

IDAHO STATE TAX COMMISSION
COMMISSIONERS' OPEN MEETING
MINUTES OF MEETING APRIL 3, 2019

In attendance: Commissioners Ken A. Roberts, Tom Katsilometes, Janet Moyle, and Elliot S. Werk, Roxanne Lopez, Shelli Boggie, John Bernasconi, Mark Poppler, Mark Warbis, Mike Chakarun, Mark Stones, Steve Fiscus, Terry Ford, Glenda Smith, Alan Dornfest, Renee Eymann, Phil Skinner, Maria Young.

Public Session

Commissioner Moyle called the meeting to order and welcomed all those in attendance.

Presentation of Certificates of Service

Roxanne Lopez, Human Resources Officer, acknowledged the employees receiving Certificates of Service. Ms. Lopez noted that their combined total of 60 years of state service is appreciated. The Certificate of Service recipients in attendance were: Scott Baker, Program Information Coordinator, Revenue Operations, Electronic Data Management – 5 years of service; Jade Hansen, Technical Records Specialist 2, Revenue Operations, Taxpayer Accounting – 5 years of service; Diana Johnson, Technical Records Specialist 1, Audit, Income Tax Audit – 25 years of service; Pat Surline, Program Specialist, Revenue Operations, Coordination and Automation Bureau – 25 years of service. Ms. Johnson and Ms. Surline were presented with certificates of appreciation from Governor Little.

The Commissioners expressed their congratulations and appreciation for all their years of service.

Steve Fiscus, County Support Division Administrator, was presented with a commendation from Governor Little for his 14 years of service with the Idaho State Tax Commission. The Commissioners congratulated Mr. Fiscus for his years of service and impending retirement.

Business requiring Vote of the Commission

Minutes: Open Meeting – March 6, 2019

Commissioner Werk moved to approve the minutes of the open meetings held on March 6, 2019. Commissioner Roberts seconded the motion. There were no comments or amendments. All voted in the affirmative and the minutes of the open meetings held on March 6, 2019 were approved.

Administrative Reports

Revenue Operations Division, John Bernasconi

John Bernasconi, Revenue Operations Administrator, had no report.

Tax Appeals Manager, Mike Chakarun

Mike Chakarun, Tax Appeals Manager, noted he only reports on cases in his unit and does not include cases assigned to the Deputy Attorneys General. As of March 29, there were 250 cases in inventory with an average age of 229 days per case. This count is up from the last report due to a surge from other divisions. Currently there are 191 income tax cases, 55 sales tax cases, and 4

circuit-breaker cases. Of the 250 cases, decisions have been issued on 43 and those are in the 91-day waiting period for the petitioner to either file an appeal with the Board of Tax Appeals or with the district court. The average age of these cases is 348 days. The average age of the 207 remaining active cases is 204 days.

Since July 1, 2018, 265 cases have been closed with an average age of 384 days per case. 91% of those cases were closed within 2 years of transfer to Appeals. The target is to close 90% within 2 years, as set forth in the Commission's strategic plan.

Commissioner Werk thanked Mr. Chakarun and his staff for clearing the backlog. Mr. Chakarun said they are down to the last 10 cases that are over 2 years old. Those will drop off soon.

Collection, Debbie Coulson

Debbie Coulson, Collection Division Administrator, reported they are still struggling with staffing in collections. They are down 7 people in Phone Power; there are 11 total positions. There are another 6 vacancies in Compliance. They are working closely with Human Resources to fill these positions. Because of the number of vacancies, there is a higher backlog. Ms. Coulson recognized the Compliance Technicians from the Boise office who helped in the phone bank. On Friday, there were 3,600 accounts that needed phone calls and only 4 people to make those calls. The Compliance Technicians came in to assist and as of Tuesday afternoon, were down to 600 calls. She thanked them for stepping up and getting that done. There are approximately 16,000 accounts that are unassigned; it's difficult with so few staff. She is anticipating more accounts soon. Ms. Coulson will pull as many resources as they can, but it will be a struggle until her positions are filled.

Commissioner Roberts asked if she has been able to establish a baseline for the number of cases that go into payment plans, understanding the number may increase this year. Payment plans are up, collections cases are also up (they have added approximately 4,600 cases), but she doesn't know the average for the payment plans. There are more case closures, above last year's numbers. Until after April 15, it is difficult to determine past years payment plans vs. this year. John Bernasconi said they don't spend time correcting errors at this time of the year. They focus on refunds. It would be almost impossible to extract that data until June.

