

# IDAHO STATE TAX COMMISSION

## COMMISSIONERS' OPEN MEETING MINUTES OF MEETING AUGUST 5, 2015

In attendance: Commissioners Richard W. Jackson, Tom Katsilometes, and Ken A. Roberts; Michael Chakarun, Valerie Dilley, Scott Grothe, Roxanne Lopez, Robin O'Neill, Mark Poppler, Chuck Pond, Liz Rodosovich, Phil N. Skinner, Mike Teller, Randy Tilley, Doreen Warren; Cynthia Adrian, McLean Russell, Don Williams; George Brown, Mat Cundiff, Nathan Nielson, Erick Shaner, Phil Skinner, David Young; Laurie Davies, Robert Howe, Kevin Voss, Pamela Waters, Justine Weaver; Don Anderson, Dawn Baltadonis, Scott Bode, Nichole Boehland, Lavonne Bierle, Rose Calico, Rebecca Danley, Tara Dewit, Michael Douglass, Cheryl Flinn, Heather Holloway, April Kooch, Andrea Madsen, Jena Noeldner, Carla Pape, Jessie Pilot, Megan Santi, Meriam Shaw, Corey Smith, Evelyn Smith, Adele Sorger, Clorice Terrell, Kim Wind.

Guest: Benn Brocksome, Kay Christensen, Ben Davenport, Matt Warnick.

### **Public Session.**

Chairman Richard W. Jackson convened the open meeting and welcomed all those in attendance. The Chairman noted that Commissioner Elliot S. Werk was absent.

### **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 120 years of state service were appreciated.

The Certificate of Service recipients were: Scott Bode, IT Systems Integration Analyst (Information Technology), for 5 years of state service; Carla Pape, Tax Audit Manager (Audit Division), for 15 years of state service; Kris Fosness, Program Specialist (Collection Division), for 20 years of state service and a thank-you letter from the Governor; Don Anderson, Tax Auditor 4 (Audit Division), and Cheryl Flinn, Web Developer (Communications), for 25 years of state service and a thank-you letter from the Governor.

The recipients not in attendance were: Diane Devorce, Account Collection Specialist, (Collection Division), for 5 years of state service; and Doreen Warren, Division Administrator (Revenue Operations), for 25 years of state service and a thank-you letter from the Governor. Those absent will receive their certificates at a later time.

The Commissioners expressed their congratulations to all the recipients and said how the recipients' combined total of 120 years of dedicated state service was commendable and how the everyday work they do is valued and appreciated. Chairman Jackson added how wonderful it was to have so many staff present in support of their fellow employees.

### **Special Presentation**

The commissioners presented two employees with a Certificate of Appreciation from the Governor's Office for their generous donations to the State Employees' Charitable Giving Campaign. The employees were Laurie Davies, Administrative Assistant 2 (Legal/Tax Administration), and Kevin J. Voss, Senior Buyer (Management Services). The Commissioners

congratulated and thanked Laurie and Kevin for their generosity and participation in the state's charitable giving campaign.

### **Business Requiring Vote of the Commission.**

#### Minutes: Open Meetings – July 1, 2015, and July 13, 2015.

Commissioner Tom Katsilometes moved that the minutes of the open meetings held on July 1, 2015, and on July 13, 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 meetings held on July 1, 2015, and July 13, 2015, were approved.

#### Resolution 15-06 – 2016 Property Tax Reduction Brackets.

Pam Waters, Property Tax Reduction Coordinator, presented Resolution 15-06 – 2016 Property Tax Reduction Brackets. Pam noted that the Idaho State Tax Commission (ISTC) is required by Section 63-705, Idaho Code, to publish the adjustments to the income limitations applicable to the “circuit breaker” Property Tax Reduction PTR program no later than October 1 of each and every year. Also, ISTC is empowered under 63-705 to provide practicable increments in developing income and tax reduction brackets. After review of the Federal poverty lines, the maximum income for the PTR benefits program is \$29,470.50, which is 1.3% greater than the limit used in calendar year 2015. Pam recommended that the Commission adopt Resolution 15-06 – 2016 Property Tax Reduction Brackets.

