

IDAHO STATE TAX COMMISSION
COMMISSIONERS' OPEN MEETING
MINUTES OF MEETING HELD FEBRUARY 6, 2013

In attendance: Commissioners Rich Jackson, David Langhorst, Tom Katsilometes, and Ken Roberts; Valerie Dilley, Roxanne Lopez, Robin O'Neill, Mark Poppler, Liz Rodosovich, Ted Spangler, Bill von Tagen, Mike Teller, Doreen Warren; George Brown, Chelsea Kidney, Erick Shaner, and Phil Skinner; Cynthia Adrian, Alan Dornfest, McLean Russell; Greg Busmann, Debbie Coulson, Chris Eaton, Kelly McConnell.

Public Session.

Commissioner David Langhorst convened the open meeting.

Presentation of Certificates of Service.

Roxanne Lopez, Human Resources Officer, acknowledged the employees that were receiving a Certificate of Service, and stated how much all of their work efforts were appreciated.

The Certificate of Service recipients were: Denise Alexander, Tax Auditor 1 in the Twin Falls Field Office (Audit & Collections) for 5 years of service; Chris Eaton, Senior IT Network Analyst, (Information Technology), and Greg Busmann, Tax Audit Manager, in Income Tax Audit (Audit & Collections) for 15 years of service; and Lois Nickle, Tax Collections Unit Supervisor, in Central Collections (Audit & Collections) for 20 years of service with a thank-you letter from the Governor.

Denise Alexander's Certificate of Service will be given to Doug Harrie for presentation in Twin Falls at a later date. Lois Nickle was also absent and will have her Certificate of Service for 20 years and thank-you letter from the Governor presented at a later date.

The Commissioners said how the recipients' years of service and efforts were commendable and appreciated. Commissioner Langhorst and Chairman Jackson reminded the recipients that the Tax Commission is the revenue engine for state services, and what they do keeps the schools open, supports law enforcement, public safety, and multiple public services. The recipients were invited to attend the remainder of the open meeting if they desired.

Business Requiring Vote of the Commission.

Minutes: Open Meeting – January 9, 2013.

Chairman Jackson moved that the minutes of the open meeting held on January 9, 2013, be approved, and Commissioner Katsilometes seconded. There were no comments or amendments. All voted in the affirmative, and the minutes were approved.

Administrative Policies: No. 13-02, Alternate Work Schedule; No. 13-03, Tax Compliance by ISTC Employees; No. 13-04, Alcohol and Drug-Free Workplace; No. 13-05, Equal Employment Opportunity; No. 13-06, Americans with Disability; No. 13-07, Electronic Data; No. 13-08, Respectful and Harassment-Free Workplace.

Roxanne Lopez presented each of the administrative policies to the Commission with a brief explanation of any revisions. Commissioner Langhorst thanked Roxanne for all her work and the ELT for reviewing the draft policies prior to a vote by the Commission. Commissioner Roberts, following a discussion on Administrative Policy No. 13-08 – Respectful and Harassment-Free

Workplace, noted that the policy was written very broadly and he would like further discussion about it.

Commissioner Katsilometes moved that the Administrative Policies: No. 13-02, Alternate Work Schedule; No. 13-03, Tax Compliance by ISTC Employees; No. 13-04, Alcohol and Drug-Free Workplace; No. 13-05, Equal Employment Opportunity; No. 13-06, Americans with Disability; No. 13-07, Electronic Data; excluding the Administrative Policy No. 13-08, Respectful and Harassment-Free Workplace, be approved, and Commissioner Roberts seconded. There were no further comments or amendments. All voted in the affirmative, and the motion passed.

Administrative Reports.

Revenue Operations, Doreen Warren.

Doreen Warren, Revenue Operations Division Administrator, reported that because the IRS welcomed Idaho to join their controlled launch of income tax filing, Revenue Operations (RO) started receiving income tax returns last week – one week earlier than the January 30 official launch. To date RO has received 81,390 electronic returns, compared to 4,077 paper returns. Both numbers are slightly down from last year (81,644 efile and 5,522 paper last year) at this time, but RO expects to surpass last year's numbers within a couple of weeks. The important point is that RO currently has plenty of work to get started with the processing.

The IRS has not encountered any processing issues so RO has been receiving files daily with no performance issues. RO also has been fine-tuning the internal processing system and has been working with IT to find additional efficiencies.

Doreen noted that there are 10,436 grocery credit returns this year compared to 10,356 last year. In addition, RO has received 6,000 paper withholding returns that are ready for uploading and the number of efiled returns continues to increase.

Since implementing the new imaging process, RO has successfully deposited 68,580 checks electronically. 108 checks have required physical deposits here in Boise. Eighteen checks were returned to the Tax Commission from the bank. This is an overall excellent result.

RO has approved 26 software developers and continues to receive test cases for other packages. Last year RO approved 35 separate packages. There are 36 sub doc vendors this year, compared to 34 last year. RO will have 40 tax drive temporary employees on board by the end of this week and bring in another 16 next week.

There were no more administrative reports.

Commissioner Jackson noted that he attended the Capitol for a Day in Kuna on Friday. The practitioner community credited the Tax Commission for the timely notification and response to the late processing of tax returns this year. The commissioner added his appreciation for RO and IT for working together on that issue.

Reports on Rules Committees.

Property Tax Rules – Committee Chair, Alan Dornfest.

Alan Dornfest, Property Tax Rules Committee Chair, reported that the committee continues to meet and presented the Tax Commission's proposed rules to the germane committees last month. Alan thanked all who attended the recent property tax training and reminded there will be additional property tax training offered this spring at the workshops.

