

IDAHO STATE TAX COMMISSION

COMMISSIONERS' OPEN MEETING MINUTES OF MEETING JULY 1, 2015

In attendance: Commissioners Richard W. Jackson, Tom Katsilometes, Ken A. Roberts, and Elliot S. Werk; Debbie Coulson, Valerie Dilley, Scott Grothe, Mark Poppler, Chuck Pond, Liz Rodosovich, Bill von Tagen, Randy Tilley, Doreen Warren; Cynthia Adrian, McLean Russell, Don Williams; Mat Cundiff, George Brown, Erick Shaner, Phil Skinner, David Young; Steve Allen, Debbie Amyx, Jeff Middleton, Dave Noland, Mark Stones, Pam Waters.

Guests: Brody Aston, Martin, Bilbao, Benn Brocksome, Ben Davenport.

Public Session.

Commissioner Tom Katsilometes convened the open meeting and welcomed all those in attendance.

Commissioner Katsilometes opened for a motion to move in to executive session.

Executive Session.

Chairman Jackson moved to go into the 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, in addition to discuss matters which are exempt pursuant to Idaho Code § 74-206(1)(b). Commissioner Elliot S. Werk 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 § 74-206(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 § 74-206(1)(b). No matters requiring a vote of the Commission resulted from the executive session.

Public Session.

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

Recess.

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

Reconvene Meeting.

Commissioner Katsilometes reconvened the open meeting in public session.

Chairman Jackson moved to change the order of the agenda and have the Business Requiring a Vote of the Commission and Administrative Reports before the Presentation of the Certificates of Service. The executive session had delayed the certificate recipients' arrival and this change in the agenda would accommodate them. Commissioner Elliot S. Werk seconded the motion. All voted in the affirmative and the amended agenda was approved.

Business Requiring Vote of the Commission.

Minutes: Open Meeting – June 10, 2015.

Chairman Jackson moved that the minutes of the open meeting held on June 10, 2015, be approved. Commissioner Werk seconded. There were no comments or amendments. All voted in the affirmative and the minutes of the open meeting held on June 10, 2015, were approved.

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

Administrative Reports.

Audit Division, Randy Tilley.

Randy Tilley, Audit Division Administrator, reported that 911 fraudulent returns have been stopped through June 30, 2015. Of those returns, 495 are related to identity theft. The dollar impact of the fraudulent returns stopped was \$1,412,077 of which \$962,341 was related to identity theft. For the same period last year, the Commission stopped 570 fraudulent returns (78 related to identity theft) for a total of \$649,480 (\$146,486 of which was related to identity theft). Over the past two weeks, there has been an increase in the number of traditional fraud returns related to first-time filers of Form 43 Part-year and Non-resident returns.

There were no questions.

There were no more administrative reports.

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: Jeff Middleton, Technical Records Specialist 2, (Property Tax) for 5 years of state service; Mark Stones, Tax Bureau Chief (Audit Division for 25 years of state service and a thank-you letter from the Governor; and Debbie Amyx, Tax Technical Unit Supervisor (Revenue Operations Division) for 30 years of state service and a thank-you letter from the Governor.

The recipient not in attendance was Janet Ellis, Tax Compliance Technician, CDA Field Office (Collection Division) for 5 years of state service; she would receive her certificate at a later time.

Chairman Jackson noted how a legislator last year complimented Mark Stones for assisting him in an audit years earlier. Commissioner Katsilometes complimented Jeff Middleton for all the work he does in Property Tax.

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.

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 non-negotiated rules were discussed at the last rules committee meeting on June 25, 2015. At the next rules committee meeting on July 8, 2015, the three negotiated rules will be discussed: Rule 16 – Idaho Gross Income, Rule 171 – Idaho Capital Gains Deduction—Qualified Property, and Rule 291 – Tax Paid by Pass-Through Entities for Owners or Beneficiaries—Computation of Idaho Taxable Income for Taxable Years Beginning On or After January 1, 2014. The Notice of Intent for all three negotiated rules is published starting July 1, 2015, in the July Bulletin.

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 two rules committee meetings were held in June, one on June 4, 2015, and the other on June 30, 2015. Both negotiated and non-negotiated rules were discussed at these committee meetings.

Rule 110 – Calculation of Tax on Gaseous Fuels needed to be amended because of the tax rate change by 2015 H0312a effective July 1, 2015. A temporary rule was required and Resolution 15-04 passed at the June 10, 2015 open meeting. The rule is published in the July 1, 2015 Bulletin and has been reviewed by the Legislative Services Office (LSO).

Rule 280 – Refund to Consumers for Nontaxable Uses of Motor Fuels had the PARF approved June 5, 2015. The intent is to remove the requirement that IFTA licensees must claim nontaxable miles on their IFTA returns. Once that is removed, the rule repeats Rule 250.06 and needs to be deleted. The Notice of Intent is published in the July 1, 2015 Bulletin.

Don added that the rules committee is looking at a request regarding the requirements for intrastate carriers in Idaho.

Commissioner Katsilometes commended Don and the Motor and Special Fuels Tax Rules Committee for being a good example of the negotiated rulemaking process.

