

**STATE OF ARKANSAS
DEPARTMENT OF FINANCE & ADMINISTRATION
OFFICE OF HEARINGS & APPEALS**

ADMINISTRATIVE DECISION

IN THE MATTER OF

[REDACTED]

DOCKET NOS.: 20-477

20-478

**SALES AND USE
TAX ASSESSMENT
ACCT. NO.:** [REDACTED]

AUDIT ID: [REDACTED]
(Sales Tax - [REDACTED])¹

(Use Tax - [REDACTED])²

RAY HOWARD, ADMINISTRATIVE LAW JUDGE

APPEARANCES

This case is before the Office of Hearings and Appeals upon a written protest dated December 27, 2019, and signed by [REDACTED], on behalf of [REDACTED], the Taxpayer. The Taxpayer protested an assessment resulting from a sales and use tax audit conducted by the Department of Finance and Administration ("Department"). The audit period was from March 1, 2016, through February 28, 2019.

This case was submitted on written documents at the request of the Taxpayer. The Department was represented by John Theis, Attorney at Law, Office of Revenue Legal Counsel. The Taxpayer was represented by [REDACTED]. A Briefing Schedule was mailed to the parties on January 17, 2020. At the request of the Taxpayer, the due dates for briefs were extended. Ultimately, the

¹ The reflected amount included tax (\$ [REDACTED]), penalty (\$ [REDACTED]), and interest ([REDACTED]).

² The reflected amount include tax (\$ [REDACTED]) and interest ([REDACTED]).

Revised Briefing Schedule was mailed to the parties on February 3, 2021. The Department's Opening Brief was filed on March 26, 2021. The Taxpayer did not file a Response Brief but the Taxpayer's Protest Form was received into evidence. The matter was submitted for a decision on May 24, 2021.

ISSUE

Whether the assessment issued by the Department against the Taxpayer should be sustained? Yes, in part.³

FINDINGS OF FACT/CONTENTIONS OF THE PARTIES

The Department issued a proposed assessment against the Taxpayer on October 30, 2019. The Department's Opening Brief summarized the facts and issues involved in this case (including the basis for the Taxpayer's disagreement with the proposed assessment as reflected by the handwritten statement on Taxpayer's Protest Form) and stated, in part:

[REDACTED] ("Taxpayer") is a supplier of [REDACTED]. Taxpayer has locations in [REDACTED] Arkansas. Auditors from the Arkansas Department of Finance and Administration ("Department") conducted a sales and use tax audit of Taxpayer for the period March 1, 2016 through February 28, 2019 ("audit period").

The Taxpayer and the Department agreed to conduct the audit using a sample period methodology. A block sample was used and the months of April, June, September, and December of 2016, January of 2017, March, July, December of 2018, and February of 2019 were selected for review during the audit. For the sales tax audit, the records provided to the auditor for review included sales for each month in the sample, exemption certificates presented by Taxpayer's customers, and sales tax returns filed by the Taxpayer with the Department.

The auditor reviewed all sales records for the sample months and determined which sales were subject to Arkansas sales tax. Next,

³ The Department has conceded that the assessment is subject to certain adjustments.

the auditor removed sales to customers for whom an exemption certificate had been provided and computed total taxable sales for each month in the sample. The auditor then compared the taxable sales per Taxpayer's records for each calendar month in the sample to the taxable sales reported on the monthly sales tax reports filed by Taxpayer for that same month. To the extent taxable sales during a month exceeded the sales reported by the Taxpayer for that month, the auditor computed a percentage of error to reflect the percent of underreported taxes. Finally, an error percentage was computed for all months in the sample and that error percentage was applied to Taxpayer's total sales for the months in the audit period that were not included in the sample to determine total underreported sales.

In addition, the auditor reviewed sales invoices to determine the amount of sales tax collected by Taxpayer from its customers for each month within the sample. The tax collected each month was then compared to the actual amount of sales tax reported and remitted by the Taxpayer for that same month. The auditor determined that the total sales tax collected exceeded the tax reported and paid by Taxpayer for some months. The auditor computed an underpayment variance and applied that variance to the months in the audit period that were outside the sample. Penalty of 35 % was applied to the underpayment of taxes collected.

