

**IDAHO STATE TAX COMMISSION**  
**COMMISSIONERS' OPEN MEETING**  
**MINUTES OF MEETING HELD SEPTEMBER 4, 2013**

In attendance: Commissioners Richard W. Jackson, Ken A. Roberts, and Tom Katsilometes; Michael Chakarun, Debbie Coulson, Valerie Dilley, Steve Fiscus, Roxanne Lopez, Mark Poppler, Liz Rodosovich, Mike Teller, Randy Tilley, Bill von Tagen, Doreen Warren; Cynthia Adrian, Alan Dornfest, McLean Russell, Don Williams; George Brown, Chelsea Kidney, Mat Cundiff, Erick Shaner, and Phil Skinner; Karen Davis, Rachel Dietzenbach, Amy Dinius, Michelle Hupp, Kelly McConnell, Deanna Messinger, Jeffery Shields, Pam Waters.

**Public Session.**

Commissioner Ken Roberts convened the open meeting. Commissioner Tom Katsilometes attended the open 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 175 years of state service was appreciated.

The Certificate of Service recipients in attendance were: Deanna Messinger -Tax Compliance Technician in Central Collections (Collections Division), and Michelle Hupp - Office Specialist 2 in Central Collections (Collections Division), and Rachel Dietzenbach - Tax Auditor 2 in Sales Tax Audit (Audit Division), for 5 years of service; Jeffery Shields - Tax Compliance Officer 3 in Boise Field Office (Collections Division) for 10 years of service; Amy Dinius - Technical Records Specialist 1 in Tax Discovery (Audit Division), and Kelly McConnell - Tax Bureau Chief in Income Tax Audit (Audit Division), for 15 years of service; Karen Davis - Program Supervisor in Central Processing (Revenue Operations), and Elizabeth Rodosovich - Senior Public Information Officer (Communications), for 25 years of service and a thank-you letter from the Governor.

The absent recipients who will have their certificates presented at a later date are: Sharon Johnson -Tax Compliance Officer 2 in Coeur d'Alene Field Office (Collections Division) for 5 years of service; Cherie Woodworth - Principal Financial Specialist (Management Services), and Rose Calico -Technical Records Specialist 1 in Tax Discovery (Audit Division) for 10 years of service; Siroos Safai - Senior IT Programmer Analyst (Revenue Operations), and Susan Lewis - Tax Compliance Officer 3 in Coeur d'Alene Field Office (Collections Division), and Theresa Upshaw, Tax Compliance Technician in Central Collections (Collections Division), for 15 years of service.

The Commissioners said how the recipients' years of service and efforts were commendable and the everyday work they do is appreciated. Commissioner Roberts added that there is a lot of quality in those many years of service and invited the employees present to stay for the meeting.

**Business Requiring Vote of the Commission.**

Minutes: Open Meeting – August 7, 2013, and August 23, 2013.

Commissioner Katsilometes moved that the minutes of the open meetings held on August 7, 2013, and August 23, 2013, be approved. Chairman Jackson seconded. There were no comments or amendments. All voted in the affirmative, and the minutes of the open meetings held on August 7, 2013, and August 23, 2013, were approved.

Minutes: Idaho State Board of Equalization – August 12, 2013, August 23, 2013, and August 26, 2013.

Commissioner Katsilometes moved that the minutes of the Idaho State Board of Equalization – August 12, 2013, August 23, 2013, and August 26, 2013, be approved, and Chairman Jackson seconded. There were no comments or amendments. All voted in the affirmative, and the minutes of the Idaho State Board of Equalization – August 12, 2013, August 23, 2013, and August 26, 2013, were approved.

Resolution 13-06 – 2014 Property Tax Reduction Brackets.

Alan Dornfest, Property Tax Policy, presented Resolution 13-06 – 2014 Property Tax Reduction Brackets (Circuit Breaker). Alan noted that after review of the federal poverty guidelines, the Idaho State Tax Commission (ISTC) finds that 185% of the guideline equals \$28,693.50, empowering ISTC under Idaho Code § 63-705 to provide practicable increments in developing income and tax reduction brackets for 2014. Alan recommended that the Commission adopt Resolution 13-06 with the attached schedule.

