

IDAHO STATE TAX COMMISSION
COMMISSIONERS' OPEN MEETING
MINUTES OF MEETING HELD JULY 17, 2013

In attendance: Commissioners Rich Jackson, Tom Katsilometes, and Ken Roberts; Michael Chakarun, Debbie Coulson, Valerie Dilley, Steve Fiscus, Roxanne Lopez, Robin O'Neill, Chuck Pond, Mark Poppler, Liz Rodosovich, Mike Teller, Randy Tilley, Bill von Tagen, Doreen Warren; Cynthia Adrian, Rick Anderson, McLean Russell, Don Williams; George Brown, Chelsea Kidney, Erick Shaner, and Phil Skinner; Don Anderson, Rose Calico, Vera Keith, Jeanine Lane, Jena Noeldner, Kathryn Pridgen, Kim Wind.

Guest: Richard Budzich.

Public Session.

Chairman Jackson convened the open meeting. Commissioner Ken Roberts joined the meeting by telephone. Commissioner David Langhorst was absent.

Presentation of Certificates of Service.

Roxanne Lopez, Human Resources Officer, acknowledged each of the employees that were receiving a Certificate of Service, and stated how much all of their combined 150 years of state service was appreciated.

The Certificate of Service recipients were: Cynthia Adrian, Tax Policy Specialist (Tax Policy), for 5 years of service; Vera Keith, Office Specialist 2 in Central Collections (Collection Division), for 10 years of service; Jeanine Lane, Tax Auditor 2 in Tax Discovery (Audit Division), and Kathryn Pridgen, IT Programmer Analyst (Property Tax), for 25 years of service and a thank-you letter from the Governor.

The absent recipients that will have their certificates presented at a later date were: Stephanie Nielson, Tax Auditor 2 in Sales Tax Audit (Audit Division), and Kim Trinh, Tax Auditor 3 in Sales Tax Audit (Audit Division), for 5 years of service; David Langhorst, Commissioner, Idaho State Tax Commission, for 10 years of state service; Jan Vinsonhaler, Technical Records Specialist 1 in Central Collections (Collections Division) for 15 years of service; and Ron Stricklin, IT Programmer Analyst, Sr. (Property Tax), for 25 years of service and a thank-you letter from the Governor.

In addition: Darrell Wilde, Tax Field Office Manager in the Pocatello Field Office (Collections Division), will have his certificate for 25 years of service and a thank-you letter from the Governor presented at a later date.

The Commissioners said how the recipients' years of service and efforts were commendable and the everyday work they do is appreciated. Chairman Jackson invited all the employees to stay for the meeting.

Chairman Jackson welcomed Richard Budzich, Division of Financial Management (DFM), and thanked him for attending the meeting.

Business Requiring Vote of the Commission.

Minutes: Open Meeting – June 5, 2013.

Commissioner Katsilometes moved that the minutes of the open meeting held on June 5, 2013, be approved and Commissioner Roberts seconded. There were no comments or amendments. All voted in the affirmative, and the minutes were approved.

Resolution 13-05 – Property Tax Notice and Receipts.

Alan Dornfest, Property Tax Policy, presented Resolution 13-05 – Property Tax Notice and Receipts. Alan recommended Resolution 13-05 to adopt deletion of the provision in Temporary Property Tax Rule 902T requiring tax notices for zero accounts resulting from the personal property exemption.

Commissioner Katsilometes moved Resolution 13-05 – Property Tax Notice and Receipts be approved, and Commissioner Roberts seconded. There were no further comments or questions. All voted in the affirmative, and the motion passed.

Administrative Reports.

Collections, Debbie Coulson.

Debbie Coulson, Collections Division Administrator, reported that Collection recoveries for FY 2013 totaled \$105,618,429.21 compared to FY 2012 recoveries, which were \$104,929,616.56. That was an increase of \$688,812.65.

Number of closed collection cases for FY 2013 was 100,115 compared to FY 2012 of 98,391, which shows an increase of 1,724 closed collection cases. The number of collection cases opened in FY 2013 was 100,197 compared to 94,725 in FY 2012, which shows an increase of 5,427. There were 82 more collection cases opened in FY 2013 than were closed. Just to show a comparison, over the past 11 years: FY 2005, FY 2007, FY 2008, FY 2011, and this year, Collections has opened more collections cases than it has closed.

Debbie gave an update on the vendor-offset project through the State Controller's Office. The State Controller's Office, in May of this year, began enhancing the current program that the Department of Labor uses, and Collections is in the process of finalizing their requirements. With everyone's IT resources busy, Collections still hopes to have the project complete in the next few months.

Communications, Liz Rodosovich.

