

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
John Thurston
500 Woodlane Street, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

PROPOSED
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

Rule-Making

Adjudicative Proceedings

Table of Contents

| | |
|--|----|
| Rule 1 Title, Definitions, and Statement of Organization and Operations | 1 |
| § 1-101 Title, Effective Date, Severability | 1 |
| § 1-102 Definitions | 1 |
| § 1-103 Organization | 2 |
| § 1-104 Hours of Operation | 3 |
| Rule 2 Information for Public Guidance and Requests Under the Freedom of Information Act | 3 |
| § 2-101 Freedom of Information Act Requests | 3 |
| § 2-102 Availability of Forms, Decisions, and Other Documents | 3 |
| Rule 3 General Organization | 3 |
| § 3-101 Public Meetings | 3 |
| § 3-102 Adjudicative Meetings | 4 |
| Rule 4 Rule-Making | 4 |
| § 4-101 Authority | 4 |
| § 4-102 Initiating Rule-Making | 5 |
| § 4-103 Public Comment | 5 |
| § 4-104 Decision to Adopt a Rule | 6 |
| § 4-105 Legislative Approval, Final Filings, and Effective Date | 6 |
| § 4-106 Public Inspection and Records | 6 |
| § 4-107 Emergency Rules | 7 |
| Rule 5 Adjudicative Proceedings | 8 |
| § 5-101 Applicability | 8 |
| § 5-102 Assignment of Proceedings | 8 |
| § 5-103 Appearances and Representation | 8 |
| § 5-104 In-Person Hearings Outside of Little Rock | 9 |
| § 5-105 Consolidation | 9 |
| § 5-106 Filing and Service | 10 |
| § 5-107 Computing Time | 11 |
| § 5-108 Noncompliance | 11 |
| § 5-109 Ex Parte Communications | 11 |

| | |
|---|----|
| § 5-201 Appeal Petition | 12 |
| § 5-202 Answer | 13 |
| § 5-203 Reply..... | 14 |
| § 5-204 Expedited Proceedings | 14 |
| § 5-205 Amended Pleadings | 14 |
| § 5-206 Jurisdictional Objections | 15 |
| § 5-207 Transition from the Department’s Office of Hearings and Appeals | 15 |
| § 5-301 Motions | 16 |
| § 5-302 On-Site Observation | 18 |
| § 5-303 No Discovery..... | 18 |
| § 5-401 Hearing Scheduling | 18 |
| § 5-402 Hearing Procedures | 18 |
| § 5-403 Stipulation | 19 |
| § 5-404 Evidence | 19 |
| § 5-405 Recording of Hearing | 20 |
| § 5-406 Failure to Appear at Hearing | 20 |
| § 5-501 Issuance of Decision to the Parties..... | 20 |
| § 5-502 Redaction and Publication of Decision | 21 |
| § 5-601 Scope and Application of Electronic Filing..... | 22 |
| § 5-602 Time of Filing, Confirmation, and File-Mark | 22 |
| § 5-603 Signatures..... | 23 |
| § 5-604 Format of Documents..... | 23 |
| § 5-605 Registration Requirements..... | 23 |
| § 5-606 Technical Failures | 23 |

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

§ 1-101 Title, Effective Date, Severability

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

(b) These rules shall be effective December 10, 2022, or ten (10) days after filing with the Secretary of State, whichever is later.

(c) 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 proceedings before the Commission in accordance with § 5-103.

(b) “Clerk” means the employee of the Commission designated by the Chief Commissioner to act as Clerk of the Commission.

(c) “Commission” means the Arkansas Tax Appeals Commission.

(d) “Days” means calendar days unless otherwise specified.

(e) “Department” means the Arkansas Department of Finance and Administration.

(f) “Expedited proceeding” means an adjudicative proceeding required by law to be expedited with a shorter petition deadline, hearing deadline, decision deadline, or a combination thereof.

(g) “Presiding Commissioner” means the Commissioner designated by the Chief Commissioner to preside over an adjudicative proceeding as provided in § 5-102.

(h) “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) The individual charged with administration of the Commission is the Chief Commissioner, who is appointed by the Governor. There are two additional Commissioners, also appointed by the Governor.

(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 rule-making.

(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 (2) 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 Rule-Making

§ 4-101 Authority

(a) The purpose of this rule is to inform the public how to initiate rule-making 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 rule-making, 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 rule-making is initiated.

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

§ 4-102 Initiating Rule-Making

(a) The process of adopting a new rule or amending or repealing an existing rule (hereinafter referred to as “rule-making”) 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 Ark. Code § 25-15-204. The petition to initiate rule-making 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 rule-making 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 rule-making.