Alan noted having a subcommittee meeting regarding the commissioners' request to review the operating property appeals rules. Once the subcommittee has a response, it will be a matter for the Commission to review. He added he expects opposition from the appellants if the Commission moves forward on this.

Commissioner Katsilometes commended Alan for all the work he has done with the rules and with the Legislature, especially on personal property tax.

Income Tax, Administration & Enforcement, Kilowatt, Mine License Rules – Committee Chair, Cynthia Adrian.

Cynthia Adrian, Income Tax, Administration & Enforcement, Kilowatt, Mine License Rules Committee Chair, noted that the Initial Income Tax Rules Committee meeting held on January 23, had two practitioners join by phone and two visitors join in person. The committee discussed possible rules needing changes and identified seven rules with issues that need to be addressed. The committee is preparing drafts for the next meeting scheduled for February 20 at 1:30 p.m. in 1CR5.

Cynthia highlighted the following proposed rules for the next legislative session in 2014. Rule 040.03—clarifies the definition of “place of abode” and that it does not apply for purposes of the foreign income exclusion. Rule 125.01—needs “or” to be changed to “and”. Rule 173.01—needs to add a subsection clarifying that capital gain income must be directly realized by a pass-through entity in order to qualify and gains indirectly realized do not qualify. Rule 252—deals with adjustments allowed in computing Idaho adjusted gross income for nonresident and part-year resident individuals—the proportion of deductions should be computed without the federal NOL deduction. Rule 710—deals with 2011 HB 296, and Rule 805—the rule needs to be consistent with statute regarding filing status. Rule 855.06—clarifies that the PBF is paid by the individual when the entity pays backup withholding for the individuals and the entity pays the PBF for individuals when filing a composite return.

Four other rules were discussed for possible changes. The rules committee is researching the issues and will discuss them further at the next meeting. Cynthia has asked Phil Skinner to determine on three of the rules if change can be accomplished through the rule or if a statutory change is needed. The rules committee is researching one other rule to see how other states are addressing the issue. Discussion followed.

Commissioner Langhorst requested that a link or Web address be included in the minutes for the public to access the rules information on the agency website. Cynthia noted they are working toward having the rules report, meetings, and drafts on the website for the public information.

Sales Tax Administrative Rules – Committee Chair, McLean Russell.

McLean Russell, Sales Tax Administrative Rules Committee Chair, noted that the next committee meeting would be in the afternoon on February 7. McLean highlighted the following proposed sales and use tax rules for next year's legislative session.

Rule 027 – Computer Equipment, Software, & Data Services had a Notice of Intent published in January Bulletin. This rule clarifies that digital goods and certain software accessed remotely (i.e. over the internet or other network) are taxable. The committee is waiting for the end of the legislative session. Rule 100 – Prescriptions, will likely go through negotiated rulemaking, but nothing has been published yet. This rule removes language referring to eyeglass and contact dispensing charges. The first draft will be discussed in the committee meeting later in the afternoon on February 7.

Rule 130 – Promoter Sponsored Events, will likely go through negotiated rulemaking, but nothing has been published yet. This rule clarifies the promoter's responsibility in regards to documentation that must be obtained from participants at the event. It updates the procedure

regarding Form ST-124 that all participants at the event are required to complete. The first draft will also be discussed in the committee meeting on February 7. A brief discussion on cloud computing followed.

Next, McLean noted a proposed hotel and motel rule, Rule 010 – Definitions, which will likely go through negotiated rulemaking, but nothing has been published yet. The rule addresses the question if sales of lodging at sites with a structure on them such as a yurt, lookout tower, or a cabin fall under the definition of a campground or a hotel/motel. There is not a draft yet on this rule, which will be discussed in the committee meeting on February 7.

McLean noted that the fuels tax rules committee meetings would start up in March. Don Williams, who is temporarily in Tax Policy, will chair that committee.

Commissioner Langhorst requested the rules committees' chairs begin submitting the monthly reports, developed last year for the open meetings, again.

There were no further questions.

Other Business.

Bill von Tagen, Lead Deputy Attorney General, presented This Day in History.

This Day in History, February 6:

1778 – France recognizes the United States and signs a treaty of aid in Paris.

England declares war on France.

1899 – Spanish American War ends. The Peace Treaty was ratified by the Senate.

1935 – Monopoly goes on sale.

1951 – Paul Harvey arrested for trying to sneak in to the Argonne National Laboratory in Chicago.

1952 – Elizabeth becomes Queen of England.

1964 – Beatles arrive in New York.

1971 – First golf ball hit on moon by Alan Shepard.

#1 Song

1965 – Blue-eyed soul, Righteous Brothers, “You’ve Lost That Lovin’ Feelin’.”

Public Comments.

There were no more public comments.

Recess.

Commissioner Langhorst recessed the Public Session for 5 minutes to reconvene for the commissioners to meet with the Commission’s legal counsel.

Reconvene Meeting.

Commissioner Langhorst reconvened the open meeting.

Executive Session.

Commissioner Katsilometes moved to amend the agenda and move into the Executive Session. Chairman Jackson seconded. Commissioners Jackson, Langhorst, Katsilometes, and Roberts all voted in favor by roll call and the motion passed.

The Commission met in executive session with its legal counsel pursuant to Idaho Code § 67-2345(1)(f) to discuss the current status of litigation to which the Commission is a party. No matters requiring a vote of the Commission resulted from the executive session.

Public Session.

Commissioner Langhorst declared the Executive Session was ended and returned to the public session.

There being no further business, the meeting adjourned.

Valerie Dilley
Secretary

David Langhorst
Chair