When conducting the use tax portion of the audit, the auditor requested that Taxpayer provide records of all purchases Taxpayer made during the sample months. The records requested included purchase invoices and accounts payable information. Taxpayer failed to provide the requested information. Accordingly, the auditor reviewed expenses claimed by Taxpayer on its federal income tax return. The auditor computed average monthly purchases based on five (5) separate categories of expenses claimed on the federal income tax returns for the audit period. Those categories are (1) repairs and maintenance; (2) office expenses; (3) office supplies; (4) tools; and (5) warehouse expense. The expenses reflected in each of these categories was used to compute an average amount of monthly purchases per year.

The audit resulted in a determination that Taxpayer owed additional sales tax of [REDACTED] and additional use tax of [REDACTED]. Interest was also assessed on both the sales and use tax delinquencies. Penalties were assessed only on the sales tax portion of the assessment. The penalty assessed was 5% per month, up to a maximum of 35% on that portion of the sales tax assessment where it was determined that Taxpayer had collected tax from its

customers but failed to remit that tax to the Department.

A Notice of Proposed Assessment was issued to Taxpayer dated October 30, 2019 assessing the amount of [REDACTED]. That assessment consists of tax in the amount of \$ [REDACTED], interest of [REDACTED] and penalty of [REDACTED]. Interest has continued to accrue at the rate of 10% per annum as provided by Arkansas law.

Taxpayer filed a Protest of the Notice of Proposed Assessment on December 27, 2019. That protest requested a hearing based on the presentation of written documents. The protest contained the following statement:

Auditor had made assessment on collective tax reports that were not specified to UT fixed assets. Our [REDACTED] [REDACTED] is no longer w/ the company and we are working on pulling proper fixed asset reports for UT.

The Department originally contacted the Office of Hearings and Appeals by letter dated January 16, 2020 requesting that a briefing schedule be established to consider the Taxpayer's protest. On January 27, 2020 [REDACTED], an employee of Taxpayer, contacted the Department requesting a continuance so that Taxpayer could work with the auditor to resolve some of the audit issues. Since that time, multiple continuances have been granted by the Administrative Law Judge to allow Taxpayer time to provide documents to the auditor to mitigate the tax assessment. Those efforts have been unsuccessful, and this matter must now proceed to administrative hearing.

...

Sales Tax

The Taxpayer is a seller of [REDACTED] and is required by law to collect and remit Arkansas sales tax unless a valid exemption claim is presented. [REDACTED] are items of tangible personal property, the sale of which is subject to state and local sales tax unless exempt.

...

Use Tax

The Department auditor requested that Taxpayer provide purchases invoices and other purchase information for use in performing the use tax audit. Taxpayer was either unwilling or unable to provide those purchases records. Accordingly, the

auditor reviewed the expenses claimed by Taxpayer in its federal income tax returns for the years included in the audit period. Those returns reflected that Taxpayer made purchases in five (5) separate categories including (1) repairs and maintenance; (2) office expenses; (3) office supplies; (3) tools; and (5) warehouse expense. The auditor used this information to compute an average monthly taxable purchases amount for each year. The Taxpayer has not provided records to allow for a determination of the amount of actual purchases during the audit period.

...

Interest and Penalty

The auditor assessed penalty on that portion of the sales tax assessment where tax was collected from Taxpayer's customers but not remitted. Ark. Code Ann. § 26-18-208(2)(A) (Repl. 2020) provides for the assessment of penalty at the rate of 5% per month up to a maximum of 35% for the failure to pay the amount of tax due as shown on a tax return. Upon further review, the Department concedes that a penalty of 10%, rather than the 5% per month penalty, should have been assessed in this audit. The 10% penalty is imposed by Ark. Code Ann. § 26-18-208(4)(A) if the tax deficiency is due to negligence or intentional disregard of state law. Arkansas law requires a taxpayer to collect and remit tax on all sales unless a valid exemption claim is presented. Additionally, taxpayers are required to remit all taxes collected from its customers. As previously explained, Taxpayer failed to comply with these statutory requirements. Accordingly, the 10% penalty for negligence or intentional disregard of state tax law is appropriate and the penalty portion of the assessment will be reduced accordingly.

The assessment of interest is appropriate under Ark. Code Ann. § 26-18-508 at the rate of 10% per annum. That provision of state law requires the assessment of interest if the tax levied by state law was not paid when due. Taxpayer failed to pay the sales tax and use tax assessed in the audit when due and the assessment of interest is appropriate under state law to reimburse the state for loss of the use of funds to which it was entitled.

