

# IDAHO STATE TAX COMMISSION

## COMMISSIONERS' OPEN MEETING MINUTES OF MEETING MARCH 4, 2015

In attendance: Commissioners Richard W. Jackson, Tom Katsilometes, Ken A. Roberts, and Elliot S. Werk; Michael Chakarun, Valerie Dilley, Steve Fiscus, Scott Grothe, Robin O'Neill, Mark Poppler, Chuck Pond, Liz Rodosovich, Mike Teller, Bill von Tagen, Randy Tilley, Doreen Warren; Cynthia Adrian, James Pendergrass, McLean Russell, Don Williams; Mat Cundiff, Erick Shaner, Phil Skinner, David Young; Redge Clapp, Margaret Corn, Tawnya Eldredge, Diane Griffiths, Gary Houde, Janet James, Tony Magnelli.

### **Public Session.**

Commissioner Ken A. Roberts convened the open meeting and welcomed all those in attendance. Commissioner Roberts introduced and welcomed the newly appointed Commissioner Elliot S. Werk.

### **Presentation of Certificates of Service.**

James Pendergrass, Performance Development Specialist, in the absence of Roxanne Lopez, Human Resources Officer, acknowledged the employees receiving a Certificate of Service, and stated how much their combined 65 years of state service were appreciated.

The Certificate of Service recipients in attendance were: Margaret Corn, Revenue Process Clerk, (Revenue Operations) for 5 years of state service; Tony Magnelli, IT Systems Analyst, (Property Tax) for 10 years of state service; Tawnya Eldredge, Tax Auditor 3, (Audit) for 20 years of state service and a thank-you letter from the Governor; and Gary Houde, Senior Research Analyst, (Property Tax) for 30 years of state service and a thank-you letter from the Governor.

The Commissioners expressed their congratulations to all the recipients and said how the recipients' combined total of 65 years of dedicated state service was commendable and how the everyday work they do is valued and appreciated.

### **Business Requiring Vote of the Commission.**

#### Minutes: Open Meeting – February 4, 2015.

Chairman Jackson moved that the minutes of the open meeting held on February 4, 2015, be approved. Commissioner Katsilometes seconded. There were no comments or amendments. All voted in the affirmative and the minutes of the open meeting on February 4, 2015, were approved.

There was no more business requiring a vote of the Commission.

### **Administrative Reports.**

#### Management Services, Mark Poppler.

Mark Poppler, Financial Officer, presented the administrative report for Management Services (MS). Mark reminded the Commission that the Tax Commission's FY2016 budget will be set by JFAC (Joint Finance Appropriations Committee) next Tuesday, March 10. Mark will be there to answer questions, although few are asked directly to agency personnel at these settings.

The landlord reported that the elevator company has finished work on the freight elevator in Plaza IV. The landlord is waiting for the building inspections to be completed, hopefully sometime early next week. It is further expected that the remaining three elevators (east side) will then be refurbished in the near future, but Jim Sereduk has not received word on an official date yet, and is asking for specifics. For safety reasons, all three elevators on the eastside must go down together. Commissioner Roberts recommended issuing a set of guidelines during peak business hours. (Afterwards, Mark learned that the eastside elevators were actually shut down for refurbishing during the open meeting.)

Even earlier than in previous years, the Legislative Services Office (LSO) auditors are anxious to begin the fieldwork for the upcoming year-end and the annual CAFR (comprehensive annual financial statement). There will be a meeting later this week to identify which areas and processes can be reviewed immediately, and which must wait until after fiscal year-end. The finding on taxes receivable from last year's review will also be discussed.

MS received the approved first claim for reimbursement under the STARS program (Sales Tax Anticipation Revenue), also known as the Pilot Demonstration Project Fund. The claim was from a Meridian project early in 2014. This STARS program was passed in the 2008 Legislature for the purpose of establishing a new method for financing public transportation infrastructure. Basically, a developer who spends the necessary minimum (currently \$4,000,000) on a qualifying retail complex can register with us, and have 60% of the sales tax payments from qualified retailers in the complex go into the Pilot Demonstration Project Fund. If the developer is then able to obtain approval from the Idaho Transportation Department (ITD) to build an interchange or other public transportation improvement with a minimum value of \$6,000,000, the developers can file claims for cost reimbursement from the Pilot Demonstration Project Fund. The sales tax diverted is capped at a maximum of \$35,000,000 per project. Two developers have met these requirements and have submitted claims for reimbursement. While there are only two qualified retailers in the development in north Idaho, there are now 57 qualified retailers in Meridian.

There were no questions.