Commissioner Katsilometes moved that Resolution 13-06 – 2014 Property Tax Reduction Brackets (Circuit Breaker) be approved, and Chairman Jackson seconded. There were no further comments or questions. All voted in the affirmative, and the motion passed.

Resolution 13-07 – Maximum Homeowners Exemption.

Alan Dornfest, Property Tax Policy, presented Resolution 13-07 – Maximum Homeowners Exemption. Alan recommended the Commission adopt Resolution 13-07 – Maximum Homeowners Exemption as \$83,920 for tax year 2014.

Commissioner Katsilometes moved that Resolution 13-07 – Maximum Homeowners Exemption for tax year 2014 be approved, and Chairman Jackson seconded. There were no further comments or questions. All voted in the affirmative, and the motion passed.

Resolution 13-09 – Annual Rate of Interest.

Cynthia Adrian, Income Tax Rules Committee Chair, presented Resolution 13-09 – Annual Rate of Interest. Cynthia recommended the Commission adopt Resolution 13-09 for calendar year 2014. The annual rate of interest applicable to delinquent state taxes accruing or unpaid during all or any part of calendar year 2013 subject to assessment of interest under Idaho Code § 63-3045 is four percent (4%) simple interest.

Chairman Jackson moved that Resolution 13-09 – Annual Rate of Interest be approved, and Commissioner Katsilometes seconded. There were no further comments or questions. All voted in the affirmative, and the motion passed.

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

**Administrative Reports.**

Management Services, Mark Poppler.

Mark Poppler, Financial Officer, noted that Tuesday was the official due date of the agency's FY2015 budget request, as well as the related Performance Measurement Report. Both were completed and submitted to the proper agencies, Division of Financial Management (DFM) and Legislative Services Office (LSO). Tomorrow at the Executive Leadership Team (ELT) meeting, the final numbers and priorities contained in the submitted version will be discussed one more time. Mark thanked the Commissioners and the members of the team, and several of their

staff members, for their hard work and contributions to the successful start of the budget process. Chairman Jackson commended the efforts of Mark, the ELT, and staff on the budget submitted for fiscal year 2015.

Mark noted the first oil and gas return and accompanying payment from a taxpayer in Payette County was received by the Tax Commission in compliance with the recently updated Oil and Gas statutes. The county is significant for this tax, because both the county and the cities in the county share a portion of the distribution.

A group from the LSO Audit department will be starting their annual review of our records later this week. This is a normal part of their responsibilities to verify the accuracy of our reported revenues and distributions. They will also be reviewing other internal controls and systems of their choosing.

#### Property Tax, Steve Fiscus.

Steve Fiscus, Property Tax Division Administrator, reported that the personal property tax exemption for operating properties has been finalized and sent to our Technical Support Bureau for distribution to the counties.

This September, worksheets have been sent to the county clerks including all values for levying purposes excluding the personal property exemption for operating properties. There was an issue when the worksheets were sent to the counties; the XLS file extension had been changed to VIRUS. This did not happen with all correspondence, just certain ones sent out. The agency's IT department could only identify that the problem must be with the servers housed at the Department of Administration. At this time, most of the counties have been able to find a work-around.

At the Idaho Association of County Assessors' (IACA) Conference last week in Kellogg, the most controversial issue was a legislative proposal to eliminate the Tax Commission as a clearinghouse for Section 42 apartment taxpayer information. The legislation submitted in the Tax Commission's legislative package removing the agency as a middleman was an unexpected major issue. A determination needs to be made internally as how to proceed.

Next month at the open meeting on October 2, 2013, the proposed stumpage values for 2014 will be presented to the commissioners by Rod Brevig, Forest Tax Administrator.

The Oneida County Assessor has provided Commissioner Katsilometes with a proposed remediation plan, outlining the process for catching up on the county's appraisals. The Property Tax staff will review the plan and provide the county with an acceptance or denial prior to October 1, 2013.

#### Tax Policy, Michael Chakarun.

Michael Chakarun, Tax Policy Manager, reported that Saul Cohen, tax policy specialist, had retired and Leah Parsons has been appointed as the tax policy specialist for sales tax. McLean Russell and Leah will now both handle sales tax in Tax Policy.