(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 rule-making 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 Adjudicative Proceedings

§ 5-101 Applicability

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

§ 5-102 Assignment of Proceedings

(a) The Chief Commissioner shall assign the proceeding to one Commissioner or to all available Commissioners sitting en banc, depending on the nature and significance of the proceeding. 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 (1) Commissioner;

(2) A controversy involving expedited proceedings under § 5-204 should be assigned to one (1) 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.

(b) Presiding Commissioner.

(1) For en banc proceedings, the Chief Commissioner shall preside at the hearing or may designate another Commissioner to preside at the hearing.

(2) For proceedings assigned to a single Commissioner, that Commissioner shall preside at the hearing.

(c) If a Commissioner has withdrawn from an en banc proceeding, a special Commissioner shall be appointed under Arkansas Code § 25-16-805 or 26-18-1106, as applicable.

§ 5-103 Appearances and Representation

(a) Any Taxpayer appearing in a Commission adjudicative proceeding 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. Alternatively, the Taxpayer may appear on his or her own behalf.

(b) A Taxpayer's authorized representative must have a completed [Power of Attorney form](#) on file with the Commission before representing a Taxpayer in an adjudicative proceeding. The Commission's form must be used. Until a completed [Power of Attorney form](#) is filed, the Commission and the Department shall communicate directly with the Taxpayer.

(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 for good cause shown.

§ 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

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 proceedings and would not unduly prejudice the rights of a party, including the Taxpayer's right to confidentiality.

§ 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 in paper format by the Commission at its office during the hours of operation in § 1-104, whether by in-person delivery, United States Mail, or otherwise.

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

(c) Every pleading, except for the appeal petition, and every other document filed for the proceeding 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 by 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.

(d) 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 time 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

If a document is timely submitted but noncompliant, the party shall have ten (10) days to cure. The corrected document shall be deemed filed on the date originally submitted.

§ 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, 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 confidential proceedings 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. 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 proceedings that impose petition deadlines as short as five (5) days. The petition shall indicate whether proceedings are required to be expedited. See § 5-204, Expedited Proceedings.

(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; and

(B) Reasonably specify the matter, including the relevant Department account ID, for consideration by the Commission.

(3) An appeal petition that is filed without the form or forms approved by the Commission shall be supplemented with the prescribed form for use as a cover sheet. The Clerk may prepare this form.

(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.

§ 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.

§ 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 and answer.

§ 5-204 Expedited Proceedings

(a) Certain types of proceedings are required by law to be heard on an expedited basis, including shortened petition deadlines. See the [Appeal Petition for Expedited Proceeding form](#).

(b) The petition shall indicate that it is a type of proceeding that must be expedited by filing the [Appeal Petition for Expedited Proceeding form](#).

(c) Upon filing a petition for an expedited proceeding, the Taxpayer or Taxpayer's authorized representative shall call the Clerk to notify the Commission of the need to expedite the proceedings.

(d) If the Taxpayer or Taxpayer's authorized representative fails to notify the Commission of the need to expedite the proceedings, and the Commission subsequently determines that the matter should be expedited, then the Commission shall expedite the matter.

(e) For an expedited proceeding, the hearing 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.

§ 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

(a) The Department may raise a jurisdictional objection to a proceeding by filing a motion under § 5-301.

(b). If the motion is filed within thirty (30) days after service of the petition, then the deadline for the Department to file the answer shall be tolled upon the filing of the motion, but not more than thirty (30) days.

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

(d)(1) If it is determined that the Commission lacks jurisdiction, after notice and an opportunity for a response, the case shall be dismissed and an order of dismissal entered. The order of dismissal shall explain the legal basis for dismissal 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 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.

§ 5-207 Transition from the Department's Office of Hearings and Appeals

(a) If an action or decision occurring before January 1, 2023, has been protested to the Department's Office of Hearings and Appeals, and neither a prehearing nor hearing has been held, the Taxpayer may convert the proceeding to the Commission by filing an appeal petition under § 5-201 on or after the effective date of these Rules.

(1) The petition shall include a copy of the protest to the Office of Hearings and Appeals and may include additional substantive filings by the Taxpayer in that proceeding, such as an answer to an information request.

(2) The Commission shall serve the appeal petition on the Department.

(3) Petitions submitted to the Commission before the effective date of these rules shall not be accepted.

(b) The Department shall answer under § 5-202. The answer may include copies of any substantive filings by the Department in that proceeding, such as an answer to an information request.

(c) Thereafter, the converted proceeding shall be conducted like other proceedings before the Commission, including the Taxpayer's option to reply under § 5-203.

§ 5-301 Motions

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

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

(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.

(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 shall be filed prior to the expiration of the original deadline. 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.

(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.