CONCLUSION

The Notice of Proposed Assessment issued to Taxpayer as a result of the Department's audit was proper and in accordance with state law, after the concessions described above are incorporated into the

audit findings. The assessment of sales tax is supported based on the auditor's review of Taxpayer's sales and tax reporting records as described above. The assessment of use tax is supported by the absence of adequate records to support the purchases made by Taxpayer during the audit period and the auditor's use of the best available records to determine taxable purchases made by the Taxpayer. Interest and penalty were properly assessed in accordance with the provisions of Arkansas law, after the penalty assessment is reduced to apply the 10% penalty for negligence or intentional disregard rather than the 5% per month penalty, as described above. Accordingly, the Department requests that its issuance of the Notice of Proposed Assessment to Taxpayer as a result of the audit be sustained in full, subject to the concessions to reduce the amount of use tax assessed and the reduction of the penalty portion of the assessment. [P. 1 – 9].

CONCLUSIONS OF LAW

Standard of Proof

Ark. Code Ann. § 26-18-313(c) (Repl. 2020) provides, in pertinent part, as follows:

The burden of proof applied to matters of fact and evidence, whether placed on the taxpayer or the state in controversies regarding the application of a state tax law shall be by preponderance of the evidence.

In Edmisten v. Bull Shoals Landing, 2014 Ark. 89, at 12-13, 432 S.W.3d 25, 33, the Arkansas Supreme Court explained:

A preponderance of the evidence is “not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.

The Department bears the burden of proving that the tax law applies to an item or service sought to be taxed, and a taxpayer bears the burden of proving entitlement to a tax exemption, deduction, or credit. Ark. Code Ann. § 26-18-

313(d) (Repl. 2020). Statutes imposing a tax or providing a tax exemption, deduction, or credit must be reasonably and strictly construed in limitation of their application, giving the words their plain and ordinary meaning. Ark. Code Ann. § 26-18-313(a), (b), and (e) (Repl. 2020). If a well-founded doubt exists with respect to the application of a statute imposing a tax or providing a tax exemption, deduction, or credit, the doubt must be resolved against the application of the tax, exemption, deduction, or credit. Ark. Code Ann. § 26-18-313(f)(2) (Repl. 2020).

Sales Tax Audit

Subject to the applicability of an exemption, deduction, or a credit, sales tax is imposed on sales of tangible personal property or taxable services made by in-state vendors/sellers to in-state purchasers.⁴ As a general rule, sales tax applies to the entire gross receipts from sales of tangible personal property and certain specifically enumerated services within the State of Arkansas. See Ark. Code Ann. § 26-52-301 et seq. (Repl. 2020). The liability for collecting and reporting sales tax upon the seller of the tangible personal property unless the purchaser claims an exemption. See Arkansas Gross Receipts Tax Rule GR-79(C). Ark. Code Ann. § 26-52-103(35)(A) (Repl. 2020) defines “tangible personal property” as “personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses.”

██████████ sold by the Taxpayer during the audit period were items of tangible personal property. Consequently, the Department satisfied its burden of proof regarding taxability.

⁴ See Ark. Code Ann. § 26-52-101 et seq. (Repl. 2020).

The Department has statutory authority to “[a]udit and properly determine and compute the state tax payable by any taxpayer subject to taxation under any state law”⁵ and to “employ proper and reasonable audit methods.”⁶ With respect to sales tax, the Department’s Opening Brief described the audit procedures employed by the Department as follows:

The Taxpayer's records revealed that it failed to collect and remit sales tax on taxable sales to Arkansas customers. The auditor did not assess tax on those untaxed sales if an exemption certificate was provided by the customer to the Taxpayer. Accordingly, the auditor assessed sales tax on sales where tax was not collected, and the customer did not provide an exemption certificate.

The results of the auditor's review of untaxed sales are outlined in the attached exhibits. **Exhibit #1** is identified as Schedule A-1 and is page 1 of 288 documents. The first column of this document reflects the additional taxable sales that were not reported on Taxpayer’s monthly sales tax returns.