#### Audit Division, Randy Tilley.

Randy Tilley, Audit Division Administrator, reported that starting on April 1, the Audit Division will be sending out surveys to taxpayers for whom an audit has been completed. The surveys are a designed inquiry about customer service. Audit will be asking questions about its responsiveness to telephone calls and emails, clarity of reports and correspondence, and whether the auditor effectively explained Idaho law and rules including taxpayer rights. The survey period will be from April 1 through June 30, at which time Audit will analyze the results and determine how it can enhance its customer service. Randy noted that Scott Grothe, Principle Research Analyst, will assist Audit with the analysis.

There were no questions.

#### Property Tax Division, Steve Fiscus.

Steve Fiscus, Property Tax Division Administrator, reported that the Property Tax Division (PT) has received the annual ratio studies from thirty of the counties. Six counties with eight categories of property are out of compliance with levels of assessment. The categories studied are vacant residential, improved residential, vacant commercial, improved commercial, and manufactured homes.

The CAP Rate Conference will be held on March 17. Industry tax representatives from the companies that PT appraises, such as railroads, electric, gas distribution, etc., will gather together and share the results of their research regarding the development of cap rates. Cap rates are the

divisor in the formula for determination of the value of the assets of a company. Net income divided by the cap rate equals value. The lower the rate, the higher the value. Often the cap rates are the subject of disagreement, and this meeting is an opportunity to share information prior to setting the rates.

Steve noted that today was the deadline for releasing maps that have changes in the boundaries of the district for the 2015 tax year. PT informed two cities that today was the deadline, since they passed ordinances in a timely fashion but have not supplied sufficient paperwork. If the cities do not get the paperwork to PT today, they will have to wait until next year for the ability to levy tax in the annexed areas.

There were no questions.

#### Revenue Operations Division, Doreen Warren.

Doreen Warren, Revenue Operations Division Administrator, reported that the income tax processing season is in full swing. Revenue Operations (RO) has received 285,154 e-filed individual returns and 28,340 paper returns, with several boxes of mail yet to be opened.

RO is currently meeting its commitments to pay refunds within seven weeks if the return is e-filed, and within ten weeks if the return is filed by paper.

Through the coordinated efforts between RO and Audit, identity theft fraud returns continue to be identified. As of February 25, the agency has stopped 277 fraudulent returns totaling \$305,506.56. Of these returns, 242 represent identity theft. Eight different tax fraud schemes have been identified, including a recent employer breach that was reported on Tuesday, involving 100 employees. RO completed an outreach to those employers and employees on the same day.

This week RO is canceling 234 International Fuels Tax Agreement (IFTA) licenses for non-renewal. This number is consistent with the numbers we annually cancel for non-renewal. A brief discussion followed.

RO sent 770 letters to taxpayers indicating that they may be eligible for a refund from past years. RO is beginning to get taxpayer responses and will be able to process the requests within our established timelines.

There were no questions.

There were no more administrative reports.

#### **Reports on Rules Committees.**

##### [Income Tax, Administration & Enforcement, Kilowatt, Mine License Rules](#) – Committee Chair, Cynthia Adrian.

Cynthia Adrian, Income Tax, Administration & Enforcement, Kilowatt, and Mine License Rules Committee Chair, reported that three pieces of relevant legislation were signed into Law by the Governor. Only one may require a rule change; that is HB 37 which adds new section 63-3022U to allow a deduction for charitable contributions if the deduction was limited under the Internal Revenue Code.

There were no questions.

##### [Motor and Special Fuels Tax Rules](#) – Committee Chair, Don Williams.

Don Williams, the Motor and Special Fuels Tax Rules Committee Chair, reported that the Motor and Special Fuels Tax Rules Committee did not meet since the last open meeting. There were no rule changes based on 2015 legislation planned yet. HB132 which amends 63-2424 to eliminate the use of gaseous fuel permits, use diesel gallon equivalent for LNG and gas gallon

equivalent for CNG, and to define the term “gaseous special fuels.” has not passed the House. Two bills are not out of the originating House committee: HB144 which raises the gasoline tax 8 cents/gal, raises diesel 12 cents/gal, with a 1-cent increase each per year thereafter, increases the transfer fee to 3-cents/gal., and eliminates gaseous fuel decals; and HB146 which repeals Idaho Code § 63-2410 to eliminate the ability of a taxpayer to claim a refund of gasoline tax when the fuel is used for an off-road use.

The next Motor and Special Fuels Tax Rules Committee meeting is the afternoon of March 4, 2015, at 2:00 p.m.

There were no questions.

#### Sales & Use Tax Administrative Rules – Committee Chair, McLean Russell.

McLean Russell, Sales & Use Tax Administrative Rules Committee Chair, reported on the status of a few rules, noting six rules were approved. Rule 102 – Logging, was lagging, and Rule 128 – Certificates for Resale and Other Exemption Claims, on exemptions for hotels and motels, will be rejected. McLean noted that after productive discussions with the fire industry in the rules committee, there would probably be some change in the rules for tree farming, since tree farms’ language was not previously covered in the Rule 102. Commissioner Roberts voiced concern about whether the tree farms felt included in the discussion.