§ 5-302 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.

§ 5-303 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 proceedings before the Commission.

(c) A Taxpayer may contact the Department if the Taxpayer wants to obtain his or her tax records.

§ 5-401 Hearing Scheduling

(a) The Presiding Commissioner shall schedule the hearing, which, except in expedited proceedings, 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 proceedings, 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.

§ 5-402 Hearing Procedures

(a) The Presiding Commissioner presides at the hearing and may rule on motions, require briefs, and issue such orders as will ensure the orderly conduct of the proceedings.

(b) Parties have the right to participate or to be represented by an authorized representative in all hearings or pre-hearing conferences related to their proceeding. Refer to § 5-102.

(c) 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.

(d) The parties shall disclose all witnesses, identifying those who may testify and those expected to testify, at least ten (10) days prior to the hearing unless otherwise specified by order.

(e) 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.

(f) 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.

(3) An authorized representative serving as an advocate, such as an attorney or consultant, shall not provide testimony. However, an officer, trustee, partner, or similar representative may provide testimony for a Taxpayer that is not an individual.

§ 5-403 Stipulation

(a) The parties to a proceeding shall 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 make a decision based on stipulated facts.

§ 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) A party seeking admission of an exhibit must provide four (4) copies of each exhibit at the hearing, or six (6) copies for an en banc hearing, unless the party submits the exhibit electronically in a manner approved by the Presiding Commissioner. All exhibits admitted into evidence must be appropriately marked.

(d) Exhibits shall be filed with the Commission and served on the opposing party or authorized representative at least five (5) days prior to the hearing.

§ 5-405 Recording of Hearing

(a) The parties may record the hearing. Notice of the intent to record a hearing shall be provided to the opposing party. Only audio recordings shall be permitted. Broadcasting of proceedings 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 shall not prepare a transcript of a proceeding.

(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.

§ 5-406 Failure to Appear at Hearing

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.

§ 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 Clerk shall serve the decision on the parties. Service of the decision by the Clerk is the conclusion of substantive Commission proceedings

to adjudicate the appeal petition, although the publication procedures under § 5-502 may continue.

(c) The decision shall be issued within ninety (90) days of the close of the hearing or the submission of the final post-hearing brief, unless it is an expedited proceeding 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, § 26-18-101 *et seq.* Neither the Commission nor any Commissioner shall be made a party in a suit for judicial relief.

§ 5-502 Redaction and Publication of Decision

(a) The decision shall be published by the Commission on its website. 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. Dollar amounts will also be redacted unless necessary to understand the reasoning of the decision.

(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.

(b) The Taxpayer shall have ten (10) days from service of the unredacted decision to file proposed redactions with the Commission using the [Request for Redactions form](#). Such proposed redactions shall be based on the standards provided by this section.

(c) After expiration of the ten (10) day period and after due consideration of any proposed redactions from the Taxpayer, the Commission shall finalize the redaction of Taxpayer-identifying information, and the decision shall be published on the Commission's website.

§ 5-601 Scope and Application of Electronic Filing

(a) Use of the electronic filing system is required for an authorized representative, except for an authorized representative with a disability that prevents the use of the electronic filing system.

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

(c) Conventional paper filings shall be submitted in the event of electronic filing system errors or other technical problems pursuant to § 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 Clerk and made part of the electronic record. Once scanned, conventional documents may be destroyed.

§ 5-602 Time of Filing, Confirmation, and File-Mark

(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 Clerk, 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 of the Clerk.

(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

Electronic documents shall be legible and shall not contain hyperlinks to external sources.

§ 5-605 Registration Requirements

(a) Registration of users is limited to individuals. The log-in sequence for a user shall be used only by the user to whom it is assigned and by agents authorized by the user.

(b) Users shall furnish at least one email address for electronic service and other notices. It is the user's responsibility to ensure that the electronic filing system has the correct email address.

§ 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, possibly including conventional filing.

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

(See Instructions)

Part III Reasons for Your Appeal – continued.

Part IV Authorized Representative (if any). Enter the information regarding your representative below.

Name: _____ Title: _____

Firm Name, if applicable: _____

Street Address: _____

City: _____ State _____ Zip: _____

Phone Number: _____ Email: _____

Part V Hearing Preference. Indicate your preference by checking the appropriate box below.

- ☐ In person;
- ☐ Virtually via videoconferencing;
- ☐ Virtually via teleconferencing (phone call); or,
- ☐ No hearing – decision based solely on written submissions – hearing waived.

Part VI Taxpayer's Signature

I hereby 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 on Page 1 as the taxpayer, or I am authorized to sign this petition on behalf of the taxpayer under the Power of Attorney submitted herewith. I also certify the foregoing information is true and correct, and I have included a copy of the order or notice of the Department's decision.

