

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

A Bill

SENATE BILL 529

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

For An Act To Be Entitled

8 AN ACT TO AMEND THE INDEPENDENT TAX APPEALS
9 COMMISSION ACT; AND FOR OTHER PURPOSES.
10

Subtitle

11 TO AMEND THE INDEPENDENT TAX APPEALS
12 COMMISSION ACT.
13

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
15

16 SECTION 1. Arkansas Code § 26-18-1104 is amended to read as follows:
17 26-18-1104. ~~Definition~~ Definitions.

18 As used in this subchapter, ~~“taxpayer”~~:

19 (1) “Small claim” means a claim in which the disputed tax at
20 issue, excluding any penalties and interest, is less than ten thousand
21 dollars (\$10,000); and

22 (2) “Taxpayer” means an individual or entity that:
23 ~~(1)(A)~~ Is challenging the state’s taxing jurisdiction over
24 the taxpayer; or

25 ~~(2)(B)~~ Has standing to challenge a decision by the
26 Department of Finance and Administration:

27 ~~(A)(i)~~ Imposing liability for a tax, penalty, or
28 interest;

29 ~~(B)(ii)~~ Denying a credit or deduction;

30 ~~(C)(iii)~~ Denying a refund, credit, or incentive
31 claim or application;

32 ~~(D)(iv)~~ Canceling, refusing, or revoking a license
33 or permit under § 26-18-601, § 26-52-803, § 26-55-219, § 26-55-224, § 26-55-
34



1 231, § 26-56-204, § 26-56-311, § 26-57-413, § 26-57-419, or § 26-62-204;

2 ~~(E)(v)~~ Closing a noncompliant taxpayer's business;

3 ~~(F)(vi)~~ Relating to a jeopardy assessment;

4 ~~(G)(vii)~~ Seizing a vending device or a coin-operated
5 amusement device; or

6 ~~(H)(viii)~~ Taking any other action that provides a
7 taxpayer the right to a hearing with the Tax Appeals Commission under state
8 law.

9
10 SECTION 2. Arkansas Code § 26-18-1106(d), concerning the appointment
11 of commissioners to the Tax Appeals Commission, is amended to read as
12 follows:

13 (d) Each commissioner shall receive an annual salary ~~and benefits~~
14 ~~comparable to the salary and benefits provided to state district court judges~~
15 as prescribed by law and appropriated by the General Assembly.

16
17 SECTION 3. Arkansas Code § 26-18-1106(f)(3)(A), concerning the
18 appointment of commissioners of the Tax Appeals Commission, is amended to
19 read as follows:

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

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

23 (ii) An individual not nominated under this
24 subsection who ~~meets the applicable licensure requirements of a particular~~
25 pool has at least five (5) years' experience in a professional occupation
26 related to Arkansas state taxes and who otherwise meets the qualification
27 requirements stated in § 26-18-1107.

28
29 SECTION 4. Arkansas Code § 26-18-1107(a), concerning the
30 qualifications of commissioners of the Tax Appeals Commission, is amended to
31 read as follows:

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

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

34 (2) Either:

35 (A) Be licensed to practice law in the state or certified
36 as a certified public accountant in the state, or both; or

1 (B) Shall have at least five (5) years' experience in a
 2 professional occupation related to Arkansas state taxes; and

3 (3) Possess substantial knowledge of Arkansas tax law.
 4

5 SECTION 5. Arkansas Code § 26-18-1109(a), concerning employees of the
 6 Tax Appeals Commission, is amended to read as follows:

7 (a) The Tax Appeals Commission+

8 ~~(1) May employ a clerk, an assistant, and other may hire~~
 9 employees as necessary to carry out the duties of the commission; ~~and~~

10 ~~(2) Shall employ+~~

11 ~~(A)(i) A staff attorney.~~

12 ~~(ii) The duties of the staff attorney shall include~~
 13 ~~without limitation assisting the commissioners with drafting decisions; and~~

14 ~~(B) An accountant who has experience in tax issues related~~
 15 ~~to manufacturing and business.~~

16
 17 SECTION 6. Arkansas Code § 26-18-1110(a)(4)(B), concerning the
 18 jurisdiction of the Tax Appeals Commission, is amended to read as follows:

19 (B) The commission shall not extend the deadline for:

20 (i) A taxpayer to file a petition ~~under § 26-18-~~
 21 ~~1113; or~~

22 (ii) The commission to issue a decision, except as
 23 otherwise provided under § 26-18-1116(b).
 24

25 SECTION 7. Arkansas Code § 26-18-1110(b) and (c), concerning the
 26 jurisdiction of the Tax Appeals Commission, are amended to read as follows:

27 (b) The commission does not have jurisdiction to:

28 (1) Hear disputes involving taxes that are excepted from the
 29 Arkansas Tax Procedure Act under § 26-18-102;

30 (2) Decide questions regarding the constitutionality of the
 31 application of statutes to a taxpayer or the constitutionality of rules
 32 promulgated by the department;

33 (3) Hear a claim for protection against enforcement of an
 34 illegal exaction under Arkansas Constitution, Article 16, § 13; or

35 (4) Hear or decide ~~claims for which the Office of Hearings and~~
 36 ~~Appeals has issued an administrative decision; or~~

1 ~~(5) Hear or decide~~ a claim that is the subject of pending
2 litigation.

3 ~~(c) Upon the creation of the commission:~~

4 ~~(1) The Office of Hearings and Appeals shall hear a proceeding~~
5 ~~resulting from an action or decision by the secretary, including without~~
6 ~~limitation the issuance of a proposed assessment, a refund claim denial, or~~
7 ~~any other matter brought by a taxpayer, that was issued before January 1,~~
8 ~~2023;~~

9 ~~(2) The commission shall hear a proceeding resulting from an~~
10 ~~action or decision by the secretary, including without limitation the~~
11 ~~issuance of a proposed assessment, a refund claim denial, or any other matter~~
12 ~~brought by a taxpayer, that was issued on or after January 1, 2023; and~~

13 ~~(3) A taxpayer that has a matter pending before the Office of~~
14 ~~Hearings and Appeals for which a hearing or prehearing has not been held may~~
15 ~~elect to have the taxpayer's matter transferred to the commission.~~

16
17 SECTION 8. Arkansas Code § 26-18-1111(b), concerning the settlement of
18 tax disputes under the Independent Tax Appeals Commission Act, is amended to
19 read as follows:

20 (b) If a matter is settled after a petition has been filed with the
21 Tax Appeals Commission under this subchapter, the parties shall ~~notify the~~
22 ~~commission so that the matter is withdrawn~~ file a motion to withdraw the
23 matter from consideration by the commission.

24
25 SECTION 9. Arkansas Code § 26-18-1113(c)-(f), concerning pleadings
26 filed under the Independent Tax Appeals Commission Act, are amended to read
27 as follows:

28 ~~(c)(1)~~ The department shall file an answer to a petition filed under
29 this section within sixty (60) days of receipt of the notice from the
30 commission under subdivision (b)(2) of this section.

31 ~~(2)(A) The department shall serve a copy of the answer on the~~
32 ~~taxpayer's representative, or, if the taxpayer is not represented, on the~~
33 ~~taxpayer directly.~~

34 ~~(B) An attorney's certification that the attorney sent the~~
35 ~~pleading by a means of service authorized under § 26-18-1112 is sufficient~~
36 ~~proof of service under subdivision (c)(2)(A) of this section.~~

1 (d)~~(1)~~ A taxpayer may:

2 ~~(A)(1)~~ File a reply to an answer filed under subsection
3 (c) of this section within thirty (30) days of the date the answer was served
4 on the taxpayer or the authorized representative of the taxpayer; or

5 ~~(B)(2)~~ Move for default judgment if no answer was filed,
6 unless the petition was for a small claim.

7 ~~(2) The taxpayer shall:~~

8 ~~(A) Serve a copy of a reply filed under subdivision (d)(1)~~
9 ~~of this section on the authorized representative of the department; and~~

10 ~~(B)(i) File proof of service of the reply filed under~~
11 ~~subdivision (d)(1) of this section with the reply.~~

12 ~~(ii) A certification by the taxpayer or the~~
13 ~~authorized representative of the taxpayer stating that he or she sent the~~
14 ~~pleading by a means of service authorized under § 26-18-1112 is sufficient~~
15 ~~proof of service under subdivision (d)(2)(B)(i) of this section.~~

16 (e)(1)(A) Within thirty (30) days after a reply has been filed or the
17 deadline to file a reply has passed, the commission shall schedule a hearing
18 to be held within ninety (90) days of the date the reply was filed or the
19 deadline to file a reply passed.