Commissioner Roberts moved that Resolution 15-06 – 2016 Property Tax Reduction Brackets be adopted, and Commissioner Katsilometes seconded. There were no comments or questions. All voted in the affirmative and Resolution 15-06 – 2016 Property Tax Reduction Brackets was adopted.

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

### **Administrative Reports.**

#### Collection Division, Debbie Coulson.

Robert Howe, Tax Bureau Chief, in Debbie Coulson, Collection Division Administrator's absence, provided some statistics of what the Collection Division did in Fiscal Year 2015. Taxpayer Services (TPS) received more than 124,000 (124,439) phone calls, handling 111,866 calls. There were 12,555 calls abandoned, or just over 10 percent. TPS has six full-time and five part-time employees, but struggled with vacancies throughout the year. The total calls TPS received in Fiscal Year 2014 was 108,455, with 102,648 handled, and 5,765 calls abandoned or 5.3 percent.

The Automated Billing Unit (ABU) received more than 50,000 phone calls in Fiscal Year 2015 and handled 46,766 calls, with 3,560 calls abandoned, or just over 7 percent. ABU has 17 full-time and one part-time Compliance Technicians. Since answering the ABU line is not one of their primary job duties, they have a rotating schedule. In Fiscal Year 2014, ABU received 24,786 total calls, handling 22,748 of them and 2,035 calls were abandoned, or 8.2 percent.

Robert noted that in Fiscal Year 2015 (FY15) there were \$112,397,933 in recoveries, which is an increase of \$5,214,572 over Fiscal Year 2014 (FY14) with a total of \$107,183,360. There were 440 payments received in FY15 to the State Controller's Office Offset program, amounting to \$228,554. The Temporary Seller Permit program recovered \$1,289,395 in FY15. And there were 90,662 collection cases closed in FY15, which is a decrease of 3,793 cases in FY14, when 94,455

cases were closed. There were 94,078 cases collection cases opened in FY15, a decrease of 2,702 cases in FY14 when 96,780 cases were opened.

There were no questions.

Audit Division, Randy Tilley.

Randy Tilley, Audit Division Administrator, presented an update on the fraud and identity theft handled this calendar year up until August 8, 2015. There were 1,083 fraudulent returns stopped saving \$1,650,580 in fraudulently claimed refunds. Last year, by August 8, 2014, there were 875 returns found, saving \$1,124,747 in refunds.

The fraudulent returns stopped were broken into two groups. There were 517 returns found with identity theft, saving \$996,071 in refunds and 566 other fraud returns stopped, saving \$654,509 in refunds. Last year by this same time, there were 158 returns with identity theft, saving \$305,871 in refunds and 717 other fraud returns stopped, saving \$818,876 in refunds.

Randy added that fraud related to Form 43 is still occurring, but not at the volume seen in May and June. Also, Practitioner Tax Identification Numbers (PTINs) are being used to create fraud returns, especially first-time filers. A brief discussion followed. Commissioner Katsilometes asked Randy what he could project for next year. Randy noted that identity theft has been trending upward over the last couple of years and that is expected to continue. Everyone's information has been compromised in some way and there is only a question of when and how it will be used.

Chairman Jackson complimented Audit and Revenue Operations (RO) for their joint efforts over the last few years on fraud and identity theft. The management decision to slow down the refund process has allowed improved data matching so refunds resulting from fraud and identity theft are found. The commissioners noticed at the Multistate Tax Commission (MTC) conference recently, how Idaho's statistics on fraud and identity theft were better than most states.

There were no more questions.

Management Services, Mark Poppler.