Signature: _____

Date: _____

Print Name: _____

Title: _____

FOR CLERK'S USE ONLY

The foregoing Petition has been served upon the Department of Finance and Administration this _____ day of _____, 2____ by the following means: _____

By: Clerk of the Commission

Instructions: Petition

(Rev. Sept 2022)

NOTE: Electronic filing of all documents is required of all authorized representatives (unless a disability prevents it) and is encouraged for all taxpayers proceeding *pro se*. (i.e., without an authorized representative). Login credentials and instructions will be emailed to you upon receipt of this form by the Clerk of the Commission.

General Instructions for Filing Petition

The Tax Appeals Commission requires this petition be filed online at <https://tac.arkansas.gov>. Taxpayers proceeding *pro se* may file this form: (1) in person, Monday through Friday between 8:00 am and 4:30 pm (except on state government holidays); or (2) by mail to:

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

If not filing online, fill out this form and mail or hand deliver it to the Commission. Type or print legibly in ink.

Provide a copy of the Department of Finance and Administration (DFA) decision that you are appealing.

More information concerning the appeal process and the Commission's Rules of Procedure are available online at <https://tac.arkansas.gov>.

There is no fee for filing this petition.

Questions regarding this form should be directed to the Clerk of the Commission at the above address or by phone at 501-682-2741. The Clerk is prohibited from offering legal advice.

Specific Instructions

Part I – Taxpayer Information

If the taxpayer is an entity (corporation, partnership, LLC, trust, etc.), enter the entity's information in the spaces provided. Taxpayer's phone number and email address are not required for the Petition to be valid. If provided, you consent to be contacted by the Commission using the phone number and email address provided.

The Letter ID and Account ID can be found on the notice issued to you by the DFA. Be sure to attach a copy of the DFA notice.

Part II – Action or Decision of the Department

In most cases, a petition must be filed within ninety (90) days from the date the DFA issues a proposed assessment or refund claim denial or takes other action or proposed action that the taxpayer is appealing.

Expedited Proceedings

Certain Arkansas statutes provide for expedited proceedings, which cause the filing deadlines for some petitions to be sooner than ninety (90) days. If the decision you are appealing calls for an expedited proceeding, do not file this form. Instead, file the *Petition for Expedited Proceeding* form, which can be obtained from the Commission's office or online at <https://tac.arkansas.gov>.

Tax Type at Issue

In the space provided, enter the type of tax that is at issue from the table below.

- | | |
|-----------------------------------|------------------------------|
| • Bingo permit | • Motor fuel tax |
| • Business closure | • Real property transfer tax |
| • Economic development incentive | • Sales and use tax |
| • Excise tax (beer, liquor, wine) | • Severance tax |
| • Income tax | • Soft drink tax |
| • Income tax withholding | • Waste tire fee |

Related Matter Pending

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 proceedings and would not unduly prejudice the rights of a party, including the taxpayer's right to confidentiality. If your appeal is related to an ongoing proceeding with the Commission, enter the taxpayer's name(s) and the docket number (if known) in the spaces provided.

Part III – Reasons for Your Appeal

State the facts sufficiently clear to identify your reasons for opposing the proposed assessment, denial of a claim for refund, or other action of the Department ("DFA"), and the specific items at issue. Explain why you disagree with the DFA's determination or action and explain why the issue(s) should be decided in your favor. Attach additional pages if necessary. Provide, if known, the law, rules, or cases in support of your arguments. Be careful not to simply state "assessment is too high" or "assessment is wrong"; instead, provide specific reasons for your belief.

The Commission may reject your appeal if the reasons for disagreement and why relief is requested are not provided.

Part IV – Authorized Representative Information

A Power of Attorney form identifying the authorized representative must be submitted if the Petition is signed by a representative and not the taxpayer. The Power of Attorney form can be obtained from the Commission's office or online at <https://tac.arkansas.gov>. Enter the information regarding your lead representative in the spaces provided. Representation by an attorney, CPA or other person is allowed but not required. You may appoint more than one authorized representative but only one person shall serve you as your lead representative.

Part V – Hearing Preference

Indicate whether you elect for the hearing to be in person, by teleconference, by videoconference, or by a combination thereof. You can also waive a hearing on the merits by writing and informing the Commission you do not wish a hearing on the merits. In that event, your case will be decided solely on written submissions.

You may request to have an in-person hearing at a location other than Little Rock by filing a motion with the Commission to have the hearing at a location more convenient to you. 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. If you desire a hybrid proceeding (in-person with one or more individuals participating virtually), check the box for an in-person hearing and notify the Clerk.

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.

