

IDAHO STATE TAX COMMISSION

COMMISSIONERS' OPEN MEETING MINUTES OF MEETING MAY 21, 2014

In attendance: Commissioners Richard W. Jackson, Tom Katsilometes, David R. Langhorst, and Ken A. Roberts; Michael Chakarun, Debbie Coulson, Valerie Dilley, Roxanne Lopez, Chuck Pond, Mark Poppler, Liz Rodosovich, Mike Teller, Randy Tilley, Doreen Warren; Cynthia Adrian, Rick Anderson, McLean Russell, Don Williams; George Brown, Chelsea Kidney, Erick Shaner, Phil Skinner, Mat Cundiff, and Matthew Button; Ken Ballard, Terry Gober, Patty Hapke, Celinda Manweller, Kelly McConnell, Diana Ohlssen-Johnson, Jim Sereduk, Glenda Smith.

Public Session.

Chairman Richard W. Jackson 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 95 years of state service were appreciated.

The Certificate of Service recipients were: Ken Ballard, Revenue Process Clerk (Revenue Operations) for 10 years of state service; and Diana Ohlssen-Johnson, Technical Records Specialist (Audit Division) for 20 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: Renee Kraemer, Technical Records Specialist 1 (Collection Division) for 15 years of state service; Shelley Johnson, Tax Compliance Officer 2 (Collection Division) for 20 years of state service and a thank-you letter from the Governor; and Rodger Breen, Tax Auditor 3 (Audit Division), Twin Falls Field Office for 30 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.

Special Presentation

Chairman Jackson presented special certificates of appreciation to the individuals in Management Services who helped the State Controller's Office produce the Fiscal Year 13 Comprehensive Annual Financial Report (CAFR) by submitting their closing packages on time. The Controller's Office also extended their gratitude to all in the agency who helped with the task of completing the CAFR in a timelier manner.

The commissioners then presented the Certificates of Appreciation from the State Controller Brandon Woolf, for outstanding performance and lasting contribution to the State Controller's Office. Mark Poppler, Glenda Smith, and Patty Hapke received their certificates, and Liliya Salato, who was absent, will receive her certificate at a later time. The commissioners expressed their appreciation for the efforts of Mark and his staff which make the Tax Commission look good.

Business Requiring Vote of the Commission.

Minutes: Open Meetings – April 9, 2014 and April 23, 2014.

Commissioner Katsilometes moved that the minutes of the open meetings held on April 9, 2014 and April 23, 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. 14-04 – Reduction in Force Policy.

Roxanne Lopez presented the Administrative Policy Memorandum No. 14-04 – Reduction in Force Policy. Roxanne recommended the Commission adopt the policy, which was done for administrative purposes only. It is an administrative requirement to have a policy in place that defines the Idaho State Tax Commission's policies and practices. Human Resources does not anticipate having to use the policy and there were no changes to the existing policy.

Commissioner Langhorst moved that Administrative Policy Memorandum No. 14-04 – Reduction in Force Policy 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 he reported at last month's meeting that the agency submitted its official compensation plan to the Division of Financial Management (DFM) on Thursday, April 3. The Tax Commission received official permission on April 24 and began implementation. The plan incorporates the appropriated 1% ongoing for next year supplemented by an additional 1.75% ongoing generated by savings, and went into effect in time to pay on the May 9th pay day. The plan also includes one-time bonuses on June 20 and again on August 1. The Executive Leadership Team (ELT) will finalize the June 20 bonus amount tomorrow at the regular ELT meeting.

As April refunds were higher this year than last year, and revenues weaker, concern over the refund fund balance again became a concern. This time, the subcommittee of the Board of Examiners recommends the Board allow ISTC to borrow an additional \$10,000,000 if it becomes necessary. The actual Board meeting is on May 22, Thursday morning, and the subcommittee recommendation is on the consent agenda.

Mark noted that the Legislative Services Office (LSO) audit division is anxious to begin fieldwork for the upcoming year-end and the annual CAFR (comprehensive annual financial statement). This is earlier than in previous years. There will be a meeting next week to identify the areas and processes that can be reviewed immediately, and which ones must wait until after fiscal year-end. When the Commissioners are available, a more formal meeting with the LSO auditors will be held.