Liz Rodosovich, Public Information Officer, noted that since the last open meeting, the agency has launched a completely revised rules section of the website, with an emphasis on providing more information to the public through the negotiated rule-making process. Reviews of the new rules pages have been very positive.

Also on the agency website, Communications launched a new video on Use Tax on our YouTube channel. The video is available under the Online Services tab of the site.

Communications issued several news releases, including: the new wage garnishment law, which got very good press; a writ of mandate for a Pocatello couple with delinquent taxes; and the new property tax estimator placed on the website.

Management Services, Mark Poppler.

Mark Poppler, Financial Officer, noted that negotiations are complete with the agency's landlord in the Coeur d'Alene Field Office, and a new five-year extension has been agreed on. The agency is expanding the space in the existing building by nearly 600 square feet, and agreed on other improvements for security and safety. Annual lease costs will grow by 2.5 percent and increases in common area maintenance will be capped at no more than 5 percent per year.

One of the newer fleet vehicles, purchased less than a year ago and recently assigned to the Property Tax consulting appraisal group, was damaged last week with another one of those inevitable collisions with a deer. Fortunately, no one was injured, and the car is reported to be drivable. The cost to the agency to fix is the \$500 deductible through state insurance.

Significant remodels on the fourth and fifth floors are well under way, and are largely expected to be completed by the end of July. Some parts and panels are yet to be delivered for the new cubicles in the Communications area, but that is expected to be complete by mid-August, according to Jim Sereduk, Facilities Manager.

Revenue Operations, Doreen Warren.

Doreen Warren, Revenue Operations (RO) Division Administrator, reported on the following RO fiscal year statistics:

<u>Statistic</u>	<u>FY 2012</u>	<u>FY 2013</u>
Returns Filed:		
Individual Income Tax	763,306	769,704
Business Income Tax	90,254	90,746
Sales and Use Tax	305,649	312,040

<u>Statistic</u>	<u>Processed</u>	<u>Total</u>	<u>Average</u>
Refunds:			
Jan – Jun 2013	508,868	\$258,926,969.68	\$508.83
Jan – Jun 2012	500,814	\$254,487,373	\$508.15

Fraud Returns Identified:

Calendar year 2013 = 398 / \$370,000 (calendar year to date)

Calendar year 2012 = 139 / \$600,000 (full calendar year)

Doreen noted the significant increase in the number of fraudulent returns stopped this year. Commissioner Katsilometes asked if the methods in RO had changed to account for the increase. Doreen responded that the increase was due to the discovery of the fraudulent schemes which RO could stop.

Commissioner Roberts inquired if RO could tell the origin of the fraudulent returns. Doreen stated that it is challenging since most of the fraudulent returns are filed electronically, but that is actually researched by the Tax Discovery Bureau.

There were no more administrative reports or questions.

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, noted that there were two committee meetings since the last open meeting, on June 12, 2013, and on July 11, 2013. Representatives from the Coeur d'Alene Tribes attended both meetings and they thanked Commissioner Langhorst for his assistance

At the July 11 committee meeting, five rules from the June 12 meeting were approved. The committee will need to look further at the introduced draft for Rule 890 – Notice of Adjustment of Federal Tax Liability, which considers defining the term “final federal determination.” Two new rules, Rule 120 – Adjustments to Taxable Income—Subtractions Available to All Taxpayers and Rule 254 – Nonresident and Part-Year Resident Individuals—Subtractions Allowed in Computing Idaho Adjusted Gross Income, both had language added for income from certain loss recoveries & change to technological equipment donation deduction.

Draft #3 of Rule 201 – Net Operating Loss Carrybacks and Carryovers was reviewed at the June 12 meeting and changes were made to reorganize information and amend consistent with 2013 HB184. Draft 4 was presented at the July 11 meeting and minor changes to the rule were suggested. The first draft of Rule 194 – Health Insurance Costs and Long-Term Care Insurance – Examples of Limitations was presented at the July 11 meeting, which amends the rule to conform to federal change, had no further changes at this time. Draft #1 of Administration and Enforcement Rule 705 – Disclosure of Information—Identity Theft was presented at the July 11 meeting.

Cynthia noted that the next committee meeting will be on August 7, 2013, at 1:30 p.m. 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 committee met on June 5, 2013 and July 3, 2013. There were 14 present at the committee meeting on June 5 and one member joined by phone. There were 16 present at the committee meeting on July 3 and one member joined by phone. The next committee meeting will be on August 8, 2013, at 1:30 p.m.