There were no questions.

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

McLean Russell, Sales & Use Tax Administrative Rules Committee Chair, reported that the Sales & Use Tax Administrative Rules Committee meeting was on June 24, 2015, and the next meeting will be on Thursday, July 23, 2015. The remaining PARFs for discussion still need to be approved before the next meeting.

McLean highlighted Rule 041 – Food, Meals, or Drinks. House Bill 237 exempted prepared food and beverages given away to employees. The rule needs to be revised to address the new exemption and, in particular, to define the terms “prepared food” and “prepared beverage.” Legislation also passed in 2013, and 2014 exempting food and beverage samples and donations. The rules committee will discuss whether any issues have arisen that need to be addressed in rule. Draft #1 of the proposed rule was discussed at the rules committee meeting on June 24, 2015.

Rule 050 – Veterinarians and Veterinary Supplies, is one of several rules that need to be updated to reflect the change from House Bill 39, which removed the hand tool exclusion from the production exemption. Draft # 1 of the proposed rule was discussed at the meeting on June 24, 2015.

Rule 067 – Real Property, deals with a requirement in the National Electrical Code (NEC) that certain cabling in a building must be removed. As a result, the current rule identifies such cabling as tangible personal property even after installation. Discussion on whether the rule needs to be changed occurred at the rules committee meeting on June 24, 2015.

Rule 072 – Application and Payment of Use Tax. House Bill 237 exempted prepared food and beverages given to employees. Rule 072 discusses giveaways by a retailer, which, in general, are taxable. A caveat needs to be added to note the new exemption. Draft #1 of the proposed rule was discussed at the June 24, 2015, meeting.

Rule 079 – Production Exemption is one of several rules that need to be updated to reflect the change from House Bill 39, which removed the hand tool exclusion from the production exemption. In addition, House Bill 221 added hunting and fishing operations to the list of businesses that can qualify for the production exemption. The sponsors of House Bill 221 have suggested the possibility that a rule change may not be necessary. The proposed rule was discussed at the June 24, 2015, rules committee meeting. Commissioner Werk noted that the production exemption still has a problem and a clear definition is needed.

Rule 128 – Certificates for Resale and Other Exemption Claims, is one of several rules that need to be updated to reflect the change from House Bill 39, which removed the hand tool exclusion from the production exemption. In addition, Form ST-108TR was changed and Draft #1 of the proposed rule was discussed at the June 24, 2015, rules committee meeting.

There were no questions.

Property Tax Rules – Committee Chair, Alan Dornfest.

Alan Dornfest, Property Tax Rules Committee Chair, reported that the Property Tax Rules Committee met on June 23, 2015. All the PARFs have been approved. All the rules to be proposed for this next year have been completed and are ready for publication, with the exception of two negotiated rules. The committee is waiting on the completion of the 21-day comment period from the July 1, 2015, publication of the notice to do negotiated rulemaking. These two rules are Rule 315 and Rule 626 and no comments are anticipated.

There will be a rules committee meeting on July 23 or July 24, 2015, if comments are received. The rules committee is also meeting on July 9, 2015, to proofread copies of proposed rules for publication in the unofficial rules books, which will be distributed to counties in August.

There were no questions.

There were no more rules committee reports.

Other Business.

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

This Day in History, July 1:

1535 – Sir Thomas More went on trial in England charged with treason

1850 – At least 626 ships lie at anchor around San Francisco Bay

1862 – Lincoln appoints Isaac Newton Secretary of Agriculture; Internal Revenue Law

imposes first federal taxes on inheritance, tobacco and on incomes over \$600
(progressive rate)

- 1863 – Battle of Gettysburg, Pa; Lee's northward advance halted
- 1898 – Teddy Roosevelt and his Rough Riders charge up San Juan Hill
- 1899 – Gideon Society established to place bibles in hotels
- 1924 – Through regular transcontinental airmail service established, NYC-SF
- 1941 – Bulova Watch Co. pays \$9 for first ever network TV commercial
- 1963 – Beatles record "She Loves You" and "I'll Get You"
- 1963 – US Postal Service institutes the (Zone Improvement Plan) ZIP code
- 1967 – Beatles' "Sgt. Pepper's Lonely Hearts Club Band," goes #1 for 15 weeks
- 1971 – Golden Gate Bridge paid for
- 1991 – Michael Landon actor (Bonanza) dies at 54 from cancer
- 1997 – China regains sovereignty of Hong Kong

#1 Song: 1964 – “I Get Around” by the Beach Boys

Commissioner Katsilometes acknowledged Bill’s retirement on July 2, 2015, and, on behalf of the Commissioners, expressed appreciation for Bill’s many years of service for the state. Chairman Jackson recalled all the years that they had worked together. Bill expressed that it has been a distinct honor to represent the Tax Commission and thanked the commissioners.
There was no other business.

Public Comments.

Commissioner Katsilometes asked if the guests in attendance had any comments. The commissioners expressed their appreciation for the guests’ interest and participation.

There were no more public comments.

There being no further business, the meeting adjourned.

Valerie J. Dilley
Secretary

Tom Katsilometes
Chair