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 all of the income tax and administrative rules have been submitted for publication in the Legislative Bulletin on October 2, 2013. There was nothing else to report.

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 held one meeting since the last open meeting on August 8, 2013, with no visitors present. Don noted that of the eight proposed rules presented to DFM, three were vacated, with Rule 110 – Calculation of Tax on Gaseous Fuels being held for 2014, and the remaining five rules had the final drafts sent for publication in the October Legislative Bulletin.

A public meeting will be held to discuss 2014 rulemaking for the 2015 legislative session on December 4, 2013, and a closed meeting on December 5, 2013.

Commissioner Katsilometes asked about the decision to vacate Rule 110. Don explained that the rules committee thought the format of the rule was not presented right and since there would be no loss of revenue by waiting until next year, it would be best to hold.

There were no further questions.

### Sales Tax Administrative Rules – Committee Chair, McLean Russell.

McLean Russell, Sales Tax Administrative Rules Committee Chair, noted there was a committee meeting on August 20, 2013, for finalizing the Sales & Use Tax Rules. A few highlights of the meeting included the decision to vacate negotiated rulemaking on Rule 27 – Computer Equipment, Software, & Data Services. In addition, Rule 46 – Plating and Replating will have the title changed to Coatings to include protective coatings, setting clearer guidance. Rule 130 – Promoter Sponsored Events reflects the current practice and no opposition is expected on the rule itself.

Commissioner Roberts noted there were several meetings on Rule 27 on cloud computing and the difficulty was a fine line on the legislative intent of what is taxable and not taxable, and a change in definition of tangible personal property. Both Commissioner Roberts and Randy Tilley, Audit Division Administrator, said they would work with the legislators on the intent.

McLean noted that Rule 83 – 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 statute is clear that the overall business needs to be recreational and not production. So after the committee met with the industry, it was agreed that, since the statute is clear, formal rulemaking could not be initiated this year.

McLean added that both of the Hotel/Motel rules were rejected by DFM. The prepaid wireless proposed E911 rules will all be published in the October Bulletin. Rule 001 – 006 are standard rules, but Rule 100 – Imposition of the Prepaid Wireless E911 Fee, Rule 200 – Sellers Required to Collect the Prepaid Wireless E911 Fee, and Rule 200 – Out-of-State Sales are complicated, yet almost echo statute. There are some concerns about the E911 proposed rules.

There were no questions.

Property Tax Rules – Committee Chair, Alan Dornfest.

Alan Dornfest, Property Tax Rules Committee Chair, reported that there were two committee meetings since the last open meeting, August 6, 2013, and August 21, 2013. The meetings finalized the proposed property tax rules for the October Bulletin. Almost all the rules were negotiated rules. The rules committee chairs will all be meeting this month to review the negotiated rulemaking system and how to improve the process.

Alan recommended a public hearing before the Commission on November 20, 2013, regarding the controversial temporary and proposed Rule 626 – Property Exempt From Taxation - Certain Personal Property and proposed Rule 205 – Personal and Real Property - Definitions and Guidelines on personal property. The temporary and proposed Rule 626 gives the administrative details on personal property and proposed Rule 205 gives specific guidance on personal property. The industry is not in favor of the rules, but Alan did not anticipate comments on the other property tax rules.

There were no questions.

**Other Business.**

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

This Day in History, September 4:

- 476 – The Roman Empire Falls
- 1886 – Geronimo surrenders
- 1927 – Charles Lindbergh landed in Boise as part of a cross-country tour
- 1957 – Ford Motor Company introduces the Edsel, named after Ford's son
- 1972 – Mark Spitz won seven gold medals at the Olympics
- 1981 – The longest baseball game with 20 innings at Fenway Park, Seattle over Boston 8-7

#1 Song: 1965 - The Beatles "Help" hits number one, remaining there for three weeks.

There was no other business.

**Public Comments.**

There were no more public comments or other business.

**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. Chairman Jackson 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.**

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

There being no further business, the meeting adjourned.

Valerie J. Dilley  
Secretary

Ken A. Roberts  
Chair