, mark "Other" and write in the tax type.

Type of DFA Decision Being Appealed

See the relevant appeal statute for applicable law and requirements. In most cases, a petition must be filed within ninety (90) days from the date DFA issues a proposed assessment, refund claim denial, or other action or decision being appealed. Appeals of certain actions or decisions are expedited with shorter appeal deadlines, such as business closures, joint refund offsets, and permit denials or cancellations. The notice you received from DFA indicates the DFA action or decision to appeal. Check the box next to the relevant appeal type and *attach a copy of the DFA notice*. If the DFA action or decision you wish to appeal is not listed, mark "Other," write a description of the action you wish to appeal, and attach a copy of the DFA notice.

For Joint Refund Offsets, also attach a completed Joint Refund Offset Petition Addendum, including supporting documentation.

Related Matter Pending

Separate matters that involve similar issues of law or fact and identical or related parties are typically consolidated into a single proceeding. If your appeal relates to an existing appeal with the Commission, enter the taxpayer name and the docket number in the spaces provided.

Part III – Reasons for Your Appeal

Identify what specific items you are disputing, stating relevant facts and providing your reasons for opposing the action or decision of DFA. Attach additional pages if needed. If items in dispute are numerous, provide supporting schedules of items in dispute. You may also attach relevant documentary exhibits. For your reasons, provide, if known, the law, rules, or cases in support of your arguments. Do not simply state “assessment is too high” or “assessment is wrong”; instead, specifically state what you are disputing and explain why you believe relief should be granted. Note that the Commission must follow Arkansas law and cannot waive application of the law for financial or personal hardship. The Commission may reject your appeal if sufficient information is not provided.

Part IV – Authorized Representative

Representation by an attorney, CPA, or other person is allowed but not required. If represented, enter the representative’s information on the form. If multiple representatives, list the lead representative. For a representative to sign the petition or otherwise represent a taxpayer, a completed Power of Attorney form must be provided, and the Commission’s form must be used. The Power of Attorney form can be obtained from the Commission’s office or online at <https://tac.arkansas.gov>. If a representative is designated, attach the completed Power of Attorney form to the petition.

Part V – Hearing Preference

Indicate whether you elect for your hearing to be in-person in Little Rock, in-person at a location closer to Taxpayer, by teleconference, by videoconference, or by a combination thereof. In-person hearings at locations outside of Little Rock are subject to special scheduling considerations and are not allowed for expedited proceedings. A decision on written documents only, with no hearing, can be selected for appeal of a proposed tax assessment, a refund claim denial, another DFA action with a non-expedited appeal, or a joint refund offset. A hearing is required for appeal of business closure, a permit denial or cancellation, or other DFA action with an expedited appeal (excepting joint refund offsets as noted above).

If you request to have an in-person hearing at a location other than Little Rock, the presiding commissioner may grant such request or may require that you choose between an in-person hearing in Little Rock, a teleconference, or a videoconference.

Part VI – Signature

Sign your name and enter the other information requested in the spaces provided. If signing for an entity, you must be authorized under Arkansas law to act on behalf of the entity (owner, officer, trustee, etc.) and must enter your title in the space provided. If the appeal relates to a joint tax liability of married taxpayers, either spouse may sign.

NOTE: After the initial petition is filed, electronic filing of all documents is required of all authorized representatives (unless a disability prevents it) and is encouraged for all self-represented taxpayers. Login credentials and instructions will be emailed to you after receipt and processing of this form by the Commission.

**Arkansas Tax Appeals
Commission**
(Rev. 11/23)

**Power of Attorney
and Declaration of Representative**
(Ark. Code § 26-18-1120)

Part I Power of Attorney

1. Taxpayer information. Taxpayer must sign and date this form on line 3 below.

Taxpayer name and address	DFA Letter ID Tax period(s): <hr/> Tax period(s): <hr/>
---------------------------	---

2. Representative(s). Representative(s) must sign and date this form in Part II below.

Name and mailing address of Representative (<i>lead representative</i>)	Telephone None . <hr/> Email <hr/>
Name and mailing address of Representative (<i>optional additional representative</i>)	Telephone None . <hr/> Email <hr/>

3. Taxpayer declaration and signature. I appoint the above individual(s) to represent the Taxpayer before the Tax Appeals Commission. If signed by a corporate officer, partner, guardian, partnership representative, executor, receiver, administrator, trustee, or individual other than the Taxpayer, I certify I have the legal authority to execute this form on behalf of the Taxpayer.

