

**IDAHO STATE TAX COMMISSION**  
**COMMISSIONERS' OPEN MEETING**  
**MINUTES OF MEETING HELD APRIL 9, 2014**

In attendance: Commissioners Richard W. Jackson, Tom Katsilometes, David R. Langhorst, and Ken A. Roberts; Michael Chakarun, Valerie Dilley, Roxanne Lopez, Robin O'Neill, Chuck Pond, Mark Poppler, Liz Rodosovich, Randy Tilley, Doreen Warren, Bill von Tagen; Rick Anderson, McLean Russell, Don Williams; George Brown, Chelsea Kidney, Erick Shaner, Phil Skinner, and Mat Cundiff; Glenyce Hug, Kathleen Osborne, Jerry Ricker, Karen Thiel, Kristy Torres.

Guests: Richard Budzich, Meredith Pond.

**Public Session.**

Commissioner David Langhorst convened the open meeting and welcomed the guests.

**Presentation of Certificates of Service.**

Roxanne Lopez, Human Resources Officer, acknowledged the employees receiving a Certificate of Service, and stated how much their combined 100 years of state service were appreciated.

The Certificate of Service recipients were: Karen Thiel, Human Resource Specialist Senior (Human Resources), and Kristy Torres, Tax Appraiser (Property Tax) for 5 years of state service; Jerry Ricker, Management Assistant in Central Collections (Collections Division) for 15 years of state service; and Chuck Pond, Safety and Security Officer (Commissioners) for 30 years of state service and a thank-you letter from the Governor.

The absent recipients who will have their certificates presented at a later date are: Patricia Surline, Administrative Assistant 2 (Revenue Operations) for 20 years of state service and a thank-you letter from the Governor; and Mark Ausman, Tax Compliance Officer 2 (Collections) in the Lewiston Field Office for 25 years of state service and a thank-you letter from the Governor.

The Commissioners each congratulated the recipients and said how the recipients' years of dedicated state service were commendable and the everyday work they do is appreciated.

**Business Requiring Vote of the Commission.**

Minutes: Open Meeting – March 5, 2014.

Chairman Jackson moved that the minutes of the open meeting held on March 5, 2014, be approved. Commissioner Roberts seconded. There were no comments or amendments. All voted in the affirmative, and the minutes of the open meeting were approved.

Administrative Policy Memorandum No. 14-03 – Code of Ethics and Professional Conduct

Roxanne Lopez presented the Administrative Policy Memorandum No. 14-03 – Code of Ethics and Professional Conduct, which replaces Administrative Policy Memorandum No. 10-03 Conflict of Interest and Ethical Conduct, dated June 30, 2010. Roxanne recommended the Commission adopt the new policy, which establishes principles and expectations for Idaho State Tax Commission employees to serve ethically and professionally and in the public's best interest to assure transparency, impartiality, independence, and honesty.

Commissioner Roberts moved that Administrative Policy Memorandum No. 14-03 – Code of Ethics and Professional Conduct be approved, and Commissioner Katsilometes seconded. There were no comments or questions. All voted in the affirmative, and the policy was adopted.

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 noted that the agency submitted its official compensation plan to the Division of Financial Management (DFM) on Thursday, April 3, 2014. The request incorporates the appropriated 1% ongoing salary increase for next year supplemented by an additional 1.75% ongoing generated by savings, both planned to go into effect early. The plan also includes one-time bonuses on June 20 and again on August 1. The ongoing portion of the agency's plan has been approved, while the bonus distribution on June 20 needs some follow up explanation. The ongoing raises go into effect Sunday, April 13, with the first impact on the paychecks received on May 9, 2014.

The refund fund fell below the \$20,000,000 threshold in the last week. This year the Tax Commission did not obtain additional borrowing authority as preferred, so Doreen Warren and Mark have been monitoring the refund activity closely. The fund has \$17,066,000 in it as of this morning, April 9. It will remain near its low point in the next week prior to the big influx of revenue on the April 15 tax due date. Still Mark did not anticipate running out of money in the refund fund and needing to hold refunds.

