

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

SENATE BILL 529

By: Senator B. Johnson

By: Representative Cavanaugh

For An Act To Be Entitled

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

Subtitle

TO AMEND THE INDEPENDENT TAX APPEALS
COMMISSION ACT.

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

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

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

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

(2) “Taxpayer” means an individual or entity that:

~~(1)(A)~~ Is challenging the state’s taxing jurisdiction over the taxpayer; or

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

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

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

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

~~(D)(iv)~~ Canceling, refusing, or revoking a license or permit under § 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)(v)~~ Closing a noncompliant taxpayer's business;

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

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

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

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

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

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

(3)(A) The Governor may appoint:

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

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

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

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

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

(2) Either:

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

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

(3) Possess substantial knowledge of Arkansas tax law.

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

(a) The Tax Appeals Commission:

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

~~(2) Shall employ:~~

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

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

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

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

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

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

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

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

(b) The commission does not have jurisdiction to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(2) The taxpayer shall:~~

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

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

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

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

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

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

(B) There is a presumption that proceedings:

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

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

(iii) For which the net amount of the tax

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) In person;
- (B) By teleconference;
- (C) By videoconference;
- (D) By any combination of in-person, teleconferencing, or videoconferencing means; or
- (E) Solely upon the documents filed with the commission.

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

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

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

- (A) Up to the date the taxpayer's reply is filed or due to be filed; or
- (B) With the consent of the commission after notice to the department and an opportunity to be heard.

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

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

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

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

(B) The commission shall issue a decision:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Carry out the intent and purpose of this subchapter; and
- (2) Implement the duties assigned to the commission, including

without limitation rules:

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

(B) To provide for expedited proceedings;

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

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

- (i) Section 26-18-402;
- (ii) Section 26-18-601(b) and (c);
- (iii) Section 26-18-1002;
- (iv) Section 26-36-315;
- (v) Section 26-55-219;
- (vi) Section 26-55-224;
- (vii) Section 26-55-231;
- (viii) Section 26-55-247;
- (ix) Section 26-56-204;
- (x) Section 26-56-311;
- (xi) Section 26-57-413;
- (xii) Section 26-57-419;
- (xiii) Section 26-57-1212; and
- (xiv) Section 26-62-204.

APPROVED: 4/14/25