Signature	Date	Title (if applicable)
Print name of signer		

Part II Declaration of Representative(s)

I have reviewed and will follow the Arkansas Tax Appeals Commission Rules of Procedure; I am not currently suspended or disbarred from practice, or ineligible for practice, as an attorney, certified public accountant, or other professional by any jurisdiction; I am authorized to represent the Taxpayer for the matter(s) specified herein; and I am one of the following:

- a** Attorney—a member in good standing and authorized to practice law in Arkansas;
- b** Certified Public Accountant—a holder of an active license to practice as a certified public accountant;
- c** Full-Time Employee—a full-time employee of the Taxpayer; or
- d** Other Authorized Representative.

Designation Insert above letter (a–d)	Licensure state(s) and license number(s), if applicable	Signature I declare under penalty of perjury that the foregoing is true and correct.	Date Executed executed

Instructions: Power of Attorney and Declaration of Representative

General Instructions

Purpose of Form

Use this Power of Attorney (POA) form to authorize an individual to represent you before the Tax Appeals Commission (TAC). You may authorize any individual 18 years of age or older to represent you. Authorizing someone to represent you does not relieve you of your tax obligations.

Questions regarding this form should be directed to the Commission at the address below (under *How to File*) or by phone at 501-682-2741.

How To File

For new cases about to be filed, the POA can be uploaded by attaching it to the online petition form, which can be found at <https://ig.arkansas.gov/tax-appeals-commission/petition/>. For cases already assigned a docket number, the POA can be emailed to the case-specific email address. Other alternatives are to email the POA to tac@arkansas.gov, or mail or hand-deliver the POA to:

Tax Appeals Commission
900 West Capitol, Suite 310
Little Rock, AR 72201

Authority Granted

Except as specified below, this power of attorney authorizes the listed representative(s) to receive confidential tax information and appear on your behalf before the Tax Appeals Commission. This authorization does not include the power to (1) substitute or add another representative or (2) disclose tax returns or return information to a third party.

Revocation or withdrawal of a power of attorney

On written motion served on the party represented and all other parties of record, the presiding commissioner may grant an authorized representative leave to withdraw for good cause shown.

Address Changes

If the email address or USPS address for either you or your representative changes, do not file a new POA. Instead, file a written notification with the Commission that includes the new information.

Specific Instructions

Part I. Power of Attorney

Line 1. Taxpayer Information

Enter the information requested. Do not enter information about any other person, including your spouse. A separate Power of Attorney should be submitted for each taxpayer.

Individuals. Enter your name, your street address or post office box, and the [Letter ID tax period\(s\)](#) from the notice you received from the Department of Finance and Administration. If you, your spouse, or former spouse are submitting POAs in connection with a joint return that you filed, you must each submit separate POA forms even if you are authorizing the same representative(s) to represent you.

Corporations, associations, or partnerships. Enter the name, business address, and [Letter ID the tax period\(s\)](#) from the notice you received from the Department of Finance and Administration. For consolidated returns, only the parent corporation information is required on line 1.

Exempt organizations. Enter the name and address of the organization, and the [Letter-IDtax period\(s\)](#) from the notice you received from the Department of Finance and Administration.

Trusts. Enter the name, title, and address of the trustee, and the [Letter-IDtax period\(s\)](#) from the notice you received from the Department of Finance and Administration.

Deceased individuals or estates. Enter the name of the decedent; the name, title, and address of the decedent's executor or personal representative; and the [Letter-IDtax period\(s\)](#) from the notice you received from the Department of Finance and Administration.

Line 2. Representative(s)

Enter the information requested about your representative(s). You may name any individual 18 years of age or older as your representative. If you want to name more than two representatives, submit additional POA forms. Your authorization of an eligible representative will allow that individual to receive your confidential tax information.

Line 3. Taxpayer Declaration and Signature

The POA must be manually signed by the taxpayer. The filed POA can include a copy or scan of the manual signature.

Individuals. You must sign and date the POA. If you filed a joint return, your spouse must execute his or her own POA on a separate form to designate a representative. For Taxpayer individuals who are under 18 years of age and cannot sign, the individual's parent or guardian may sign on their behalf. Other individuals may sign for the Taxpayer if a POA form has been signed by the parent or guardian authorizing the other individual(s) to sign on behalf of the Taxpayer.