Don noted that the committee reviewed eight rules at the meeting on July 3, and negotiated seven. Three rules will be vacated, Rule 110 - Calculation of Tax on Gaseous Fuels, Rule 115 – When the Gasoline Tax Rate Increases, Use Conversion Factor to Adjust Annual Gaseous Fuels Permit Fees, and Rule 290 – Records required for Intrastate Special Fuels Users claiming refunds for Nontaxable Special Fuels used in Motor Vehicles ; three rules were accepted as pending rules, Rule 105 – Licensed Gaseous Fuels Distributor Reports (this rule will be renumbered Rule 132), Rule 292 – Calculation of Refunds for Nontaxable uses of Motor Fuels in Motor Vehicles, and Rule 410 – Adoption of International Fuel Tax Agreement; and two rules will either be accepted as pending rules or vacated at the Thursday, August 8, 2013, meeting, Rule 270 – Refund Claims – Documentation and Rule 510 – Application and Reporting of the Petroleum Transfer Fee.

Don highlighted Rule 110 - Calculation of Tax on Gaseous Fuels. This rule was reviewed with the intent to adopt the proposed International Fuel Tax Agreement (IFTA) conversion ballot. The committee members voted to vacate the rule. They felt that more time was needed to review the rule changes. Industry representatives expressed concern that the tax was more than the \$0.25/GGE. A chart was shown that demonstrated that the tax due would not be more than

\$0.25/GGE, and industry representatives requested copies of the chart. The chart will be added to the website as soon as possible.

The committee spent the most time on Rule 270 – Refund Claims – Documentation. The main issues were the percentages allowed for subsection 6a, the records required by the taxpayer, and the Tax Commission’s ability to audit. There was industry participation, but none that claimed the refund. Either Draft #5 will be accepted by the committee or the rule will be vacated.

Rule 510 – Application and Reporting of the Petroleum Transfer Fee generated a discussion about the exclusion of used oil from the transfer fee based on the presumption that the fee had already been assessed on the petroleum products. During a meeting several months ago, an industry representative voiced his concern about the reporting requirement. This concern was addressed later outside the meeting and the issue has been resolved. Some of this issue and the resolution will be included in Draft #4. Either Draft #4 will be accepted or the rule will be vacated.

There were no questions.

Sales Tax Administrative Rules – Committee Chair, McLean Russell.

McLean Russell, Sales Tax Administrative Rules Committee Chair, noted that the last committee meeting was on June 19, 2013. Next month there will be two committee meetings, the first is on July 30, 2013, to discuss the software sales and a second on July 31, 2013, to discuss around 20 rules. There will only be one more meeting in August.

McLean highlighted the six rules discussed by the committee at the July 19 meeting.

Draft #1 of Rule 36 – Signs and Billboards, clarifies that while most signs remain tangible personal property, certain signs, such as road signs, become real property when installed. Draft #2 will be discussed at the July 31 meeting. Rule 46 – Plating and Replating, will have the current title changed to address the issue of protective coatings in general. Draft #1 will be discussed at the July 31 meeting. Draft #1 of Rule 79 – Production Exemption, clarifies that sales and use of equipment to improve and install real property are taxable even if the real property is used in production. Draft #2 will be discussed at the July 31 meeting.

McLean noted that a new chapter of rules must be created to address the E911 fee imposed by 2013 House Bill 193. This was discussed in the May 22 meeting and Draft #1 will be discussed in the July 31 meeting. Also, a subcommittee met to discuss Rule 27 – Computer Equipment, Software, & Data Services occurred on July 10, 2013, and Draft #3 will be discussed in the July 30 meeting.

Chairman Jackson asked about the similarity of the tax to repair shops in Rule 46. McLean responded that the goal is to make the tax similar, but a lot of body shops do not charge tax on material.

Commissioner Roberts acknowledged and offered his appreciation for all the work McLean Russell has done on controversial sales and use tax rules. Chairman Jackson agreed and complimented all the rules chairs. The Chairman noted that it was a very difficult effort with all the rules and new negotiated rule-making requirements.

There were no more questions.

Property Tax Rules – Committee Chair, Alan Dornfest.

Alan Dornfest, Property Tax Rules Committee Chair, reported that the last committee meeting was on June 18, 2013. There were about 50 people in attendance at the meeting. The committee is not able to take any action while waiting for the rules publications to come out in August. The next and last committee meeting will not be in July, but on August 6, 2013. The committee intends to finalize its actions at the final committee meeting on August 6.

Chairman Jackson extended compliments to Alan Dornfest and the Property Tax Rules Committee for having done negotiated rule-making interaction with the public and industry for several years already. Commissioner Roberts added there were very complex issues with more clarity needed, showing a lack of legislation to fill in the gaps.

There were no further questions.

Other Business.

There was no other business.

Public Comments.

There were no more 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 move into the Executive Session. Commissioner Roberts seconded. Commissioners Jackson, Katsilometes, and Roberts all voted in favor by roll call 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.

There being no further business, the meeting adjourned.

Valerie Dilley
Secretary

Richard W. Jackson
Chairman