Mark Poppler, Financial Officer, presented the administrative report for Management Services (MS). Mark reported that the agency's Summer Picnic would be on Thursday at the Municipal Park in Boise from 4:30 p.m. to 7:30 p.m. Mark appreciated all the staff that has helped organize and plan this event, in particular Frank Pinkney, in Audit, for taking this year's lead. Mark noted how many of those present are aware of how much work goes into pulling off a successful event, since they have helped on these outings previously. This is one of the agency's major employee morale building opportunities and it needs to be done right. Chairman Jackson acknowledged the marvelous job Frank and all the other volunteers are doing.

Mark noted that the lazy days of summer are usually just a dream in Management Services (MS). This is typically MS's busiest season, with Legislative Services (LSO) auditors on hand reviewing last year's financial numbers, preparing the various schedules that go into the state's Comprehensive Annual Financial Review (CAFR), and then the next fiscal year budget that is always due at the beginning of September, just four weeks away.

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 Income Tax Rules Committee held a public meeting on July 8, 2015, to discuss the three negotiated rules. The three rules discussed were: Rule 16 – Idaho Gross Income, which provides guidance regarding the definition of Idaho gross income and how it is calculated; Rule 171 – Idaho Capital Gains Deduction—Qualified Property, which clarifies non-qualifying property (HB109A) & modifies procedure when property is distributed by entity (HB85); 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, which clarifies items allowed as a deduction to the owners of an interest in a pass-through entity. There was no opposition to the rule drafts as presented.

The notice of proposed rulemaking for all fourteen Income Tax Administrative Rules will be published in the September Bulletin on September 2, 2015. The notice for the Administration & Enforcement Rules is being held pending the Revenue Ruling outlining the information needed to compute the interest rate for 2016.

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 was almost done with the proposed rules since all of the PARFs were approved by the Division of Financial Management (DFM).

Don reviewed the proposed rules submitted by the committee this year: Rule 004 – Incorporation by Reference; Rule 110T – Calculation of Tax on Gaseous Fuels; Rule 110 – Calculation of Tax on Gaseous Fuels; Rule 115 – When the Gasoline Tax Rate Increases, Use Conversion Factor to Adjust Annual Gaseous Fuel Permit Fees; Rule 132 – Licensed Gaseous Fuel Distributor's; Rule 280 – Refund to Consumers for Nontaxable Uses of Motor Fuels; Rule 410 – Adoption of International Fuel Tax Agreement; Rule 422 – Documentation for Idaho Full Fee Registrants; and Rule 510 – Application and Reporting of the Petroleum Transfer Fee.

Chairman Jackson commended Don and the Motor and Special Fuels Tax Rules Committee on the dyed diesel rule and rate adjustments. The commissioners appreciated the committee's efforts in 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's last negotiated rulemaking committee meeting of this rulemaking season will be on Monday, August 24, 2015.

McLean highlighted the proposed rules. Rule 027 – Computer Equipment, Software, & Data Services, needs change in response to House Bill 209, which excluded digital movies, books, music, and games from tax if the purchaser does not have a permanent right to use the digital product. Rule 041 – Food, Meals, or Drinks, needs to be revised to address the new exemption from House Bill 237 on prepared food and beverages given away to employees. The terms “prepared food” and “prepared beverage need to be defined. Rule 050 – Veterinarians and Veterinary Supplies, needs to be updated to reflect the change from House Bill 39, which removed the hand tool exclusion from the production exemption. Rule 056 – Photographers and Photofinishers, needs

updating since the legislative changes related to software and digital products the past few years have impacted digital photographs. The committee is uncertain if they will be moving forward with this rule this year.

