

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1921

5 By: Representative Lundstrum
6 By: Senator Hester
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS TAX PROCEDURE ACT; TO
10 AMEND THE LAW CONCERNING NOTICE OF TAX ASSESSMENTS
11 AND DETERMINATIONS; TO REQUIRE EVIDENCE OF ACTUAL
12 NOTICE OF A TAX ASSESSMENT OR DETERMINATION IN
13 CERTAIN CIRCUMSTANCES; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 TO AMEND THE LAW CONCERNING NOTICE OF TAX
17 ASSESSMENTS AND DETERMINATIONS; AND TO
18 REQUIRE EVIDENCE OF ACTUAL NOTICE OF A
19 TAX ASSESSMENT OR DETERMINATION IN
20 CERTAIN CIRCUMSTANCES.
21
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

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

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

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



1 (B) ~~Service of the notice by mail is presumptively~~
 2 ~~complete upon mailing, and the director may take any action permitted by any~~
 3 ~~state tax law. A taxpayer shall not lose the right to seek relief under §~~
 4 ~~26-18-404 or § 26-18-406 unless the director provides evidence that the~~
 5 ~~taxpayer received actual notice under this section.~~

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

8
 9 SECTION 2. Arkansas Code § 26-18-404(c), concerning taxpayer relief
 10 under the Arkansas Tax Procedure Act, is amended to read as follows:

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

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

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

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

29 (a)(1) After the issuance and service on the taxpayer of the final
 30 assessment of a deficiency in tax that is not protested by the taxpayer under
 31 § 26-18-403 or a final determination of the hearing officer or the director
 32 under § 26-18-405, a taxpayer may seek judicial relief from the final
 33 assessment or determination by:

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

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

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

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

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

15
 16 SECTION 4. EFFECTIVE DATE. This act is effective for notices sent out
 17 by the Director of the Department of Finance and Administration under the
 18 Arkansas Tax Procedure Act, § 26-18-101 et seq., on or after January 1, 2020.