**ARKANSAS TAX APPEALS COMMISSION
PETITION FOR EXPEDITED PROCEEDING**

(See Instructions)

Part I **Taxpayer.** Enter the information regarding the taxpayer below.

Taxpayer Name(s): _____ EIN or SSN (last four digits): _____

Letter ID: _____

Account ID: _____

Street Address: _____ (attach a copy of the DFA notice)

City: _____ State _____ Zip: _____

Phone Number (optional): _____ Email (optional): _____

Part II **Decision Being Appealed.** Check the appropriate box below and provide a copy of the decision.

| Description | Statute (Arkansas Code Annotated) |
|--|---|
| <input type="checkbox"/> Joint refund claims offset | §§ 26-18-507(e)(1)(B)(ii) or 26-36-315(c) |
| <input type="checkbox"/> Emergency temporary license suspension | § 26-18-601(b) |
| <input type="checkbox"/> Cancellation/non-issuance of license, permit, or reg. | § 26-18-601(c) |
| <input type="checkbox"/> License revocation (liquified gas special fuels) | § 26-56-311 |
| <input type="checkbox"/> License revocation (coin-op amusement) | §§ 26-57-413, or 26-57-419 |
| <input type="checkbox"/> Vending machine seizure | § 26-57-1212 |
| <input type="checkbox"/> Jeopardy assessment | § 26-18-402 |
| <input type="checkbox"/> Business closure | § 26-18-1002 |
| <input type="checkbox"/> License revocation (motor fuels) | § 26-55-231 |
| <input type="checkbox"/> Motor fuel equipment confiscation | § 26-55-247 |

Refer to the applicable statute for details regarding petition deadlines. Immediately upon submitting this petition for filing, call the Clerk at 501-682-2741 to schedule an expedited hearing. The Clerk will serve this Petition on the Department of Finance & Administration.

Tax period(s): _____

Related Matter Pending? If this appeal is related to an ongoing proceeding with the Commission, enter:

- The taxpayer's name(s) _____
- The docket number (if known): _____

Part III **Reasons for Your Appeal.** State the facts on which you rely – see instructions.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

Part IV **Authorized Representative (if any).** Enter the information regarding your representative below.

Name: _____ Title: _____

Firm Name, if applicable: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Email: _____

Part V **Hearing Preference.** Indicate your preference by checking the appropriate box below.

- ☐ In person;
- ☐ Virtually via videoconferencing; or,
- ☐ Virtually via teleconferencing (phone call).

Part VI Taxpayer's (or Taxpayer's Authorized Representative) Signature

I hereby 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 on Page 1 as the taxpayer, or I am authorized to sign this petition on behalf of the taxpayer under the Power of Attorney submitted herewith. I also certify the foregoing information is true and correct, and I have included a copy of the order or notice of the Department's decision.

Signature: _____ Date: _____

Print Name: _____ Title: _____

FOR CLERK'S USE ONLY

The foregoing Petition has been served upon the Department of Finance and Administration this _____ day of _____, 2____ by the following means: _____

By: Clerk of the Commission

NOTICE OF EXPEDITED HEARING

NOTICE is hereby given that the foregoing matter is scheduled for hearing before the Arkansas Tax Appeals Commission on _____, 2____ beginning at __:____ __.m. and continuing thereafter until completed.

By: Clerk of the Commission

Instructions: Petition for Expedited Proceeding

(Rev. Sept 2022)

NOTE: Electronic filing of all documents is required of all authorized representatives (unless a disability prevents it) and is encouraged for all taxpayers proceeding *pro se* (i.e., without an authorized representative). Login credentials and instructions will be emailed to you upon receipt of this form by the Clerk of the Commission.

General Instructions for Filing Petition

The Tax Appeals Commission requires this petition be filed online at <https://tac.arkansas.gov>. Taxpayers proceeding *pro se* may file this form: (1) in person, Monday through Friday between 8:00 am and 4:30 pm (except on state government holidays); or (2) by mail to:

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

If not filing online, fill out this form and mail or hand deliver it to the Commission. Type or print legibly in ink.

Provide a copy of the Department of Finance and Administration (DFA) decision that you are appealing.

More information concerning the appeal process and the Commission's Rules of Procedure are available online at <https://tac.arkansas.gov>.

There is no fee for filing this petition.

Questions regarding this form should be directed to the Clerk of the Commission at the above address or by phone at 501-682-2741. The Clerk is prohibited from offering legal advice.

Specific Instructions

Part I – Taxpayer Information

If the taxpayer is an entity (corporation, partnership, LLC, trust, etc.), enter the entity's information in the spaces provided. Taxpayer's phone number and email address are not required for the Petition to be valid. If provided, you consent to be contacted by the Commission using the phone number and email address provided.