Rule 067 – Real Property, may need a rule change due to a requirement in the National Electrical Code (NEC) that certain cabling in a building must be removed. The current rule identifies cabling as tangible personal property, even after installation. Further discussion is promised in the future on this rule, but the rule will not be submitted this year. Rule 072 – Application and Payment of Use Tax, discusses giveaways by a retailer which, in general, are taxable. A caveat is added to note the new exemption. Rule 079 – Production Exemption, is one of several rules that needs to be updated to reflect the change from House Bill 39, which removed the hand tool exclusion from the production exemption. House Bill 221 added hunting and fishing operations to the list of businesses that can qualify for the production exemption. This rule may not be done this year since guidance is needed.

Rule 083 – Farming & Ranching, is another of the rules that will need to be updated due to the exemption in House Bill 39 and House Bill 221. Rule 100 – Prescriptions, addresses the change with prescription eyeglasses and contact lenses being exempted over the next couple of years. This proposed rule will be discussed at the August 24, 2015 committee meeting. Rule 103 – Hand Tool, Component, and Unit Price, is one of several rules that needs to be updated to reflect the change when House Bill 39 removed the hand tool exclusion from the production exemption. Rule 107 – Vehicles and Vessels, needs to be updated to address these changes in the Tax Commission-sponsored House Bill 12, which added UTVs and SOHVs to the list of vehicles that nonresidents can purchase in Idaho exempt from tax. The committee is uncertain if they will move forward with this proposed rule this year. Rule 128 – Certificates for Resale and Other Exemption Claims, is one of several rules that needs updating to reflect the removal of the hand tool exclusion from the production exemption in House Bill 39.

Chairman Jackson asked about the cabling and if real property and tangible personal property. McLean noted that Erick Shaner, Deputy Attorney General, is researching past cases first, before a new discussion in the August committee meeting.

Matt Warnick, Financial Management Analyst from DFM, asked if the temporary rule for proposed Rule 100 would be in legalese. McLean noted that the temporary rule would not be, but the proposed rule would. The temporary rule was effective immediately and expires at the end of 2016.

There were no more questions.

#### Property Tax Rules – Committee Chair, Alan Dornfest.

Alan Dornfest, Property Tax Rules Committee Chair, reported that the Property Tax Rules Committee did not have a meeting in July 2015. The committee did publish the intent for negotiated rulemaking on two proposed rules, Rule 626 – Property Exempt From Taxation - Certain Real Property; and Rule 315 – Use of Ratio Study To Equalize Boise School District.

All of the proposed property tax rules will be published in the September Bulletin. Alan added that all of the rules will be discussed with the county assessors on August 25, 2015, at the Idaho Association of County Assessors conference in Pocatello. A brief discussion followed.

There were no questions.

There were no more rules committee reports.

#### **Other Business.**

Phil N. Skinner, Deputy Attorney General, presented This Day in History.

This Day in History, September 2:

- 1861 – For the first time, the U.S. government levied an income tax. The tax rate was 2% on income over \$4,000, meaning less than 10% of households would pay.
- 1914 – The first electric traffic lights were installed in Cleveland, Ohio.
- 1962 – Marilyn Monroe died at age 36 years.
- 1981 – President Ronald Reagan fires 11,500 striking air traffic controllers.
- 2012 – The plutonium-powered rover Curiosity successfully lands on Mars. Larger than earlier rovers, Curiosity will spend two years examining the land, looking for evidence that conditions on Mars are fit for life.

Birthdays, September 2:

- 1930 – Neil Armstrong, the first man to walk on the moon.
- 1975 – Ami Foster, television actress (Punky Brewster); nominated eight times for Young Actress Award.

There was no other business.

**Public Comments.**

Chairman Jackson asked if the guests in attendance had any comments. The commissioners expressed their appreciation for the guests' interest and participation.

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.

Phil Skinner, the lead deputy attorney general assigned to the Tax Commission introduced the new deputy attorney general Nathan Nielson. The commissioners welcomed Nathan to the agency.

**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). Commissioner Roberts 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.**

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

There being no further business, the meeting adjourned.

Valerie J. Dilley  
Secretary

Richard W. Jackson  
Chairman