Commissioner Moyle asked Ms. Coulson to convey the appreciation of the Commissioners and the Agency for everyone stepping up and resolving those cases. It was impressive to watch.

County Support Division Administrator, Steve Fiscus

Steve Fiscus, County Support Division Administrator, reported we did not anticipate installing the UAD Web system in Bannock County, but we did, and they have balanced: the assessor's side (exemptions, et.al. equaled the value of the parcel and the total value) and the treasurer's office. Mr. Fiscus reported Tax Commission staff will go to Bannock County and spend a few days working with them, converting their software.

[HB164](#) has become law requiring written notice to county officials if a category of property is assessed improperly. The Tax Commission began notifying counties, both assessors and county commissioners, April 1.

In Valley County, an advisory vote was held to decide whether to increase road funds (Valley County does not have a highway district); 69% voted in favor. The County Clerk contacted the Tax Commission office; they were under the false impression they could go ahead and levy for that money, but it was only an advisory vote, and still needs to be put to a vote of the people as a specific request to raise and spend the funds. The newspaper then became aware of this and contacted the Tax Commission. We have continued to relay to the reporter and to the County Commissioners that the County can use the \$1.1 million of forgone balance (money they could have levied for and didn't) without a vote of the people. They cannot use \$3.3 million (I.C. [§63-802\(1\)\(h\)](#)), since that amount

exceeds the 3% growth cap defined in statute. The next available election is in November 2019. If their levy passes at that time they will not begin to see money from the levy until December 2020.

On April 1, 2019, the Tax Commission received a request to review the news article about the Valley County advisory vote. Mr. Alan Dornfest, Property Tax Policy Chief, was able to review the story earlier today and noted the reference to an action on March 20. He disputed this date with the reporter indicating that had there been a notification to the Tax Commission by March 20, there would have been time to have the levy added to the May ballot. There was no interaction between Valley County and the State Tax Commission until April 1.

Mr. Dornfest did speak to Valley County in the fall (2018). Had we seen the wording on the initial ballot at that time we could have told them it was not in compliance with statute. It is noted that it was fortunate, given everything, that this reporter contacted us for a review of the article. Commissioner Werk asked if there are checks and balances to ensure this doesn't happen again. Mr. Dornfest said we have no authority over the ballots and do not review every ballot. We offer, as often as possible, outreach, budget and levy workshops, and we let counties know we are always available to review ballots to see if they comply with our rules. Many counties submit their ballots to us for review. We will re-emphasize this service in the coming months, but there is no mandate for them to submit their ballots. Mr. Fiscus added that the checks and balances are earlier in the process when the levies are reviewed; this would have been questioned because they would not have had the authority to exceed the 3%.

Commissioner Moyle suggested reviewing all the ballots, in coordination with the Secretary of State, and then send out advisory letters. Mr. Dornfest isn't sure county ballots go through the Secretary of State first. The counties handle their own elections. We do not issue legal opinions; we can make recommendations. There are 44 counties and we don't have the staff or the authority to do that right now. Excluding schools, there are perhaps 20 or 30 ballot measures per year.

Commissioner Roberts observed that there are about 1,050 taxing districts in Idaho. The legal counsels for the counties help draft the questions that go to the voters and their staff should be aware of the requirements of Idaho Statute. Perhaps we can consider expanding our trainings to more than just assessors. Commissioner Moyle asked if we will face any legal challenges in this Valley County decision. Mr. Dornfest said no one disputes the Tax Commissions decision. There was a misunderstanding by Valley County officials and everyone admits to that.

Information Technology, Terry Ford

Terry Ford, IT Manager, reported that since January, four IT team members have left state employment. Geraint Morgan, one of the three Tax Commission IT managers, has accepted a position at ITS; his last day is April 5. Ms. Ford is confident this will be beneficial to the tax commission and ITS, as well as the placement of Justin Amick, a Tax Commission IT employee, who has accepted the Security Operations Manager position with ITS and will remain at the Tax Commission until June 15. ITS should be able to announce more positions soon, and we would hope more Tax Commission employees are selected for those positions. The team's attention has now shifted on Chinden campus infrastructure build-out. They are trying to prepare different scenarios. The timeline is now compressed since the data center construction is a month behind schedule. They will continue to work on alternate plans to facilitate the July move date.