20 (B) For a small claim, if either party requests a hearing
21 and the commission elects to hold a hearing, within thirty (30) days of
22 service of the petition on the department, the commission shall schedule a
23 hearing, which shall occur within sixty (60) days of service of the petition
24 on the department.

25 (2)(A) Before scheduling a hearing under this section, the Chief
26 Commissioner of the Tax Appeals Commission shall assign the proceeding to one
27 (1) commissioner or to all available commissioners sitting en banc, ~~depending~~
28 ~~on the nature and significance of the proceeding.~~

29 (B) There is a presumption that proceedings:

30 (i) For which the net amount of the tax deficiencies
31 and claimed refunds in controversy does not exceed twenty-five thousand
32 dollars (\$25,000), exclusive of interest and penalties, should be assigned to
33 one (1) commissioner;

34 (ii) Identified in subsection (g) of this section
35 should be assigned to one (1) commissioner; and

36 (iii) For which the net amount of the tax

1 deficiencies and claimed refunds in controversy exceeds two hundred fifty
2 thousand dollars (\$250,000), exclusive of interest and penalties, should be
3 assigned to all commissioners sitting en banc.

4 (3) Before a hearing is held, the chief commissioner may
5 reassign the proceeding to one (1) commissioner or to all commissioners
6 sitting en banc.

7 (4) For a petition to be decided on written submissions,
8 including a petition for a small claim, the commission shall provide for the
9 orderly close of the record without a hearing.

10 (f)(1) Either party may amend a pleading one (1) time without leave at
11 any time before the period for responding to the pleading expires.

12 (2) After the period for responding to a pleading expires, a
13 pleading may be amended only with the written consent of the adverse party or
14 with the permission of the commission.

15 (3) The commission shall allow a party to file an answer or
16 reply, or both, to an amended pleading, and the commission shall specify a
17 deadline for filing the answer or reply, or both.

18 (4) A taxpayer shall not amend the taxpayer's petition after the
19 expiration of the time for filing a petition if the amended petition would
20 have the effect of conferring jurisdiction over a matter that would otherwise
21 not come within the jurisdiction of the commission ~~because of the statute of~~
22 ~~limitations or otherwise.~~

23 (5) The commission shall provide notice of an amended pleading
24 to the adverse party.

25
26 SECTION 10. Arkansas Code § 26-18-1113, concerning pleadings filed
27 under the Independent Tax Appeals Commission Act, is amended to add
28 additional subsections to read as follows:

29 (h) A petition for a small claim is subject to a streamlined
30 proceeding process as prescribed by the commission unless, upon the election
31 of the commission or a motion of a party, the commission designates
32 otherwise.

33 (i) The commission may stay proceedings under this subchapter,
34 including proceedings on a petition for a small claim, and direct the parties
35 to confer regarding a voluntary resolution to the dispute on which a petition
36 is based.

1
2 SECTION 11. Arkansas Code § 26-18-1115(j), concerning hearings under
3 the Independent Tax Appeals Commission Act, is amended to read as follows:

4 (j) Except in a case involving the denial of a claim for refund or a
5 small claim, the taxpayer shall have the right to have the taxpayer's case
6 heard before paying any of the amounts asserted as due by the Department of
7 Finance and Administration.

8
9 SECTION 12. Arkansas Code § 26-18-1115(1), concerning hearings under
10 the Independent Tax Appeals Commission Act, is amended to read as follows:

11 (1)(1) A taxpayer may elect to have the taxpayer's petition heard:

12 (A) In person;

13 (B) By teleconference;

14 (C) By videoconference;

15 (D) By any combination of in-person, teleconferencing, or
16 videoconferencing means; or

17 (E) Solely upon the documents filed with the commission.

18 ~~(2) The taxpayer shall make an election under subdivision (1)(1)~~
19 ~~of this section in the taxpayer's initial petition.~~

20 ~~(3)~~ If the taxpayer fails to make an election under subdivision
21 (1)(1) of this section in the taxpayer's initial petition, the petition shall
22 be set for an in-person hearing in Little Rock with an option for the
23 taxpayer to participate by teleconference or videoconference.

24 ~~(4)(3)~~ The taxpayer may amend an election under this subsection:

25 (A) Up to the date the taxpayer's reply is filed or due to
26 be filed; or

27 (B) With the consent of the commission after notice to the
28 department and an opportunity to be heard.

