

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1921

By: Representative Lundstrum

By: Senator Hester

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS TAX PROCEDURE ACT; TO AMEND THE LAW CONCERNING NOTICE OF TAX ASSESSMENTS AND DETERMINATIONS; TO REQUIRE EVIDENCE OF ACTUAL NOTICE OF A TAX ASSESSMENT OR DETERMINATION IN CERTAIN CIRCUMSTANCES; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING NOTICE OF TAX ASSESSMENTS AND DETERMINATIONS; AND TO REQUIRE EVIDENCE OF ACTUAL NOTICE OF A TAX ASSESSMENT OR DETERMINATION IN CERTAIN CIRCUMSTANCES.

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

SECTION 1. Arkansas Code § 26-18-307(a), concerning notice requirements under the Arkansas Tax Procedure Act, is amended to read as follows:

(a)(1) The director shall give a taxpayer notice of any assessment, demand, decision, or hearing before the director which directly involves that taxpayer.

(2)(A) All notices required to be given by the director to a taxpayer shall be either served by personal service or sent by ~~regular~~ mail to the taxpayer's last address on record with the particular tax section of the Revenue Division of the Department of Finance and Administration in question.



(B) ~~Service of the notice by mail is presumptively complete upon mailing, and the director may take any action permitted by any state tax law. A taxpayer shall not lose the right to seek relief under § 26-18-404 or § 26-18-406 unless the director provides evidence that the taxpayer received actual notice under this section.~~

(3) All notices of final assessment under § 26-18-401 shall be sent by ~~regular~~ mail.

SECTION 2. Arkansas Code § 26-18-404(c), concerning taxpayer relief under the Arkansas Tax Procedure Act, is amended to read as follows:

(c)(1) Within sixty (60) days after service of notice of the proposed assessment or denial of a claim for refund, the taxpayer may file with the director a written protest under oath, signed by the taxpayer or the taxpayer's authorized agent, setting forth the taxpayer's reasons for opposing the proposed assessment or the denial of a claim for refund.

~~(2)(A) No~~ Except as provided in subdivision (c)(2)(B) of this section, administrative relief will be is not available to a taxpayer who fails to protest or to a taxpayer who fails to request an extension of time to protest a proposed assessment of tax or denial of a claim for refund within the sixty (60) days following the service of notice of the proposed assessment or denial of a claim for refund.

(B) A taxpayer shall not be denied the right to seek relief under this section for failure to protest within the time allotted in this section unless the director provides evidence that the taxpayer received actual notice under § 26-18-307.

SECTION 3. Arkansas Code § 26-18-406(a), concerning judicial relief under the Arkansas Tax Procedure Act, is amended to read as follows:

(a)(1) After the issuance and service on the taxpayer of the final assessment of a deficiency in tax that is not protested by the taxpayer under § 26-18-403 or a final determination of the hearing officer or the director under § 26-18-405, a taxpayer may seek judicial relief from the final assessment or determination by:

~~(1)(A)(A)(i)~~ Filing suit for judicial relief from the final assessment or determination within one hundred eighty (180) days of the date of the final assessment or determination.

~~(B)(ii)~~ A taxpayer filing suit under this subdivision (a)(1)(A) shall not be required to pay the state tax, penalties, and interest due before filing suit;

~~(2)(B)~~ Paying the entire amount of state tax due within one (1) year of the date of the final assessment or determination and filing suit to recover that amount within one (1) year of the date of payment; or

~~(3)(C)~~ Filing suit to recover assessed tax, penalty, and interest paid prior to the time for issuance of the final assessment within one (1) year of the date of the final determination of the hearing officer or the director under § 26-18-405.

(2) However, a taxpayer shall not be denied the right to seek judicial relief under this subsection for failure to file suit within the time allotted in this subsection unless the director provides evidence that the taxpayer received actual notice under § 26-18-307.

SECTION 4. EFFECTIVE DATE. This act is effective for notices sent out by the Director of the Department of Finance and Administration under the Arkansas Tax Procedure Act, § 26-18-101 et seq., on or after January 1, 2020.