Corporations or associations. An officer with the legal authority to bind the corporation or association must sign and enter his or her title.

Partnerships. One partner authorized to act in the name of the partnership is required to sign and enter his or her title. A partner is authorized to act in the name of the partnership if, under state law, the partner has authority to bind the partnership.

Estates. If there is more than one executor, only one co-executor having the authority to bind the estate is required to sign.

All others. If the Taxpayer is a dissolved corporation, deceased individual, insolvent, or a person for whom or by whom a fiduciary (a trustee, guarantor, receiver, executor, or administrator) has been appointed, an individual with the authority to bind the entity is required to sign.

Part II. Declaration of Representative

The representative(s) you name must sign and date this declaration and enter the designation (items (a)–(d)) in the order listed. An authorized representative must certify review of the Arkansas Tax Appeals Commission Rules of Procedure, which are found at:

<https://ig.arkansas.gov/tax-appeals-commission/legal-information-rules-and-self-help/>.

In addition, the representative(s) must include the requested information in the column headed “Licensure state(s) and license number(s), if applicable.”

**ARKANSAS TAX APPEALS COMMISSION
JOINT REFUND OFFSET PETITION ADDENDUM**

(See Instructions)

Part I Taxpayer and Case Information.

Nondebtor Spouse: _____ DFA Letter ID: _____

Debtor Spouse: _____ Docket No. (if assigned): _____

Claimant Agency: _____

Part II Calculation of Refund Attributable to Each Spouse.

Use this worksheet to calculate the amount of the total refund that is attributable to each spouse.

			Nondebtor Spouse	Debtor Spouse	Total
<i>Tax Amounts</i>					
Line 1	Tax	Form AR1000F, line 29			
Line 2	Other taxes	Form AR1000F, lines 31 & 32			
Line 3	Total taxes	Add lines 1 and 2			
<i>Credits and Payments</i>					
Line 4	Personal Tax Credit	Form AR1000F, line 34			
Line 5	Child Care Credit	Form AR1000F, line 35			
Line 6	Other Credits	Form AR1000F, line 36			
Line 7	Payments	Form AR1000F, line 46			
Line 8	Total Credits and Payments	Add lines 4 through 7			
Line 9	Proportionate Shares of Tax Refund	Subtract Line 3 from Line 8			

Part III Checklist of Required Items. *Provide all necessary documentation; see Instructions for details.*

- Provide a completed Claimant Agency Nondebtor Certification or equivalent documentation from the Claimant Agency certifying that you, the Nondebtor Spouse, do not owe money to the agency.ⁱ
- Provide all tax documents needed to support the share of the tax refund you are entitled to as the Nondebtor Spouse, such as your complete Arkansas tax return and all forms W-2 or 1099.ⁱⁱ
- Provide a copy of the Notice of Refund Offset issued by the Department of Finance and Administration.ⁱⁱⁱ
- Provide the signature of the Nondebtor Spouse on the petition.^{iv}

Instructions: Petition Addendum – Joint Refund Offset

(Rev. Nov 2023)

General Instructions

This petition addendum and the related documents must be included with any petition seeking spousal relief from a proposed joint refund offset. Only spousal relief claims can be heard. **The Tax Appeals Commission cannot hear an appeal of the validity of the debt listed as owed by Debtor Spouse or whether the debt has been paid.**

“Nondebtor Spouse” refers to the spouse not identified as owing a debt to the Claimant Agency, who is the taxpayer petitioning for spousal relief from a Joint Refund Offset. “Debtor Spouse” refers to the individual identified as owing the debt, with whom the Nondebtor Spouse filed a joint return.

“Claimant Agency” is the governmental agency or entity that has submitted a debt to the Department of Finance and Administration for collection by tax refund offset. “DFA” means the Department of Finance and Administration.

Information concerning the appeal process and the Commission’s Rules of Procedure is available online at <https://tac.arkansas.gov>. Questions regarding this form should be directed to the Commission at tac@arkansas.gov or 501-682-2741. Questions about the debt itself should be directed to the Claimant Agency.

