

IDAHO STATE TAX COMMISSION

COMMISSIONERS' OPEN MEETING MINUTES OF MEETING MAY 20, 2015

In attendance: Commissioners Richard W. Jackson, Tom Katsilometes, Ken A. Roberts, and Elliot S. Werk; Michael Chakarun, Valerie Dilley, Scott Grothe, Roxanne Lopez, Mark Poppler, Chuck Pond, Liz Rodosovich, Bill von Tagen, Randy Tilley, Doreen Warren; Rick Anderson, Alan Dornfest, Robert Howe, McLean Russell, Don Williams; Mat Cundiff, Chris Herzinger, Erick Shaner, Phil Skinner, Cecily Vaughn, David Young; Don Anderson, Sandra Bowens, Ted Cesler, Trudy Charles, Rebecca Danley, Mike Douglass, Ryan Hunter, Jena Noeldner, Megan Santi, Meriam Shaw, Corey Smith, Glenda Smith, Kevin Voss, and Kim Wind.

Guest: Martin Bilbao, Elli Brown, Luke Kilcup, Steve Olsen, Colleen Zahn.

Public Session.

Commissioner Elliot S. Werk convened the open meeting and welcomed all those in attendance.

Presentation of Certificates of Service.

Roxanne Lopez, Human Resources Officer, acknowledged the employees receiving a Certificate of Service, and stated how much their combined total of 65 years of state service were appreciated.

The Certificate of Service recipients were: Ted Cesler, IT Systems Integration Analyst (Information Technology), and Steve Fiscus, Property Tax Division Administrator (Property Tax), for 10 years of state service; Meriam Shaw, Tax Auditor 1 (Audit Division), for 15 years of state service; and Kevin Voss, Senior Buyer (Management Services), for 30 years of state service and a thank-you letter from the Governor.

Steve Fiscus, Property Tax Division Administrator (Property Tax), was absent and will receive his certificate for 10 years of state service at a later time.

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.

Special Presentation.

Chairman Richard W. Jackson noted that it was nice to receive a letter from the Office of the State Controller (OSC) complimenting our workforce. The State Controller Brandon D. Woolf in his letter said his office would like to recognize the individuals from the Tax Commission who helped them produce the fiscal year 2014 Comprehensive Annual Financial Report (CAFR) by submitting their closing packages on time. In addition, Controller Brandon extended his gratitude to any other Tax Commission employees that helped with this task.

The Chairman presented certificates of appreciation from the Office of the State Controller to Mark Poppler, Financial Officer, to present to the Accounting staff, who either created or approved a closing package. The recipients were: Mark Poppler, Glenda Smith, Patty Hapke, Liliya Salato, Joshua Miller, Dave Blatchey, and Craig Allison.

Business Requiring Vote of the Commission.

Minutes: Open Meeting – April 1, 2015.

Commissioner Tom Katsilometes moved that the minutes of the open meeting held on April 1, 2015, be approved. Commissioner Ken A. Roberts seconded. There were no comments or amendments. All voted in the affirmative and the minutes of the open meeting on April 1, 2015, were approved.

Minutes: Open Meeting – April 22, 2015.

Chairman Jackson moved that the minutes of the open meeting held on April 22, 2015, be approved. Commissioner Roberts seconded. There were no comments or amendments. All voted in the affirmative and the minutes of the open meeting on April 22, 2015, were approved.

Resolution 15-03 – Property Tax Temporary Rules 803T, 804T, and 626T.

Alan Dornfest, Property Tax Policy presented Resolution 15-03 – Property Tax Temporary Rules 803T, 804T, and 626T, to the Commission. The resolution includes temporary rules that were needed to comport with law changes enacted by the 2015 Legislature and effective July 1, 2015. It is necessary to amend certain property tax rules in order to give timely clarification and guidance to administrators of both locally assessed and state assessed property in accordance with the enacted changes to the statutes. These temporary rules would also be proposed as permanent rules in the next legislative session. Alan recommended the Commission adopt Resolution 15-03.

Commissioner Katsilometes moved that Resolution 15-03 – Property Tax Temporary Rules 803T, 804T, and 626T be adopted, and Commissioner Roberts seconded. There were no comments or questions. All voted in the affirmative and Resolution 15-03 – Property Tax Temporary Rules 803T, 804T, and 626T was adopted.

Resolution 15-04 – Motor Fuels Tax Rule 110T.

Don Williams, the Motor and Special Fuels Tax Rules Committee Chair, presents the Resolution 15-04 – Motor Fuels Tax Rule 110T. The resolution included a temporary rule that needs to be updated since Idaho Code Section 63-2402(2) was amended in 2015 by House Bill 312 to provide that the motor fuel tax rate is increased from twenty-five (25¢) cents per gallon to thirty-two (32¢) cents per gallon. This temporary rule will be proposed as a permanent rule in the next legislative session. Don recommended the Commission adopt Resolution 15-04. A brief discussion followed on what impact in administration the changes in HB 312 would cause.