The Letter ID and Account ID can be found on the notice issued to you by the DFA. Be sure to attach a copy of the DFA notice.

Part II – Action or Decision of the Department

Check the box indicating the Arkansas statute under which the DFA has acted. DO NOT use this form unless you seek administrative relief under one of the statutes listed. Use a separate form for non-expedited proceedings. All forms are available online at <https://tac.arkansas.gov>.

Expedited Proceedings

The Arkansas statutes listed provide for expedited proceedings, which cause the filing deadlines for those petitions to be sooner than ninety (90) days. *If the decision you are appealing calls for an Expedited Proceeding, call the Clerk at 501-682-2741 upon filing your petition to inform the Commission and request a date, time, and location for the hearing to be confirmed by a written Notice of Hearing.*

Related Matter Pending

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 proceedings and would not unduly prejudice the rights of a party, including the taxpayer's right to confidentiality. If your appeal is related to an ongoing proceeding with the Commission, enter the taxpayer's name(s) and the docket number (if known) in the spaces provided.

Part III – Reasons for Your Appeal

State the facts sufficiently clear to identify your reasons for opposing the proposed assessment, denial of a claim for refund, or other action of the DFA, and the specific items at issue. Explain why you disagree with the DFA's determination or action and explain why the issue(s) should be decided in your favor. Attach additional pages if necessary. Provide, if known, the law, rules, or cases in support of your arguments. Be careful not to simply state "assessment is too high" or "assessment is wrong"; instead, provide specific reasons for your belief.

The Commission may reject your petition if the reasons for disagreement and why relief is requested are not provided.

Part IV – Authorized Representative Information

A Power of Attorney form identifying the authorized representative must be submitted if the Petition is signed by a representative and not the taxpayer. The Power of Attorney form can be obtained from the Commission's office or online at <https://tac.arkansas.gov>. Enter the information regarding your lead representative in the spaces provided. Representation by an attorney, CPA or other person is allowed but not required. You may appoint more than one authorized representative but only one person shall serve you as your lead representative.

Part V – Hearing Preference

Indicate whether you elect for the hearing to be in person, by teleconference, by videoconference, or by a combination thereof.

You may request to have an in-person hearing at a location other than Little Rock by filing a motion with the Commission to have the hearing at a location more convenient to you. 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.). If the appeal relates to a joint tax liability of married taxpayers, either spouse may sign.

**Arkansas Tax Appeals
Commission**
(Rev. Sept 2022)

**Power of Attorney
and Declaration of Representative**

Part I Power of Attorney TAC Docket No(s). (if known):

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

Taxpayer name and address

Last 4 digits of taxpayer's
tax identification number(s)
Daytime telephone number

Taxpayer hereby appoints the following individual(s) to represent the Taxpayer before the Tax Appeals Commission.

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

Name and U.S. Postal mailing address of Representative (*lead
representative*)

Telephone No. _____

Email _____

Name and U.S. Postal mailing address of Representative (*optional
additional representative*)

Telephone No. _____

Email _____

3. Taxpayer declaration and signature. If a tax matter concerns a joint tax liability, each spouse must file a separate power of attorney even if they are appointing the same representative(s). 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

Print name of Taxpayer from line 1 if other than an individual

Part II Declaration of Representative

I am not currently suspended or disbarred from practice, or ineligible for practice, as an attorney or Certified Public Accountant by any jurisdiction; I am authorized to represent the Taxpayer identified in Part I 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 by the Supreme Court of Arkansas or other jurisdiction;
- b** Certified Public Accountant—a holder of an active license to practice as a certified public accountant in the state of Arkansas or other jurisdiction;
- c** Officer—an authorized officer of the Taxpayer organization;
- d** Full-Time Employee—a full-time employee of the Taxpayer; or
- e** Other Authorized Representative.

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

Instructions: Power of Attorney and Declaration of Representative

General Instructions

Purpose of Form

Use this Power of Attorney 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 Clerk of the Commission at the address below (under *How to File*) or by phone at 501-682-2741.

How To File

First time filers must mail or hand deliver the form to:

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

Registered users of the TAC electronic filing system must submit forms securely through <https://tac.arkansas.gov>.

Electronic Filing

Electronic filing of documents is required of all authorized representatives unless prevented by disability. Login credentials and instructions will be emailed to representatives who are not existing users of the TAC electronic filing system upon receipt and acceptance of this form by the Clerk of the Commission.

Signatures

A Power of Attorney must be manually signed by the taxpayer. The filed Power of Attorney can be a copy or scan of the signature.

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 Power of Attorney. Instead, file a written notification with the Clerk that includes the new information.