MS is back to full strength. Glenda Smith, Accounting Supervisor, promoted Craig Allison to Financial Specialist, Senior, to fill her vacated spot, and hired Dave Blatchley to fill the other senior spot vacated by the retirement of Julie Smith. In addition, Josh Miller will lateral transfer into the Financial Specialist position that Craig previously held. Both Dave and Josh transferred from the Tax Discovery Bureau (TDB) passing on the vacancy situation to that group.

Mark congratulated the team of employees who conducted last week's fundraiser for veterans support and for the Christmas families' event. Although waiting on a final exact number, the total amount raised exceeded \$3,300.

There were no questions.

#### Revenue Operations, Doreen Warren.

Doreen Warren, Revenue Operations Division Administrator, reported that Revenue Operations (RO) projected paying 543,939 refunds totaling \$324,844,456 during the first six months of this calendar year. So far, RO paid 294,958 refunds amounting to \$160,623,009.87 with an average refund of \$544.56.

RO continues to identify fraud returns while processing the individual income tax returns. This year there have been 225 fraud returns, totaling \$260,082 with an average of \$1,156. One scheme accounts for 100 returns totaling \$95,000. Last year there were a total of 574 fraud returns, amounting to \$605,455, with an average of \$1,055 per return.

In May, the Commissioners and several program managers will visit the field offices around the state and attend the CPA Roundtable meetings sponsored by the Idaho Society of Certified Public Accountants (ISCPA). This year the CPA meeting schedule will be the week of May 13 in Coeur d'Alene and Clarkston; the week of May 27 in Idaho Falls and Twin Falls; and on Friday, May 30 in Boise.

Commissioners Katsilometes and Langhorst inquired about the status of the refund fund. Doreen noted that RO is maintaining consistency in releasing the refunds.

There were no more questions.

There were no more administrative reports.

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

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

Michael Chakarun, Tax Policy Manager, in the absence of Cynthia Adrian, Income Tax, Administration & Enforcement, Kilowatt, and Mine License Rules Committee Chair, reported that the committee is continuing discussions to determine which rules may need to be negotiated. The committee is also reviewing the recently enacted legislation to see if any existing rules will be impacted.

There were no further questions.

#### Motor and Special Fuels Tax Rules – Committee Chair, Don Williams.

Don Williams, the Motor and Special Fuels Tax Rules Committee Chair, reported that of the five PARFs submitted to the DFM on March 24, 2014, none were approved yet. One of the rules was held over from last year and it was negotiated, Rule 110–Calculation of Tax on Gaseous Fuels. The proposed change to the rule will add a definition for a gaseous fuel. The tax basis for a gaseous fuel is the energy equivalent of a gallon of gasoline. The amended rule will also adopt the gas gallon equivalent for compressed natural gas and the diesel gallon equivalent for liquefied natural gas. A working draft is being prepared to present to stakeholders at a negotiated rulemaking meeting.

The remaining non-negotiated rules are: Rule 001–Title and Scope, the Department of Administration has requested that Rule 001–Title and Scope be added; Rule 003 – Administrative Appeal, the amendment would propose a Commission appeal process for non-NOD decisions, (NOD or NODD–Notice of Deficiency Determination); Rule 004–Incorporation by Reference, Department of Administration has requested that Rule 330 be moved to Rule 004–Public Records. This will require that Rule 004–Public Records be changed to Rule 006.

There are no external meetings scheduled at this time.

There were no questions.

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

McLean Russell, Sales Tax Administrative Rules Committee Chair, reported that all the sales and use tax rules the committee presented to the 2014 Legislature were passed. The committee’s next public meeting will be held on May 15, 2014, at 1:30 p.m. (MDT).

There were no questions.