Commissioner Katsilometes moved that Resolution 15-04 – Motor Fuels Tax Rule 110T be adopted, and Commissioner Roberts seconded. There were no comments or questions. All voted in the affirmative and Resolution 15-04 – Motor Fuels Tax Rule 110T 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 reported that the \$100,000 budget for the Western States Association of Tax Administrators (WSATA) conference the Tax Commission sponsored last Fall, was finalized with a

surplus of \$30,000 for WSATA. The surplus was due to our having more sponsors and lower expenses than anticipated. Renee Eymann, the conference coordinator, will be submitting the updated report.

Chairman Jackson complimented Liz Rodosovich, Public Information Officer, and Renee Eymann, Public Information Specialist, for all their work on the conference. Commissioner Katsilometes said they did a great job and while WSATA had their professionals working on the conference, the Tax Commission had their own.

Mark noted that this was a good year for the refund fund due to higher revenues. By statute, 20 percent is held from income tax for the refund fund, and it looks like only 17 percent will be used this year. Brief discussion followed.

Commissioner Katsilometes congratulated the Accounting Staff on the presentation from the Office of the State Controller. Chairman Jackson noted that this is the second year the Tax Commission did not have to go to the Board of Examiners to borrow funds from the general fund to pay refunds.

There were no questions.

Audit Division, Randy Tilley.

Randy Tilley, Audit Division Administrator, reported that the Audit Division (AD), along with Revenue Operations (RO), this year so far has stopped 135 fraud returns, saving \$214,635 in refunds, and 416 identity theft returns, saving \$762, 449 in refunds. This is a total of 551 fraudulent returns stopped, saving the state \$977,084 in refunds so far this tax season.

Last year at this time, AD with RO stopped 386 fraud returns for a savings of \$389,670 in refunds, along with 36 identity theft returns stopped for a savings of \$64,548 in refunds. That makes a total of 422 fraudulent returns stopped this time of year in 2014, for a savings of \$454,218.

The cases still in the work cue include 191 returns from the Fraud Manager and 160 returns from RO referrals. Audit had 45 new cases on Tuesday, May 19, 2015, alone, with 31 returns from the Fraud Manager and 14 returns from RO Referrals.

Chuck Pond, Safety and Security Officer, asked if the success this year was due to the new GenTax Version 9 (V9) Fraud Manager or an increase in fraud and identity theft. Randy said that he was not able to say, but noted that V9 allows the identification of identity theft and fraud. Doreen Warren, RO Division Administrator, noted that there was a national trend showing an increase and more were caught due to the efforts both nationally and in Idaho. A brief discussion followed.

There were no more questions.

Revenue Operations Division, Doreen Warren.

Doreen Warren, Revenue Operations Division Administrator, reported that tax processing continues to make progress. Even though the extra workload due to reviewing moderately scored returns has caused slowdowns with some return processing, RO is on target to pay timely refunds by the mid-June target date to minimize the amount of refund interest that will need to be paid.

To date, RO paid more than \$269 million in individual income tax refunds to nearly 482,000 taxpayers. The refunds have been paid within our targeted objectives 95 percent of the time.

RO has begun the steps to prepare for next year's processing and implementation of legislative changes, and will continue working with the other divisions to ensure the projects are completed timely and effectively.

Next week, the spring tour of the field offices and meetings with the CPAs will wrap up. Those touring have received good feedback on our processes and proposed changes for the upcoming year.

There were no questions.

Legal, William A. von Tagen.

Bill von Tagen, Deputy Attorney General assigned to the Idaho State Tax Commission, introduced the new externs in Legal, Cecily Vaughn and Chris Herzinger. Bill said Legal was very happy with them. Commissioner Katsilometes added that the new externs were impressive.

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, reported on Income Tax, Administration & Enforcement, Kilowatt, and Mine License Rules Committee, in the absence of Cynthia Adrian, the committee chair. Michael noted that the rules committee was currently working on Rule 16, defining Idaho gross income & giving examples; Rule 291, regarding the deductions allowed in the computation of Idaho taxable income when the entity pays the tax for owners; and Rule 171, dealing with the Idaho capital gains deduction, which was modified by 2015 HB 85, 109A & 133.

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's first public rules committee meeting was held on May 7, 2015. The next public meeting is scheduled for June 4, 2015, when Rule 110 – Calculation of Tax on Gaseous Fuels, Rule 280 – Refund to Consumers for Nontaxable Uses of Motor Fuels, and Rule 422 – Documentation for Idaho Full Fee Registrants will be discussed.

The rules committee has seven eight rules to amend review this year. Five of the rules are not negotiated, two three rules will be changed to update rates the references, and two rules changed since HB0132 revised the gaseous fuel decal program and the references need to be removed in the rule.

Of the negotiated rules:

Rule 110 – Calculation of Tax on Gaseous Fuels had the PARF approved by the Division of Financial Management and the rule will be negotiated, since there is a question on the conversion factor.

Rule 280, Refund to Consumers for Nontaxable Uses of Motor Fuels, will be deleted. This will require all IFTA licensees to file a Form 75, Idaho Fuel Use Report, to claim refund or credit of fuel tax for tax paid diesel used on nontaxable roads.