Following a few months of actual collections, many of the initial questions and concerns have been worked out between the City of Ketchum and the Tax Commission in documenting and categorizing the receipts in the manner the City needs. Mark gave special thanks again to Evan Reed in Revenue Operations and Glenda Smith in Accounting for working so closely with the staff from the City of Ketchum. The agency also withheld the agreed administrative fee for the year from the April revenue.

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 the PARFs have been approved by DFM for negotiated Rule 560 – Special Rules and Rule 750 – Broadband Equipment Investment Credit, and the Notice of Intent will be published in the June Administrative Bulletin. A rules committee meeting is scheduled for June 18, 2014, to present the drafts and discuss these two rules.

Rule 560 – Special Rules is being amended consistent with language from the Multistate Tax Commission to remove the phrase about “unusual fact situations (which ordinarily will be unique and non-recurring)”. Rule 750 – Broadband Equipment Investment Credit: In General is being amended to give guidance regarding the carryover period for the broadband tax credit.

The committee is continuing discussions to determine which rules may need to be negotiated and is also reviewing the recently enacted legislation to see if any existing rules are 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 there were no external meetings in the past month, only an internal committee meeting on May 7, 2014. The Department of Administration has requested that Rule 001 – Title and Scope be added. A PARF on Rule 001 was approved by DFM on April 23, 2014 and a Notice of Proposed Rulemaking is submitted for the June bulletin.

Rule 003 – Administrative Appeal, includes the Commission appeal process for non-NOD decision. Although a PARF was approved by DFM on April 23, 2014, Rule 003 is currently tabled. Next, Rule 004 – Incorporation by Reference, where the Department of Administration requested that Rule 004 – Public Records be changed to Rule 006, had the PARF approved on April 23, 2014. A Notice of Proposed Rulemaking was submitted for June bulletin. Rule 006 – Public Records, where the Department of Administration has requested that Rule 330 – Incorporation by Reference be changed to Rule 004, had the PARF approved on April 23, 2014. A Notice of Proposed Rulemaking was submitted for June bulletin.

Rule 110 – Calculation of Tax on Gaseous Fuels, had the PARF approved on April 23, 2014. This rule states that the tax basis for a gaseous fuel is the energy equivalent of a gallon of gasoline. The amended rule will add a definition for a gaseous fuel. The amended rule will also adopt the gas gallon equivalent for compressed natural gas and the diesel gallon equivalent for liquefied natural gas. A Notice of Intent was submitted for the June bulletin. Rule 311 – IFTA License Bonding, is a new rule based on the authority of Section 63-2442A and the IFTA Articles of Agreement. The rule would implement International Fuel Tax Agreement (IFTA) license bonding for late filing and revoked IFTA licensees. The rule would also allow the licensee to request a bond waiver. The PARF was approved by DFM on April 23, 2014 and a Notice of Intent was submitted for the June bulletin.

Both Rule 110 and Rule 311 will be discussed at a negotiated rulemaking committee meeting on June 4, 2014. Commissioner Katsilometes thanked Don for all he has done as the chair on the Motor and Special Fuels Tax Rules Committee.

There were no questions.

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

McLean Russell, Sales & Use Tax Administrative Rules Committee Chair, reported that there was a sales and use tax rules committee public meeting held on May 15, 2014. The two of the

rules discussed at this meeting did not have drafts, although both had a Notice of Intent published in the May Bulletin. One was Rule 100 – Prescriptions, which addresses concerns from optometrists and eyeglass/contact sellers related to the taxability of various services in the industry, as well as, lay out the responsibility of these sellers in collecting tax from the customer when the eventual insurance reimbursement is uncertain at the time of the transaction. Draft 1 for Rule 100 will be discussed in the next committee meeting on June 19, 2014. The other one was Rule 027 – Computer Equipment, Software, & Data Services, which addresses changes arising from the passage of HB 598 during the 2014 legislative session. Draft 1 for Rule 027 will be discussed in a future committee meeting.