Human Resources, Roxanne Lopez

Roxanne Lopez, Human Resource Officer, had no report

Management Services, Mark Poppler

Mark Poppler, Financial Officer, reported March is finished and they are working on compiling the numbers. The refund fund, while not specific, is in the mid \$40 million's which is healthier than expected. It will continue to drop until April 15, when revenue will begin bringing it back. It does not appear we will have to borrow from DFM. The average refund is averaging a little more than \$100 less than average refund last year. There are only 20,000 fewer refunds this year than last. The total number of returns is almost identical, within about 0.2%, to last year.

The instructions for the CEC distribution have been received and the program managers are developing the plan. They hope to issue a letter today. It takes approximately two weeks for DHR and DFM to then make a final decision.

Audit Division Administrator, Randy Tilley

Mark Stones, in Randy Tilley's absence, had no report.

Public Information and Taxpayer Resources, Mark Warbis

Mark Warbis, Public Information Director, reported that the forms and rules committees are beginning to review this year's legislation to see if there are any changes that will need to be made. This is in the context of the Red Tape Reduction Act. The department reduced the word count during this current fiscal year by almost 7,000 words. This is not considered, since the executive order was enacted after this year's rules were approved to move forward. The rules review committee are going through their tax types, though, and coming back to the committee with their recommendations. The deadline is May 3 to receive legislative ideas for the 2020 legislative session. The policy manager, Tom Shaner, and Cynthia Adrian will be presenting W-4 Training to Boise State University staff. There will be one for those working during the day and one for those that work the night shift.

Sherry Briscoe went to Ontario, OR last Saturday to deliver Business Basics. There were 11 people in attendance. This training was conducted at the request of tax practitioners in Eastern Oregon who have Idaho clients; some from Boise drove to Ontario. Leah Parsons is also delivering Sales Tax Training to the auto dealers association. Sixty (60) people have signed up for this sales tax training this evening. That has been a very successful program that will eventually be expanded.

He thanked our taxpayer services staff and policy experts for the professional way they have been responding to taxpayer and tax pro questions and concerns.

Reports on Rules Committees

Alan Dornfest, Chairman, Property Tax Rules Committee, reported there were two rules related to examples for agricultural land appraisals that were rejected. Another that was rejected dealt with the provisional tax exemption. All other property tax rules were approved. They have submitted Administrative Rules Request Forms (ARRF) for working on some rules. We have received a new petition from the same farmer that prompted our submission of the two agricultural rules that failed this year. The farmer has once again petitioned the Tax Commission, to work with us to see if we can reach an accord. Mr. Dornfest spoke to Matt Warnick, DFM, yesterday and told him they were having this discussion again. Mr. Warnick was reluctant to proceed. The first rules meeting is the morning of April 10. The counties were also invited to set up a special group to discuss the ag. issues and see if we have enough common ground to move forward. The president of the assessor's association is very willing assemble a group of assessors to move forward and take part in those discussions. The first meeting will take place the afternoon of April 10.

The Property Tax Rules Committee is also reviewing statutory changes and have identified one area that will likely require a temporary rule. The law that changed allows the circuit breaker benefits for those on the occupancy tax (a pro-rated, first-year property tax on new construction) was retroactive to January 1, 2019 and Canyon County is reportedly already receiving applications. The

application process is fine, but the current rule conflicts with the new law regarding when counties submit their reimbursement rolls to the Tax Commission. Commissioner Katsilometes asked for clarification and Mr. Dornfest said that under the current rule, the deadline for submitting the reimbursement is before the deadline for submitting the application. It can be easily rectified; however, it will require a temporary rule.

Commissioner Roberts complimented the outreach for the issues surrounding the Ag values. Getting input and having good discussion about methodology and providing a forum for those discussions is healthy and the Commissioners appreciate it.

Other Business

There was no other business to discuss currently.

Public Comments

There were no public comments.

Executive Session

Commissioner Roberts moved to go into Executive Session with legal counsel pursuant to Idaho Code § 74-206(1)(f) to discuss the current status of litigation to which the Commission is a party. A roll call vote was taken by Maria Young, Management Assistant and Commissioners Roberts, Katsilometes, Moyle and Werk all voted in favor and the motion passed.

The Commission met in Executive Session with its legal counsel pursuant to Idaho Code § 74-206(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 Moyle declared the Executive Session ended and returned to the public session. There being no further business, Commissioner Moyle adjourned the meeting.

Maria Young

Janet Moyle