Specific Instructions

Part I. Power of Attorney

If this is a Power of Attorney for one or more existing proceedings for which docket numbers have been issued, enter the applicable docket number(s). For a Power of Attorney filed with a petition, leave blank.

Line 1. Taxpayer Information

Enter the information requested about you. 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, last four digits of your SSN, ITIN, and/or employer identification number (EIN), if applicable, and your street address or post office box. If you file a tax return that includes a sole proprietorship business (Schedule C (Form 1040)) and you are authorizing the listed representative(s) to represent you for your individual and business tax matters, including employment tax liabilities, enter the last four digits of both your SSN (or ITIN) and your business EIN as your taxpayer identification numbers. If you, your spouse, or former spouse are submitting powers of attorney in connection with a joint return that you filed, you must each submit separate Power of Attorney forms even if you are authorizing the same representative(s) to represent you.

Corporations, associations, or partnerships. Enter the name, last four digits of the EIN, and business address. For consolidated returns, only the parent corporation information is required on line 1.

Exempt organizations. Enter the name, address, and last four digits of the EIN of the exempt organization.

Trusts. Enter the name, title, and address of the trustee, and the name and last four digits of the EIN of the trust.

Deceased individuals or Estates. Enter the name and last four digits of the SSN (or ITIN) of the decedent and the name, title, and address of the decedent's executor or personal representative.

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 Power of Attorney forms. Your authorization of an eligible representative will allow that individual to receive your confidential tax information.

Line 3. Taxpayer Declaration and Signature

Individuals. You must sign and date the power of attorney. If you filed a joint return, your spouse must execute his or her own power of attorney 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 Power of Attorney 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 exact 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)–(e)) in the order listed. 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

REQUEST FOR REDACTIONS

Part I Case Information. Enter the information requested below.

Docket No.: _____

Date of Decision: _____

Taxpayer Name(s): _____

Part II Redactions Requested. Submit additional pages using the same format, if necessary.

| Page No. | Para. No. | Term or Phrase to be Redacted | Reason for Redaction |
|----------|-----------|-------------------------------|----------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Signature(s) _____

Taxpayer or Authorized Representative

Additional Taxpayer or Authorized Representative

Date

Instructions

The Commission will redact its decision prior to publication pursuant to its Rules of Procedure. This form may be used to request redactions from the Commission's decision. If you want to request specific redactions, this form must be filed with the Commission within ten (10) days of the date the Commission served the parties with the decision.

This form should be filed using the electronic filing system established by the Commission. Parties exempt from the electronic filing system may file a hard copy of this form with the Clerk of Commission. List each redaction separately. For each term or phrase that you want redacted, provide the page and paragraph number within the decision of that term or phrase, the exact term or phrase, and your reason. If more space is needed, submit additional pages using the same format.

Docket No.: _____

Part II (cont)

Additional Page for Requested Redactions (if needed).

[illegible]

QUESTIONNAIRE
FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Department of Inspector General
DIVISION Tax Appeals Commission
DIVISION DIRECTOR Jeff Moore, Chief Commissioner
CONTACT PERSON Tammera Harrelson, Inspector General Chief Counsel
ADDRESS 900 W. Capitol Suite 310, Little Rock, AR 72201

PHONE NO. (501) 537-1591 FAX NO. (501) 682-8350 E-MAIL tammera.harrelson@arkansas.gov

NAME OF PRESENTER AT COMMITTEE MEETING Tammera Harrelson

PRESENTER E-MAIL tammera.harrelson@arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this
D. Rule" below.
E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Rules of Procedure of the Arkansas Tax Appeals Commission

2. What is the subject of the proposed rule? Rules 1 through 5: Statement of Organization & Operations, Public Guidance, General Organization, Rule-making, and Adjudication

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☐ No ☒

If yes, please provide the federal rule, regulation, and/or statute citation.

N/A

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes ☐ No ☒

If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? N/A

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure

Act? Yes ☐ No ☒

5. Is this a new rule? Yes ☒ No ☐ If yes, please provide a brief summary explaining the rule.

Act 586 of 2021, the Independent Tax Appeals Commission Act, directed the creation of the Tax Appeals Commission as an independent agency within the Department of the Inspector General. Act 586 called for the new agency to promulgate rules of procedure.

Does this repeal an existing rule? Yes ☐ No ☒ If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

N/A

Is this an amendment to an existing rule? Yes ☐ No ☒ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled “mark-up.”

N/A

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

Under the Independent Tax Appeals Commission Act, Arkansas Code § 26-18-1120 is the main authority for adopting rules. Arkansas Code §§ 26-18-1112 and 26-18-1115 also mention the promulgation of rules. See also Arkansas Code §§ 25-15-203 and 25-15-215.