29 ~~(5)(4)~~ The department may elect to appear by teleconference or
30 videoconference for a hearing.

31 ~~(6)(5)~~ The commission may require a hearing by a means other
32 than the means elected by the taxpayer for good cause or when it is in the
33 interest of justice.

34
35 SECTION 13. Arkansas Code § 26-18-1116(b)(1), concerning decisions of
36 the Tax Appeals Commission, is amended to read as follows:

1 (b)(1)(A) Except as provided in subdivision (b)(1)(B) of this section,
 2 a decision of the commission under this section shall be issued no later than
 3 ninety (90) days after the ~~submission of the last pleading or brief filed or~~
 4 ~~the~~ completion of the hearing or the closure of the record, whichever is
 5 later.

6 (B) The commission shall issue a decision:

7 (i) ~~Within five (5) business days after a hearing is~~
 8 ~~concluded under § 26-18-402;~~

9 ~~(ii)~~ Within three (3) business days after a hearing
 10 is concluded under § 26-18-601(b);

11 ~~(iii)~~(ii) Within five (5) business days after a
 12 hearing is concluded under § 26-18-402, § 26-18-1002, § 26-55-247, or § 26-
 13 57-1212; and

14 ~~(iv)~~(iii) Within twenty (20) calendar days after a
 15 hearing is concluded under § 26-18-507(e)(1)(B)(ii), § 26-18-601(c), ~~or~~ § 26-
 16 36-315(c), § 26-55-224, § 26-55-231, § 26-56-204, § 26-56-311, § 26-57-413, §
 17 26-62-204, or § 26-57-419;

18 ~~(v)~~ Within twenty (20) calendar days after a hearing
 19 is concluded under ~~§ 26-55-224, § 26-56-204, or § 26-62-204;~~

20 ~~(vi)~~ Within twenty (20) calendar days after a
 21 hearing is concluded under ~~§ 26-55-231, § 26-56-311, § 26-57-413, or § 26-57-~~
 22 ~~419;~~

23 ~~(vii)~~ Within five (5) business days after a hearing
 24 is concluded under ~~§ 26-55-247; and~~

25 ~~(viii)~~ Within five (5) business days after a hearing
 26 is concluded under ~~§ 26-57-1212.~~

27
 28 SECTION 14. Arkansas Code § 26-18-1116(d)(1), concerning decisions of
 29 the Tax Appeals Commission, is amended to read as follows:

30 (d)(1) The interpretation of a ~~taxing~~ statute adopted by the
 31 commission in a proceeding en banc shall be followed by the commission in
 32 subsequent cases involving the same statute.

33
 34 SECTION 15. Arkansas Code § 26-18-1118(a)(3), concerning
 35 representation of a taxpayer under the Independent Tax Appeals Commission
 36 Act, is amended to read as follows:

1 (3) If the taxpayer fails to attach a power of attorney to the
2 petition, the commission shall allow the taxpayer thirty (30) calendar days
3 from notice of the deficiency to file the required power of attorney.
4

5 SECTION 16. Arkansas Code § 26-18-1120 is amended to read as follows:
6 26-18-1120. Rules.

7 The Tax Appeals Commission shall promulgate rules ~~and forms~~ to:

8 (1) Carry out the intent and purpose of this subchapter; and

9 (2) Implement the duties assigned to the commission, including
10 without limitation rules:

11 (A) Governing pleadings and service of process
12 requirements to commence a hearing under this subchapter and the practice and
13 procedure rules of the commission;

14 (B) To provide for expedited proceedings;

15 (C) To establish guidelines for the redaction of
16 personally identifying taxpayer information in published decisions; and

17 (D) To establish a procedure for petitions and hearings
18 under:

19 (i) Section 26-18-402;

20 (ii) Section 26-18-601(b) and (c);

21 (iii) Section 26-18-1002;

22 (iv) Section 26-36-315;

23 (v) Section 26-55-219;

24 (vi) Section 26-55-224;

25 (vii) Section 26-55-231;

26 (viii) Section 26-55-247;

27 (ix) Section 26-56-204;

28 (x) Section 26-56-311;

29 (xi) Section 26-57-413;

30 (xii) Section 26-57-419;

31 (xiii) Section 26-57-1212; and

32 (xiv) Section 26-62-204.
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