Rule 422, Documentation for Idaho Full Fee Registrants, is also being negotiated. The rules committee received a request from the Farm Bureau with a proposed draft rule written. The proposed draft rule is not accepted yet, but will be on the agenda for the next committee meeting.

There were no questions.

[Sales & Use Tax Administrative Rules](#) – Committee Chair, McLean Russell.

McLean Russell, Sales & Use Tax Administrative Rules Committee Chair, was absent, and Michael Chakarun, Tax Policy Manager, reported that the Sales & Use Tax Administrative Rules Committee has a negotiated rules committee meeting on May 21, 2015. There will also be a rules committee meeting on June 24, 2015.

The rules that will be discussed at the meeting on May 21, 2015 are: Rule 027 – Computer Equipment, Software, & Data Services, making changes made in response to House Bill 209 that excluded digital movies, books, music, and games from tax if the purchaser does not have a permanent right to use the digital product, and any ongoing issues from prior legislative changes; Rule 056 – Photographers and Photofinishers, now that digital photographs delivered electronically are no longer tangible personal property, if sales of these products are a photographer’s primary focus, the business no longer qualifies for the production exemption; Rule 100 – Prescriptions, Prescription eyeglass and contact lenses will be exempted over the next couple years, so the rule needs to be updated to address this change; Rule 107 – Motor Vehicles – needs to be clarified and updated to address the changes in law due to HB 012 which added UTVs and SOHVs to the list of vehicles that nonresidents can purchase in Idaho exempt from tax. A brief discussion followed.

There were no more questions.

Property Tax Rules – Committee Chair, Alan Dornfest.

Alan Dornfest, Property Tax Rules Committee Chair, reported that there will be a rules committee meeting on Thursday, May 21, 2015. The rules discussed at the rules committee meeting on April 14, 2015, were on the operating property personal property exemption and the dissolution of urban renewal entities as that process affects the Boise School District. Other rules were approved and still others tabled until the next rules committee meeting on June 23, 2015.

Commissioner Werk asked if any of the rules were controversial and Alan noted that some assessors may be concerned about changes to make the deadline for submitting information to qualify small acreages as farmland consistent with the deadline for exemption applications.

There were no more questions.

Other Business.

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

This Day in History, May 20:

1639 – Dorchester MA, forms the first school funded by local taxes.

1861 – Kentucky proclaims its neutrality in the Civil War.

1861 – North Carolina becomes the eleventh and last state to secede from the Union.

1862 – President Abraham Lincoln signs the Homestead Act, which opens government-owned land to small family farmers (“homesteaders”). The act gave “any person” who was the head of a family 160 acres to try his hand at farming for five years. The individual had to be at least 21 years old and was required to build a house on the property. Farmers were also offered an alternative to the five-year homesteading plan. They could opt to buy the 160 acres after only six months at the reasonable rate of \$1.25 an acre. Many homesteaders could not handle the hardships of frontier life and they gave up before completing five years of farming.

1873 – San Francisco businessman Levi Strauss and Reno, Nevada tailor Jacob Davis are given a patent to create work pants reinforced with metal rivets, marking the birth of one of the world’s most famous garments: blue jeans.

1926 – Thomas Edison says Americans prefer silent movies over talkies.

1927 – At 7:52 a.m., American aviator Charles A. Lindbergh takes off from Roosevelt Field on Long Island, New York, on the world’s first solo, nonstop flight across the Atlantic Ocean and the first ever nonstop flight between New York to Paris.

1930 – The first airplane catapulted from a dirigible, with Charles Nicholson, pilot
1932 – Amelia Earhart leaves Newfoundland as the first woman fly solo across the Atlantic.
1939 – Pan Am begins regular transatlantic airmail and passenger service across the North Atlantic.
1956 – United States drops a hydrogen bomb over Bikini Atoll.
1961 – White mob attacks "Freedom Riders" in Montgomery, AL.
1990 – Hubble Space Telescope sends first photographs from space.

#1 Song:

1965 – “Ticket to Ride,” the Beatles.

Birthdates:

1851 – Emile Berliner Germany, inventor (flat phonograph record)
1951 – Michael D. Crapo (Representative-R-ID)

Deaths:

1506 – Christopher Columbus, explorer, dies in poverty in Spain at age 55.
1972 – Walter Winchell, columnist/narrator (Untouchables), dies at age 75.

Thought for the Day: “Where facts are few, experts are many.”

There was no other business.

Public Comments.

Commissioner Werk invited the guests in attendance to introduce themselves and comment if they wish. The following guests introduced themselves: Luke Kilcup from Lobby Idaho, Martin Bilbao from Gallatin, and Elli Brown from Veritas. The commissioners expressed their appreciation for the guests’ interest and participation.

There were no more public comments.

Recess.

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

Reconvene Meeting.

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

There being no further business, the meeting adjourned.

Valerie J. Dilley
Secretary

Elliot S. Werk
Commissioner