Exhibit #2 illustrates how the additional taxable sales shown on **Exhibit #1** was computed. The top section of **Exhibit #2** reflects the results of the auditor's review of the months included in the audit sample. The first column of this top section identifies the sales reported on the monthly sales tax reports filed by Taxpayer. The second column identifies the taxable sales determined by the auditor from his review of Taxpayer's sales records for each month. The column entitled “Additional Taxable Sales” on **Exhibit #2** reflects the difference between the amount of sales reported on Taxpayer's monthly sales tax returns and the taxable sales identified by the auditor from his review of Taxpayer's sales records. The final column entitled "Margin of Error" reflects the percentage by which Taxpayer underreported its taxable sales for each month in the sample. As indicated in the bolded line containing totals, Taxpayer had unreported additional taxable sales of [REDACTED] which resulted in a margin of error of [REDACTED]

The margin of error determined for the months in the sample was then applied to the other months of the audit period that were outside the sample. The lower portion of **Exhibit #2** demonstrates the application of the error percentage of [REDACTED] to the months

⁵ See Ark. Code Ann. § 26-18-301(a)(2) (Repl. 2020).

⁶ See Ark. Code Ann. § 26-18-305(a)(2)(A) (Repl. 2020).

outside the sample. Taxpayer's taxable sales for each month, identified in the column entitled "Reported Taxable Sales" was multiplied by the margin of error of [REDACTED] to determine the additional taxable sales for each month in the audit period that was outside the sample. The additional taxable sales are shown in the third column marked "Additional Taxable Sales" and those amounts are then carried to the first column of **Exhibit #1**.

Next, the auditor reviewed whether all sales taxes collected by the Taxpayer had been remitted to the Department. That review revealed that Taxpayer collected sales tax from its customers that it did not remit. The tax collected but not remitted is summarized in the middle column of **Exhibit #1**. The top portion of **Exhibit #3** demonstrates the computation of tax collected but not remitted for the sample months. The first column identifies the sales tax reported for those sample months on Taxpayer's sales tax returns filed with the Department. The second column reflect the sales during the sample months on which Taxpayer collected sales tax from its customers. The third column identifies the sales for each sample month on which tax was collected and not remitted. The fourth column of **Exhibit #3** reflects the percentage of tax collected by Taxpayer during the sample months that was not remitted to the Department. The bolded line marked "Total" reflects that Taxpayer failed to remit [REDACTED] of the tax it collected during the months of the sample.

The lower portion of **Exhibit #4** reflects that application of that error percentage to each of the months in the audit period that was not part of the sample. The amounts computed on **Exhibit #3** were then carried to the middle column of the summary schedule in **Exhibit #1**.

Exhibits #4 and **#5** contain the detailed information used by the auditor to compute the amount of underreported sales and the amount of tax collected but not remitted for the sample months as summarized in **Exhibit #1**. **Exhibit #4** lists each sales invoice provided by Taxpayer for the sample months and includes the customer's name, the customer's location, the sales invoice number, the amount of the sale, and the state and local tax due on each invoice. Taxable sales for each sample month is determined and shown on **Exhibit #4**. The total for April of 2016 is shown on page 29 of 288. The total for June of 2016 is shown on page 53 of 288. The totals for each subsequent month in the sample is similarly located at the end of the list of taxable invoices for each month. These monthly totals were carried forward to the top portion of **Exhibit #2** in the column entitled "Audited Taxable Sales Per Sch.

A-4" and compared to the sales tax reports filed by Taxpayer for those same months to determine if Taxpayer failed to report taxable sales during those months. The error percentage for the sample months was then applied to the remaining months of the audit period that are outside the sample.

Exhibit #5 contains the detailed sales invoice records reviewed by the auditor to determine whether Taxpayer remitted all the sales taxes collected from its customers during the sample months. The amount of sales taxes collected by Taxpayer during each of the sample months is found at the end of the list of invoices reviewed for that month. For example, the total amount of sales taxes collected by Taxpayer from its customers during April of 2016 is shown on page 166 of 288 and the total amount collected for June of 2016 is shown on page 189 of 288. The total taxes collected for each subsequent month in the sample are similarly located at the end of the list of invoices for each month. These monthly sales tax collection amounts were carried forward to the top portion of **Exhibit #3** under the heading "Taxed Sales Per Sch. A-5" and were compared against the tax reported by Taxpayer for those same months to determine if tax was collected by not remitted. The error percentage of [REDACTED] was then applied to the taxable sales reported by Taxpayer for the months in the audit period that were outside the sample to determine the total taxes collected and not remitted by the Taxpayer. Those amounts are reflected in the lower portion of **Exhibit #3** and are then carried forward to **Exhibit #1** under the column having the heading "Tax Collected Not Remitted Per Sch. A-3".