Specific Instructions

Part I – Taxpayer and Case Information

Enter the information for the Nondebtor Spouse seeking relief and for the Debtor Spouse identified in the DFA Notice of Refund Offset, including the Claimant Agency and the DFA Letter ID for the Notice. (Listing on this form as the Debtor Spouse does not constitute any admission or evidence of the debt.) If you have already filed a petition, provide the docket number for your case.

Part II – Calculation of Refund Attributable to Each Spouse

The total refund claimed on a joint return can be attributed to one or the other spouse, or each spouse could share in the refund depending on the tax incurred, [tax withheld as reported on Forms W-2 or 1099](#), and ~~withholding or~~ payments made. Only the portion of the refund that is attributable to the Nondebtor Spouse is eligible for relief. Use the worksheet to calculate the amount of the total refund that is attributable to each spouse. References to the related lines on your return are provided in the worksheet. The amounts you enter in the “Total” column must agree with the amounts shown on your return. Taxes, credits, and payments should be assigned to the relevant individuals. ~~Joint items, such as a credit for a dependent child both spouses have custody of, should be split evenly, or split where appropriate.~~ Nonrefundable credits exceeding an individual’s proportionate share of tax should be assigned to the other spouse.

Part III – Checklist of Required Items

Include with the petition and this addendum each listed item. **If any are missing, your petition could be rejected.**

- ⁱ A completed Claimant Agency Nondebtor Certification form or equivalent document from the Claimant Agency certifying that the Nondebtor Spouse is not a debtor of the Claimant Agency.
- ⁱⁱ Documents to support the amount of refund that is attributable to the Nondebtor Spouse. This documentation must support the share of the Nondebtor Spouse’s payment of tax and the resulting amount of the joint refund that is not subject to setoff. Include a complete copy of the individual income tax return (typically form AR1000F), all forms W-2 and 1099, and any other documentation that supports the credits allowable for each spouse, and the Arkansas income taxes owed and paid by each spouse.
- ⁱⁱⁱ A copy of the Notice of Refund Offset issued by DFA, which is needed to confirm which spouse is listed as owing the debt, what agency is the Claimant Agency, and the amount of the proposed offset.
- ^{iv} The Nondebtor Spouse must sign the petition. The Debtor Spouse’s signature is not needed or sufficient.



ARKANSAS TAX APPEALS COMMISSION

CLAIMANT AGENCY NONDEBTOR CERTIFICATION FOR INCOME TAX JOINT REFUND OFFSET APPEAL

Instructions: Arkansas state or local government agencies may collect debts by intercepting state income tax refunds. For spouses filing a joint Arkansas income tax return, the spouse who does not owe the debt (the “Nondebtor Spouse”) can request that his or her share of a tax overpayment be refunded instead of being applied to the debt of the spouse who does owe the debt. The Nondebtor Spouse must prove that he or she does not owe money to the agency by obtaining documentation certified by the agency verifying that the Nondebtor Spouse is not a debtor of the claimant agency. See Ark. Code Ann. § 26-36-315(c)(1)(B)(i). This form is provided for that purpose, or the agency’s own format may be used. Once completed and signed by an authorized individual for the agency, the completed form should be returned to the Nondebtor Spouse, who is responsible for filing it with the Tax Appeals Commission.

Claimant Agency: _____

Nondebtor Spouse full name: _____

Nondebtor Spouse account, SSN, or other identifier: _____

Nondebtor Spouse city and state: _____

The records of the claimant agency reflect that (*mark whichever best applies*):

- The Nondebtor Spouse named above is not a debtor of the agency.
- The agency does not have any record of debts owed by the Nondebtor Spouse named above.
- The Nondebtor Spouse named above has a balance due of \$0.00.
- Other. Explain: _____

I certify that this information is true and correct.

