

IDAHO STATE TAX COMMISSION
COMMISSIONERS' OPEN MEETING
MINUTES OF MEETING HELD AUGUST 7, 2013

In attendance: Commissioners Rich Jackson, Tom Katsilometes, David Langhorst, and Ken Roberts; Michael Chakarun, Valerie Dilley, Roxanne Lopez, Robin O'Neill, Mark Poppler, Liz Rodosovich, Mike Teller, Randy Tilley, Bill von Tagen, Doreen Warren; Cynthia Adrian, Alan Dornfest, McLean Russell, Don Williams; Erick Shaner, and Phil Skinner; Trina Keefer, Peggy Wright.

Guest: Richard Budzich.

Public Session.

Commissioner Ken Roberts convened the open meeting.

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 95 years of state service was appreciated.

The Certificate of Service recipients in attendance were: Trina Keefer, Tax Compliance Officer 1 in the Boise Field Office (Collections Division) for 5 years of service; Peggy Wright, Account Collection Specialist in Central Collections (Collections Division) for 10 years of service.

The absent recipients that will have their certificates presented at a later date were: Annette Parenteau, Tax Auditor 3 in Income Tax Audit, (Audit Division) for 5 years of service; Cheryl Callen, Tax Auditor 3 in Income Tax Audit, Twin Falls Field Office, (Collections Division) for 10 years of service; James Hammack, Tax Auditor 3 in Tax Discovery, (Audit Division) for 15 years of service; and Mark Larsen, Tax Auditor 3 in Fuels Tax Audit, Idaho Falls Field Office, (Collections Division), and Dave Wiedemann, Tax Auditor 4 in Sales Tax Audit, (Audit Division) for 25 years of service and a thank-you letter from the Governor.

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

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

Business Requiring Vote of the Commission.

Minutes: Open Meeting – July 17, 2013.

Chairman Jackson moved that the minutes of the open meeting held on July 17, 2013, be approved and Commissioner Katsilometes seconded. There were no comments or amendments. All voted in the affirmative, and the minutes were approved.

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

Administrative Reports.

There were no 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, reported that there were no committee meetings since the last open meeting. The next committee meeting would be that afternoon on August 7, 2013, at 1:30 p.m. Cynthia noted that all of the PARFs were sent over to the Division of Financial Management (DFM) and those approved will be sent to publication at the end of the month.

Commissioner Langhorst inquired on the communications that the negotiated rulemaking was vacated on proposed Rule 33 – American Indians. Cynthia noted that it was mentioned at the last open meeting that no rule was being pursued at this time. Michael Chakarun added that proposed Rule 33 being vacated was posted on the website.

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 the committee had not met since the last open meeting. The next committee meeting is scheduled on Thursday, August 8, 2013, at 1:30 p.m.

Don noted that eight PARFs were submitted to DFM in May and three PARFs were sent to DFM in July. The committee is waiting on approvals from DFM before submitting for publication.

There were no questions.

Sales Tax Administrative Rules – Committee Chair, McLean Russell.

McLean Russell, Sales Tax Administrative Rules Committee Chair, noted that there were two committee meetings, July 30, 2013, and July 31, 2013, since the last open meeting.

The rules committee meeting on July 30 discussed Rule 27 and the remaining rules were discussed at the July 31 meeting. There is one more committee meeting scheduled on August 20, 2013, and the agenda will include the ongoing discussion on Rule 27. The issue is regarding online databases, where the concern seems to be the vagueness of the primary option test. So far, industry and the rules committee have not reached an agreement. The draft does clarify whether online databases are taxable or not, and will be discussed at the August 20 committee meeting, then finalized and sent to DFM. Randy Tilley added that the current rule draft has the language “loaded and left” and the industry wants more specificity.

McLean highlighted Rule 36 – Signs and Billboards and Rule 41 – Food, Meals, and Drinks both need the drafts finalized and sent to DFM. Rule 46 – Plating and Replating will have the current title changed to address the issue of protective coatings in general. Draft #1 was discussed in the July 31 meeting and Draft #2 will be discussed in the August 20 rules committee meeting. The change in current policy will have a positive fiscal impact and the effective date of July 31, 2014, was added.