The auditor subtracted "Tax Collected Not Remitted" from "Total Additional Taxable Sales" on **Exhibit #1** to arrive at the "Additional Taxable Sales" shown in column three of that exhibit. This subtraction was necessary to prevent double taxation of the same transactions. The first column of **Exhibit #1** lists all of Taxpayer's taxable sales during the audit period. The second column lists all sales taxed by Taxpayer. Using this process, the same transactions fell into both categories. Subtracting column two from column one prevents the same transactions from being counted twice and double taxed.

Next, the Department auditor used the same process as employed when reviewing Taxpayer's records for state sales tax purposes to determine whether any additional sales tax was due for county and city sales taxes. **Exhibit #6** reflects the same computations to determine the unreported additional taxable sales and the tax collected and not remitted by Taxpayer for the various counties in

which Taxpayer conducted business. **Exhibit #7** reflects the same computations for the cities in which Taxpayer conducted business. The same source records from Taxpayer were used to make the computations in **Exhibit #6** and **Exhibit #7** as were used in computing the state sales tax portions of this audit.

It is important to note that Taxpayer has not presented any objection to the sales tax portion of the tax assessment in its Protest and has not provided any additional information challenging the accuracy of the sales tax portion of the assessment. Taxpayer may agree with the sales tax portion of the tax assessment, although, it has made no affirmative statement to that effect. [P. 1 – 7].

A preponderance of the evidence supports the following findings: (1) the Department used to best available information and documents to perform the audit; and (2) the Department's calculations of taxable sales and audit procedures were reasonable. The Department's utilization of extrapolation of percentages from months in the sample to months outside of the sample was a reasonable audit method for properly determining and computing the Taxpayer's sales tax liability. For example, amounts from existing pages in a ticket book were extrapolated to pages that were missing. See Jones v. Ragland, 293 Ark. 320, 737 S.W.2d 641 (1987). Consequently, the Department correctly assessed sales tax against the Taxpayer.

Use Tax Audit

Subject to the applicability of an exemption, deduction, or a credit, use tax is imposed on sales of tangible personal property or taxable services made by out-of-state vendors/sellers to in-state purchasers for storage, use, or consumption in this state.⁷ With respect to use tax, the Department's Opening Brief described the audit procedures employed by the Department as follows:

⁷ See Ark. Code Ann. § 26-53-101 et seq. (Repl. 2020).

The Department recognizes that the tax assessment, as originally issued, was based on Taxpayer's [REDACTED] purchases. The Department concedes that the assessment should be reduced based on the percentage of Taxpayer's [REDACTED] locations that are located within Arkansas. Taxpayer operates [REDACTED] and [REDACTED], representing [REDACTED] of its [REDACTED], are in Arkansas. It is appropriate that the use tax assessment be reduced to [REDACTED] of the tax due on Taxpayer's [REDACTED] purchases, plus interest.

...

Exhibit #8 contains the auditor's computations to determine the amount of use tax due for the years in the audit period. The auditor first determined an average amount of purchases per month. That average is reflected in the upper section of **Exhibit #8** in the line entitled "Amount Per Month". The lower section of **Exhibit #8** demonstrates how the auditor used the average purchases per month to compute the additional taxable purchases for state use tax as well for the [REDACTED] in Arkansas in which Taxpayer operates [REDACTED] for each year in the audit period. The auditor assumed one-third (1/3) of Taxpayer's average monthly purchases were for storage, use, or consumption in each of the [REDACTED] where Taxpayer has an Arkansas location.

... The Department has patiently agreed to multiple delays in the administrative hearing process to provide Taxpayer additional time to provide purchases records. To date, no such records have been provided to prove the amount of Taxpayer's actual purchases or to demonstrate that use tax was paid to vendors on those purchases.

It is important to note that Taxpayer has not raised any specific objections to the use tax portion of the assessment. The only comment made by Taxpayer with regard to the use tax is the comment found in Taxpayer's protest indicating that it is pulling additional records for review by the auditor. To date, no such records have been provided.

After filing its protest of the assessment, Taxpayer provided the Department with fixed asset purchases information; however, those records do not support an adjustment to the audit findings. The Department assessed additional use tax only on expenses purchases. A tax assessment was not made on the purchase of fixed assets. If any fixed asset purchases were reported on the Taxpayer's federal return as an expense, the Department would have been

unable to determine that fact because no purchase records were provided for review. Accordingly, the fixed asset records provided by the Taxpayer do not support any adjustment to the audit findings or to the Notice of Proposed Assessment. [P. 7 – 8].