7. What is the purpose of this proposed rule? Why is it necessary?

The creation of the new agency requires rules in a form similar to the model rules published by the Attorney General of Arkansas, and Act 586, the enabling act for the Tax Appeals Commission, requires that rules be promulgated.

The proposed rules fulfill the statutory mandate: 1) organization, 2) guidance to the public for access to public information, 3) organization and operation, 4) rule-making and 5) adjudication procedures, all required to establish a new agency for the purpose of resolving tax controversies within the jurisdiction of the Commission between the Department of Finance and Administration and taxpayers.

Rules 1 through 4 govern general organizational and informational matters and are based on Attorney General agency model rules I through IV, with modifications to suit the structure and nature of the Commission.

Rule 5 governs tax appeal procedures and is the critical part of the rule-making. It derives from Attorney General agency model rule VI, with substantial additions and modifications to fit the specifications of Act 586 and the needs of tax appeals, which are not governed by the Administrative Procedure Act. The aim of Rule 5 is to provide a fair, speedy, and efficient process for the resolution of tax disputes.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

<https://tac.arkansas.gov>

9. Will a public hearing be held on this proposed rule? Yes ☒ No ☐ If yes, please complete the following:

Date: 11/10/2022

Time: 1:30 p.m.

Place: Bessie B. Moore Conference Room (#2103), Ark. State Library, 900 W Capitol Ave, 2nd floor, Little Rock, AR, 72201

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

11/12/2022

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

12/10/2022

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. Attached

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). Attached

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

No known opposition.

Taxpayers, tax practitioners (attorneys/CPAs/consultants), or related groups or associations may provide technical comments about specific provisions.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Inspector General
DIVISION Tax Appeals Commission

PERSON COMPLETING THIS STATEMENT Tammera Harrelson
TELEPHONE NO. (501) 537-1591 FAX NO. (501) 682-8350 EMAIL: tammera.harrelson@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Rules of Procedure of the Arkansas Tax Appeals Commission

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No ☒
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;

N/A

- b) The reason for adoption of the more costly rule;

N/A

- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

N/A

d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$ 0.00

Total \$ 0.00

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total \$ 0.00

Total \$ 0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$-0-

\$-0-

These rules implement Acts 586 and 593 of 2021. They do not impose additional costs. Under those Acts, taxpayers petition the Tax Appeals Commission instead of protesting internally within the Department of Finance and Administration. There is no filing fee for a taxpayer to file a petition with the Commission.

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 0

\$ 0

These rules implement Acts 586 and 593 of 2021. They do not impose additional costs.

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?
Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

NOTICE OF RULE MAKING

The Tax Appeals Commission of the Department of Inspector General announces a public comment period of thirty (30) calendar days for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§ 26-18-1101 – 26-18-1120.

Effective January 1, 2023:

The Tax Appeals Commission has drafted rules and forms to carry out the intent and purposes of the Independent Tax Appeals Commission Act, Ark. Code Ann. § 26-18-1101 *et seq.* The rules establish procedures for the new Tax Appeals Commission regarding: 1) Statement of Organization and Operations; 2) Information for Public Guidance; 3) General Organization, 4) Rule-making; and 5) Adjudicatory Proceedings. The rules also include forms for a state tax appeal, expedited appeal, and power of attorney. A public hearing will be held on November 10, 2022, at 1:30 p.m. at the Bessie Moore Conference Room, Arkansas State Library, 900 W. Capitol, Suite 200, Little Rock, AR 72201.

The proposed rule is available for review at the Department of Inspector General (DIG), 900 W. Capitol, Suite 310, Little Rock, Arkansas 72201. You may also access and download the proposed rule at <https://ig.arkansas.gov/tax-appeals-commission/>. Public comments must be submitted in writing at the above address or at the following email address:

TAC.publiccomments@arkansas.gov. All public comments must be received by DIG no later than November 12, 2022. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

Tammera Harrelson

Department of Inspector General Chief Counsel

Reason for the Rule

In the regular session of 2021, the legislature passed Act 586, An Act to Create the Independent Tax Appeals Commission. The Act was codified at Ark. Code Ann. §26-18-1101 *et seq.* The legislature required that the Tax Appeals Commission promulgate rules to govern practice and procedure before the Commission. Ark. Code Ann. § 26-18-1120.

Summary of the Rule

The proposed rule establishes procedures for the new Tax Appeals Commission regarding: 1) Statement of Organization and Operations; 2) Information for Public Guidance; 3) General Organization, 4) Rule-making; and 5) Adjudicatory Proceedings. The rules also include forms for a state tax appeal, expedited appeal, and power of attorney.