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

Alan Dornfest, Property Tax Rules Committee Chair, was absent, so Rick Anderson, Property Tax Policy Specialist, presented the Property Tax Rules Committee report. Rick highlighted the status on the following property tax rules:

Rule 120 – Investigation of Written Complaints, which confines subject of investigation to property tax assessment or administration matters but not personnel matters or matters relating to expenditure of funds. Rule 120 restricts complainant to past or present employees or contractors or to one who resides or owns property in the county. The rule provides a timeframe for hearing the complaint. Draft 2 of the Rule 120 adds subsection 5 – budget and levy investigations. The discussion will continue at the next rules meeting.

Rule 205T & P – Property Definition, which deletes 205.03.b., a portion of fixture definition, needs to conform to newly enacted HB441a, which is retroactive to January 1, 2014.

Rule 512 deletes the word fixture from the description of property category 29, which lists personal property items.

Rules 315, 508T&P, 509T&P, 627, 626T&P, 803T&P, 804, 988 all deal with personal property exemption, reporting, and levy setting. Rule 626T, conforming to HB441a deletes the five-year reporting requirements and single taxpayer explanation. Other reporting requirements are being deleted because the replacement funds amount was established in 2013. New Rule 627 will carry the taxpayer ownership clarifications.

Rule 609 – Homeowner’s Exemption (HOE), provides for optional removal if by April 15 the home is no longer owned by the applicant. A legal review of this rule is needed.

Rule 645 – Land Actively Devoted to Agriculture; net vs. gross income for five acres or less, changes the rule to say gross income for sale of livestock.

House Bill 560 – central registry for governmental entities, required changes to Rule 805 – Budget Authority, penalty for failure to provide budget-hearing notice, and to Rule 995 – Certification of Sales Tax Distribution, the sales tax withheld needs a legal review of the rule.

Rick added that there are 16 rules active and five that need to be temporary rules. A brief discussion followed.

Chairman Jackson noted that although there was very little impact to taxpayers, as a result of the legislative session, these are much clearer rules. Commissioner Katsilometes thanked Rick for the comprehensive report on the Property Tax Rules Committee status. Commissioner Langhorst commended the rules committee chairs, noting they were asked to take on a lot of additional responsibility in order to be transparent in the negotiated rulemaking process. In addition, at the beginning of this legislative session, our processes came under scrutiny, and the agency came out looking successful.

There were no more questions.

There were no other rules committee reports.

### **Other Business.**

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

This Day in History, April 9:

- 1833 – First tax supported Public Library – Peterborough, New Hampshire
- 1865 – General R.E. Lee and 26,765 troops surrender to General U.S. Grant at Appomattox
- 1878 – 1<sup>st</sup> Lady Lucy Hayes begins egg-rolling contest on White House Lawn
- 1912 – Titanic leaves Queenstown, Ireland for New York
- 1914 – World’s first full color film shown “The World, The Flesh and The Devil.”
- 1927 – Sacco and Vanzetti given death sentences
- 1940 – Germany invaded Norway and Denmark.
- 1950 – Bob Hope makes first television appearance.
- 1953 – First T.V. guide appears
- 1959 – NASA names Mercury 7 astronauts
- 1967 – First Boeing 737 rolls out
- 1970 – Paul McCartney announces official split of Beatles.

### **#1 Songs**

1955 – Bill Hayes sang the “Ballad of Davey Crockett.”

1964 – Beatles sang “Can’t Buy Me Love.”

1970 – Beatles sang “Let It Be”

There was no other business.

**Public Comments.**

There were no public comments.

**Recess.**

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

**Reconvene Meeting.**

Commissioner Langhorst reconvened the open meeting.

**Executive Session.**

Chairman Jackson 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. Commissioner Langhorst stated that it was not necessary to second the motion. A roll call vote was given by Valerie Dilley, Executive Administrative Assistant. Commissioners Jackson, Katsilometes, Langhorst, and Roberts 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. No matters requiring a vote of the Commission resulted from the executive session.

**Public Session.**

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

There being no further business, the meeting adjourned.

Valerie J. Dilley  
Secretary

David Langhorst  
Chair