The case file does not contain any of the Taxpayer's purchase records for months in the audit period. Ark. Code Ann. § 26-18-506 (Repl. 2020) requires the Taxpayer to maintain suitable records and states:

(a) It is the duty of every taxpayer required to make a return of any tax due under any state tax law to keep and preserve suitable records as are necessary to determine the amount of tax due or to prove the accuracy of any return.

...

(d) When a taxpayer fails to preserve and maintain the records required by any state tax law, the director may, in his or her discretion, make **an estimated assessment** based upon information available to him or her as to the amount of tax due by the taxpayer. **The burden of proof of refuting this estimated assessment is upon the taxpayer.** [Emphasis added].

In the absence of suitable records, the Taxpayer has the burden of refuting the Department's estimated assessment for use tax. See Jones v. Ragland, 293 Ark. 320, 737 S.W.2d 641 (1987); Leathers v. A. & B. Dirt Movers, Inc., 311 Ark. 320, 844 S.W.2d 314 (1992); Weiss v. Best Enterprises, Inc., 323 Ark. 712, 917 S.W.2d 543 (1996). The law requires that sufficient credible evidence be offered by the Taxpayer to establish that the audit results are unreasonable. In Leathers v. A & B Dirt Movers, Inc., 311 Ark. 320, 844 S.W.2d 314 (1992), the Arkansas Supreme Court discussed the absence of appropriate documentation in the context of an estimated assessment, and stated:

In short, we find Mr. Nabholz's testimony insufficient, standing alone, to meet the taxpayer's statutory burden in refuting the reasonableness of the assessment. To hold otherwise would be to permit a taxpayer to maintain scant records and after an

unsatisfactory tax audit, avoid taxation by merely verbalizing his transactions unsupported by appropriate documentation made at the time of the transactions or by testimony from other parties to the transactions.

Id. at 330, 844 S.W.2d at 319.

The Taxpayer failed to produce records to determine the amount of use tax due. Due to the lack of records, the Department's issuance of an estimated assessment using reported expenses from the Taxpayer's federal income tax return was a reasonable audit method. The Taxpayer failed to establish that the audit methodology or calculations used by the Tax Auditor were unreasonable. The Taxpayer failed to present sufficient evidence to meet the burden of refuting the estimated assessment of use tax. See Jones v. Ragland, supra; Leathers v. A. & B. Dirt Movers, Inc., supra; Weiss v. Best Enterprises, Inc., supra. Consequently, in light of the concession and the adjustment to be made by the Department, the evidence presented supports a finding that the Department correctly assessed use tax against the Taxpayer.

Interest

Interest was properly assessed upon the tax deficiency for the use of the State's tax dollars. See Ark. Code Ann. § 26-18-508 (Repl. 2020).

The facts of this case support the assessment of a negligence penalty against the Taxpayer. See Ark. Code Ann. § 26-18-208(4) (Repl. 2020).

DECISION AND ORDER

Subject to the adjustments conceded by the Department, the proposed assessment is sustained. The file is to be returned to the appropriate section of

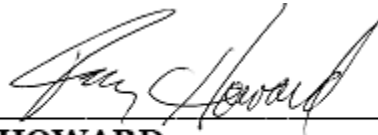
the Department for further proceedings in accordance with this Administrative Decision and applicable law.

Pursuant to Ark. Code Ann. § 26-18-405 (Repl. 2020), unless the Taxpayer requests in writing within twenty (20) days of the mailing of this decision that the Commissioner of Revenues revise the decision of the Administrative Law Judge, this Administrative Decision shall be effective and become the action of the agency.

The revision request may be mailed to the Assistant Commissioner of Revenues, P.O. Box 1272, Rm. 2440, Little Rock, Arkansas 72203. A revision request may also be faxed to the Assistant Commissioner of Revenues at (501) 683-1161 or emailed to revision@dfa.arkansas.gov. The Commissioner of Revenues, within twenty (20) days of the mailing of this Administrative Decision, may revise the decision regardless of whether the Taxpayer has requested a revision.

Ark. Code Ann. § 26-18-406 (Repl. 2020) provides for the judicial appeal of a final decision of an Administrative Law Judge or the Commissioner of Revenues on a final assessment or refund claim denial; however, the constitutionality of that code section is uncertain.⁸

OFFICE OF HEARINGS & APPEALS



RAY HOWARD
ADMINISTRATIVE LAW JUDGE

DATED: May 28, 2021

⁸ See Board of Trustees of Univ. of Arkansas v. Andrews, 2018 Ark. 12.