McLean highlighted the new rules the committee will discuss at future meetings. Rule 022 – Drop Shipments, which clarifies the responsibilities of both in state and out-of-state retailers and manufacturers in a drop shipment transaction. Rule 049 – Warranties and Service Agreements, addresses the taxability of overage charges and consumables provided through a service agreement. Both Rule 022 and Rule 049 will have a Notice of Intent published in the June Bulletin and a discussion on Draft 1 in the June 19 meeting.

In addition, Rule 063 – Bad Debts and Repossessions, a proposal from a business owner submitted to simplify the calculation for sales tax refunds related to bad debt, will be discussed in a future meeting.

Commissioner Langhorst noted the Tax Commission’s commitment to transparency and to improve on informing the public. A brief discussion followed emphasizing how this is achieved by looking for ways in general to inform the taxpayers.

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 noted that the PARFs were approved on all 16 of the Property Tax Rules. The next Property Tax Rules Committee meeting is scheduled for Thursday, May 29, 2014, at 9:00 a.m.

Rick noted that in addition to the four Temporary Rules that were approved at their April 23, 2014, open meeting, the Commission could expect two more temporary rules to come before them in the near future. One is the sales tax distribution Rule 995T – Certification of Sales Tax Distribution, which is about defining Market Value for Assessment Purposes and if the 602KK(2) exemption should be included. This temporary provision affects the distribution of sales tax to cities. The proposed provision adds responsibility to withhold sales tax under HB560.

Next, Rule 804 Tax Levy Certification -Urban Renewal, dealing with annexation base value and property splits and the handling of the personal property tax exemption, is currently being reviewed.

The next Property Tax Rules Committee meeting is scheduled for Thursday, May 29, 2014, at 9:00 a.m.

There were no more questions.

There were no other rules committee reports.

Other Business.

Chelsea Kidney, Deputy Attorney General, presented This Day in History.

This Day in History, May 21:

- 1863 – Organization of the Seventh-day Adventist Church in Battle Creek, Michigan.
- 1864 – Russia declares an end to the Russian–Circassian War and many Circassians are forced into exile. The day is designated the Circassian Day of Mourning.
- 1881 – The American Red Cross is established by Clara Barton in Washington, D.C.
- 1917 – The Great Atlanta fire of 1917 causes \$5.5 million in damages, destroying some 300 acres including 2,000 homes, businesses and churches, displacing about 10,000 people but leading to only one fatality (due to heart attack).
- 1927 – Charles Lindbergh touches down at Le Bourget Field in Paris, completing the world's first solo nonstop flight across the Atlantic Ocean.
- 1932 – Bad weather forces Amelia Earhart to land in a pasture in Derry, Northern Ireland, and she thereby becomes the first woman to fly solo across the Atlantic Ocean.
- 1975 - Elton John became the first Western pop star to play in the U.S.S.R.
- 1980 - Joe Strummer (Clash) was arrested at a Hamburg, West Germany, show after smashing his guitar over the head of an audience member.
- 2005 – The tallest roller coaster in the world, Kingda Ka opens at Six Flags Great Adventure in Jackson Township, New Jersey. --1907 – John C. Allen, American roller coaster designer (d. 1979)

Notable Movie Releases:

- 1935 – New Adventures of Tarzan
- 1971 – Escape from the Planet of the apes
- 1980 – The Empire Strikes Back

#1 Songs

- 1956 – “Heartbreak Hotel” sung by Elvis Presley
- 1957 – “All Shook Up” sung by Elvis Presley
- 1958 – “All I Have To Do Is Dream” sung by the Everly Brothers
- 1970 – “American Woman” by Guess Who
- 1980 – “Call Me” by Blondie
- 1987 – “With or Without You” by U2

There was no other business.

Public Comments.

There were no public comments.

Recess.

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

Reconvene Meeting.

Chairman Jackson 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. Commissioner Roberts 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.

Chairman Jackson declared the Executive Session ended and returned to the public session.

Chelsea introduced Matt Button, Legal Extern, who will be assisting Legal during the summer. The commissioners welcomed Matt to the Tax Commission.

There being no further business, the meeting adjourned.

Valerie J. Dilley
Secretary

Richard W. Jackson
Chairman