Signature

Date

Printed Name

Title

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: S2/16/23

A Bill

SENATE BILL 184

5 By: Senator B. Johnson
6 By: Representative Eaves
7

For An Act To Be Entitled

9 AN ACT TO CLARIFY THE EFFECTIVE DATE OF FILING BY
10 MAIL WITH THE TAX APPEALS COMMISSION; TO DECLARE AN
11 EMERGENCY; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO CLARIFY THE EFFECTIVE DATE OF FILING
16 BY MAIL WITH THE TAX APPEALS COMMISSION;
17 AND TO DECLARE AN EMERGENCY.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 26-18-105(a)(1), concerning the date of
23 performance of certain actions related to filing tax related documents, is
24 amended to read as follows:

25 (a)(1) If any return, claim, statement, or other document required to
26 be filed within a prescribed period or on or before a prescribed date under
27 any state tax law is, after that period or date, delivered by the United
28 States mail to the Secretary of the Department of Finance and Administration
29 or to the Tax Appeals Commission, the date of the United States postmark
30 stamped on the cover of the return, claim, statement, or other document shall
31 be deemed to be the date of delivery.
32

33 SECTION 2. DO NOT CODIFY. TEMPORARY LANGUAGE.

34 (a) A petition of a taxpayer under § 26-18-1113 shall be considered
35 timely filed if the petition was:

36 (1) Submitted by mail before the effective date of this act;



1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: H3/8/23

A Bill

SENATE BILL 185

5 By: Senator B. Johnson
6 By: Representative Eaves
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE APPOINTMENT PROCEDURE FOR THE TAX
10 APPEALS COMMISSION TO PROVIDE FOR THE FILLING OF
11 VACANCIES ON THE COMMISSION; TO DECLARE AN EMERGENCY,
12 AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO AMEND THE APPOINTMENT PROCEDURE FOR
16 THE TAX APPEALS COMMISSION TO PROVIDE FOR
17 THE FILLING OF VACANCIES ON THE
18 COMMISSION; AND TO DECLARE AN EMERGENCY.
19
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 *SECTION 1. Arkansas Code § 26-18-1106(a) and (b), concerning the*
25 *appointment of commissioners to the Tax Appeals Commission, are amended to*
26 *read as follows:*

27 *(a)(1) The Tax Appeals Commission shall consist of three (3)*
28 *commissioners who are subject to the requirements of § 26-18-1107.*

29 *(2) Commissioners ~~shall~~ may be selected from a pool of*
30 *candidates recommended as follows:*

31 *(A) The Arkansas Bar Association shall nominate three (3)*
32 *individuals who are licensed to practice law in this state;*

33 *(B) The majority of the Supreme Court shall nominate three*
34 *(3) individuals who are:*

35 *(i) Licensed to practice law in this state; ~~and~~*

36 *(ii) Certified as a certified public accountant in*



1 this state; ~~and~~ or

2 (iii) Both licensed to practice law in this state
 3 and certified as a certified public accountant in this state; and

4 (C) The Arkansas Society of Certified Public Accountants
 5 shall nominate three (3) individuals who are certified as a certified public
 6 accountant in this state.

7 (3) The Governor ~~shall~~:

8 (A) May appoint one (1) commissioner from each pool of
 9 candidates nominated under this subsection;

10 (B) May appoint an individual who is not nominated under
 11 this subsection who meets the applicable licensure requirements of a
 12 particular pool and who otherwise meets the qualification requirements stated
 13 in § 26-18-1107; and

14 (C)(i) With the advice of the Secretary of the Department
 15 of Inspector General, shall designate one (1) of the commissioners of the Tax
 16 Appeals Commission to serve as Chief Commissioner of the Tax Appeals
 17 Commission.

18 (ii) The Governor may change the designation of
 19 Chief Commissioner of the Tax Appeals Commission at any time.

20 (iii) A commissioner's designation as Chief
 21 Commissioner of the Tax Appeals Commission does not affect the commissioner's
 22 term of appointment.

23 (b) The Chief Commissioner of the Tax Appeals Commission shall:

24 ~~(1) Be appointed from the pool of candidates nominated by the~~
 25 ~~Supreme Court;~~

26 ~~(2)~~ Meet the requirements stated in § 26-18-1107 for the
 27 position of chief commissioner;

28 ~~(3)~~(2) Act as the executive officer of the commission;

29 ~~(4)~~(3) Be subject to the same provisions of law as
 30 commissioners;

31 ~~(5)~~(4) Be charged with the administration of the commission;

32 ~~(6)~~(5) Apportion among the commission all causes, matters, and
 33 hearings coming before the commission;

34 ~~(7)~~(6) Take any action necessary to enable the commission to
 35 properly exercise the duties, functions, and powers of the commission under
 36 this subchapter; and