The rules committee, in the July 31 meeting, voted to vacate rulemaking on Rule 100 – Prescriptions, but this rule will be brought up first thing next year. Rule 130 – Promoter Sponsored Events clarifies the promoter’s responsibility in regards to documentation that must be obtained from participants at the event and updates the procedure regarding Form ST-124 which all

participants at the event are required to complete. This rule must be reviewed by DFM before publishing.

Draft #1 of the E911 Fee Rule was discussed in the July 31 meeting and Draft # 2 will be discussed in the August 20 meeting. A new chapter of rules must be created to address the E911 fee imposed by House Bill 193. McLean noted there was great concern about a separate return for E911 fees, although no opposition to the rule. The issue is how the new fee will be administered, although similar it is a fee and not a tax.

Doreen explained to the commissioners that the first preferred methodology was to have one return, but that was not guaranteed. Renee Marsh, Tax Automated Systems Specialist, did the process analysis and, like other states, Idaho will need to use two separate returns. Chairman Jackson asked if legislators could change it from a fee to a tax and Michael Chakarun noted that the actual details of the design would make it difficult to give a percentage of the fee to industry, as is done with sales tax.

Rule 083 – Farming and Ranching, clarifies the application of the production exemption to farms that raise animals for the purpose of offering recreational hunts to customers. The committee is not moving forward with rulemaking since the primary purpose is recreational and not production, which does not qualify for the production exemption and has been correctly treated by the agency over time.

There were no more questions.

Property Tax Rules – Committee Chair, Alan Dornfest.

Alan Dornfest, Property Tax Rules Committee Chair, reported that the last Property Tax Rules Committee meeting was on Tuesday, August 6, 2013. Alan highlighted a few rules discussed at the meeting and noted the committee was still waiting on a few PARFs.

Rule 407 – Hearing to Review Operating Property Appraisals received a good consensus with only a few minor changes on the appeals process. There is major disagreement with the perception and definition of what is personal property in Rule 205 – Personal and Real Property - Definitions and Guidelines. There will be another meeting on August 21, 2013, to decide on the definitions. Alan noted the concern about creating problems with the taxing districts.

The Drafts of Rule 405 – Assessment of Operating Property and Rule 626 – Property Exempt From Taxation - Certain Personal Property were sent to DFM on July 2, and are approved to proceed. Mark Poppler, Financial Officer, and Alan noted that there would be more guidance on personal property declarations eligible for exceptions.

Commissioner Langhorst inquired if there was an issue where the sales tax items, which are real property as with pipelines, are also personal property. Randy Tilley, Audit Division Administrator, noted that this issue has been ongoing since sales tax was implemented and is very difficult. Commissioner Roberts noted that this will continue to be a problem until the Commission draws a clear line between real property, personal property, and sales tax. Chairman Jackson noted that finding a consistency between sales tax, personal and real property will make it easier for the taxpayer to comply and for the Tax Commission to administer.

Chairman Jackson complimented Alan Dornfest and the efforts of the Property Tax Rules Committee. The Chairman said how he admires and respects their professionalism and their respect towards the negotiated rule-making process.

There were no further questions.

Other Business.

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

This Day in History, August 7:

1782 – George Washington created the Order of Purple Heart.

1912 – Theodore Roosevelt nominated for President on Bull Moose ticket.

1947 – Thor Heyerdahl completed the Kon Tiki 4,300 mile trip.

1957 – Oliver Hardy died at age 65.

1963 – Jackie Kennedy became the first First Lady to give birth since Mrs. Grover Cleveland.

1990 – Operation Desert Shield began.

Thought for the Day: “That must be wonderful! I don’t understand it at all.”

#1 Song: 1947 – “Smoke! Smoke! Smoke!” (That Cigarette) by Tex Williams

There was no other business.

Public Comments.

There were no more public comments.

Recess.

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

Reconvene Meeting.

Commissioner Roberts reconvened the open meeting.

Executive Session.

Commissioner Katsilometes moved to go into the Executive Session. Commissioner Langhorst seconded. Commissioners Jackson, Katsilometes, Langhorst, 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.

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

There being no further business, the meeting adjourned.

Valerie Dilley
Secretary

Ken A. Roberts
Chair