The rule on software, HB 027 – Computer Equipment, Software, & Data Services, is being held, but not rejected because of issues related to specific software companies. A brief discussion followed on solving the lack of engagement by industry early in the rules negotiating process and improving outreach efforts.

There were no more questions.

#### Property Tax Rules – Committee Chair, Alan Dornfest.

Steve Fiscus, Property Tax Division Administrator, reported on the Property Tax Rules Committee in the absence of Alan Dornfest, Property Tax Rules Committee Chair. The last Property Tax Rules Committee meeting was on February 25, 2015, and the next meeting will be on Tuesday, March 31, 2015, at 9:30 a.m.

Steve noted that the property tax rules were going through the House and Senate germane committees. HB 0029 was in Amending Order, amended to leave in place the reference to IRC §267 in the determination of taxpayer, but continues to provide for a reduction in reimbursement funds for recoveries of improperly claimed personal property exemptions. HB 0029 also provides that the exemption would be calculated for operating companies, that operate in more than one county, by multiplying the number of counties in which the company is located by \$100,000. This exemption would be subtracted from the counties’ Idaho value before apportionment to the taxing districts. An allowance would be made for any local exemption.

In addition, two bills are signed into law already. HB 0027 Amends Idaho Code § 31-4314 deleting the provision that allows recreation districts to levy property tax in the year of formation if the district is formed by June 1. The amendment requires the district to be formed before January 1 in order to levy in the following calendar year, which is the same as all other taxing districts. And HB 0028 which amends existing Idaho Code § 63-802(a) to add back personal property replacement funds in the calculation of a school district’s “Hypothetical Levy Rate” which is applied to new construction value to create additional budget authority.

There were no questions.

## **Other Business.**

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

This Day in History, March 4:

- 1152 – Frederik I Barbarossa elected Roman-German king
- 1681 – King Charles II grants William Penn royal charter for Pennsylvania
- 1791 – 1st Jewish member of US Congress, Israel Jacobs (Pennsylvania), takes office
- 1793 – President Washington's 2nd inauguration, shortest speech (133 words)
- 1826 – 1st US RR chartered, Granite Railway in Quincy MA
- 1841 – Longest inauguration speech (8,443 words), William Henry Harrison
- 1849 – US had no President, Polk's term ends on a Sunday; Taylor could not be sworn-in, Senator David Atchison (president pro tem) term ended March 3<sup>rd</sup>
- 1861 – Lincoln inaugurated as 16th President; 1st time US has 5 former Presidents living
- 1863 – Territory of Idaho established
- 1917 – Jeannette Rankin (Representative-Republican-MT) becomes 1st female member of Congress
- 1924 – "Happy Birthday To You" published by Claydon Sunny
- 1925 – President Coolidge's inauguration broadcast live on 21 radio stations
- 1930 – Mrs. Charles [Emma] Fahning is 1st woman to bowl a sanctioned perfect [300] game
- 1933 – FDR inaugurated as 32nd President, pledges to pull US out of Depression & says "We have nothing to fear but fear itself"
- 1936 – 1st flight of airship Hindenburg, Germany
- 1985 – Virtual ban on leaded gas ordered by EPA
- 1997 – Brazil Senate allows women to wear slacks

#1 Song:

1940 – "In The Mood" by Glenn Miller

This Month in History, March 4:

- March 11- 1953 An American B-47 accidentally drops a nuclear bomb on South Carolina, the bomb does not go off due to 6 safety catches
- March 18 - 1959 President Dwight D Eisenhower signs Hawaii statehood bill
- March 25 - 1966 Beatles pose with mutilated dolls & butchered meat for the cover of the "Yesterday & Today" album. It is later pulled.

There was no other business.

## **Public Comments.**

There were no more public comments.

## **Recess.**

Commissioner Roberts recessed the Public Session for five minutes to reconvene for the commissioners to meet with the Commission's legal counsel.

**Reconvene Meeting.**

Commissioner Roberts reconvened the open meeting.

**Executive Session.**

Commissioner Katsilometes moved to go into the 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, in addition to discuss matters which are exempt pursuant to Idaho Code § 67-2345(1)(b). Chairman Jackson seconded. A roll call vote was taken by Valerie Dilley, Executive Administrative Assistant. Commissioners Jackson, Katsilometes, Roberts, and Werk all voted in favor 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, in addition to discuss matters which are exempt pursuant to Idaho Code § 67-2345(1)(b). No matters requiring a vote of the Commission resulted from the executive session.

**Public Session.**

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

There being no further business, the meeting adjourned.

Valerie J. Dilley  
Secretary

Ken A. Roberts  
Commissioner