1 ~~(8)~~(7) Submit an annual report to the Speaker of the House of
2 Representatives, the President Pro Tempore of the Senate, the Chair of the
3 House Committee on Judiciary, the Chair of the Senate Committee on Judiciary,
4 the cochairs of the Legislative Council, the Governor, and the Secretary of
5 the Department of Inspector General that contains the following information
6 for the year that is the subject of the report:

7 (A) The case load of the commission;

8 (B) The number of petitions filed;

9 (C) The number of claims settled;

10 (D) The number of decisions the commission rendered;

11 (E) The number of decisions rendered:

12 (i) In favor of the Department of Finance and
13 Administration;

14 (ii) In favor of the taxpayer; and

15 (iii) Partially in favor of the department and
16 partially in favor of the taxpayer;

17 (F) The number of matters heard:

18 (i) In person;

19 (ii) By teleconference or videoconference;

20 (iii) Using a combination of in-person and either
21 teleconference or videoconference means; and

22 (iv) Solely on the documents filed with the
23 commission; and

24 (G) The average time for a claim to be processed from the
25 petition's being filed to a decision's being rendered, calculated for each
26 type of hearing conducted by the commission.

27
28 SECTION 2. Arkansas Code § 26-18-1106(f), concerning the appointment
29 of commissioners to the Tax Appeals Commission, is amended to read as
30 follows:

31 (f)(1) If a vacancy occurs on the commission, the Governor shall
32 appoint a commissioner to fill the vacancy.

33 (2) If the vacant position is one (1) that was filled by a
34 candidate nominated by:

35 (A) The Arkansas Bar Association or otherwise appointed by
36 the Governor in lieu of Arkansas Bar Association nominees, the Arkansas Bar

1 Association shall nominate three (3) individuals who are licensed to practice
2 law in this state;

3 (B) The majority of the Supreme Court or otherwise
4 appointed by the Governor in lieu of Supreme Court nominees, the majority of
5 the Supreme Court shall nominate three (3) individuals who are:

6 (i) Licensed to practice law in this state; ~~and~~

7 (ii) Certified as a certified public accountant in
8 this state; ~~and~~ or

9 (iii) Both licensed to practice law in this state
10 and certified as a certified public accountant in this state; and

11 (C) The Arkansas Society of Certified Public Accountants
12 or otherwise appointed by the Governor in lieu of Arkansas Society of
13 Certified Public Accountants nominees, the Arkansas Society of Certified
14 Public Accountants shall nominate three (3) individuals who are certified as
15 a certified public accountant in this state.

16 (3)(A) The Governor may appoint:

17 (i) A commissioner to fill a vacancy from the
18 relevant pool of candidates nominated under this subsection; or

19 (ii) An individual not nominated under this
20 subsection who meets the applicable licensure requirements of a particular
21 pool and who otherwise meets the qualification requirements stated in § 26-
22 18-1107.

23 (B) If a vacancy occurs in the position of Chief
24 Commissioner of the Tax Appeals Commission, the Governor shall designate one
25 (1) of the commissioners to act as the interim Chief Commissioner of the Tax
26 Appeals Commission until the vacancy is filled.

27
28 SECTION 3. Arkansas Code § 26-18-1107 is amended to read as follows:
29 26-18-1107. Qualifications of commissioners.

30 (a) Each commissioner of the Tax Appeals Commission shall:

31 (1) Be a qualified elector of the State of Arkansas;

32 (2) Be ~~either~~ licensed to practice law in the state or certified
33 as a certified public accountant in the state, or both; and

34 (3) Possess substantial knowledge of Arkansas tax law.

35 (b) In addition to meeting the requirements of subsection (a) of this
36 section, the Chief Commissioner of the Tax Appeals Commission shall+

~~(1) Be licensed to practice law in the state;~~

~~(2) Have have been engaged in the private practice of law or accounting, ~~or~~ employed in the private sector, or ~~both~~ engaged in any combination of the private practice of law, the private practice of accounting, and employment in the private sector, for at least five (5) of the immediately preceding ten (10) years before ~~the chief commissioner's~~ his or her first appointment to the commission; ~~and~~~~

~~(3) Be licensed as a certified public accountant in the state.~~

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Tax Appeals Commission is in the process of setting up to begin receiving and hearing appeals in January 2023, and that this act is immediately necessary to provide for appointments of commissioners upon vacancy. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/B. Johnson

APPROVED: 3/21/23