

**COMMISSIONERS' OPEN MEETING
MINUTES OF MEETING HELD NOVEMBER 2, 2011**

In attendance: Commissioners Bob Geddes, Tom Katsilometes, David Langhorst, and Rich Jackson; Valerie Dilley, Steve Fiscus, Dan John, Steve Miller, Robin O'Neill, Marc Norton, Mark Poppler, Liz Rodosovich, Ted Spangler, Bill von Tagen, Randy Tilley; Cynthia Adrian, Alan Dornfest, Randall Nilson, McLean Russell, Shelley Sheridan, Erick Shaner; Dawn Justice, Rick Smith.

Commissioner Langhorst convened the meeting and invited the commissioners to interject questions on the rules during presentation.

Public Session.

Proposed Rules Review.

Income Tax, Administrative & Enforcement, Kilowatt, Mine License Rules –
Committee Chair, Cynthia Adrian.

Cynthia Adrian recommended the proposed income tax, administrative & enforcement, kilowatt, mine license rules for 2012 and gave a brief explanation of the reason for the change. (See attached explanations extracted from the Notices of Proposed Rulemaking.)

The commissioners discussed Income Tax Rule 171, which was amended to clarify that real property must be held 12 months to qualify as required by the statute. The amendment also addressed the difference in computing the holding period of property received in liquidating versus non-liquidating distributions from partnerships and S corporations. Chairman Geddes noted that further explanation of the rule might be needed to avoid confusion.

Cynthia noted that Income Tax Rule 582 defines financial institutions. The rule was being amended to eliminate the “presumption” language included in the rule and state unequivocally that the entities listed are financial institutions, consistent with the definition in other states and the recommended definition by the Multistate Tax Commission. A formal written request from Dawn Justice of the American Bankers Association was received requesting an effective date be added. Cynthia was working on the recommendation. Chairman Geddes requested the finalized versions of the rules be distributed to the commissioners prior to the next open meeting on November 9, 2011.

The commissioners discussed Administration & Enforcement Rule 704, amended to be consistent to House Bill 680, which was passed by the 2011 Idaho Legislature. The bill provides an exchange of information agreement between the State Tax Commission and the State Treasurer. Rule 704 is modified to add the applicable code section to the title of the rule and the information that may be exchanged with the State Treasurer's office in the applicable subsection. Chairman Geddes noted there might need to be further explanation.

Sales Tax Rules – Committee Chair, McLean Russell.

McLean Russell recommended the proposed sales tax rules for 2012 and gave a brief explanation of the reason for the change. (See attached explanations extracted from the Notices of Proposed Rulemaking.)

Commissioners Langhorst and Jackson discussed Sales Tax Rule 043, which was amended to comply with House Bill 213 exempting from sales and use tax all gratuities, whether voluntary or mandatory, if the gratuity is given for services provided as a supplement to the income of the

service provider. Commissioner Langhorst suggested a follow up meeting to see if ambiguity in rule needed to be addressed.

McLean noted that an inconsistency in Sales Tax Rule 109 was raised, and although not urgent, it needed to be corrected. The rule was being amended to change the definition of currency operated amusement devices to included credit and debit card machines, to change the requirement from a specific location on the device to any easily visible place on the device, and to include a new section that requires another permit to be affixed to a device in the event of a lost, stolen, or destroyed permit. McLean will notify Shelley Sheridan, Rules Coordinator, to make the correction and strike the sentence from subsection 1, leaving the rest of the rule. A brief discussion between the commissioners followed.

Property Tax Rules – Committee Chair, Alan Dornfest.

Alan Dornfest presented and recommended the proposed rules on property tax for 2012, noting that most were modified to comply with changes in statutory rules, but not always. (See attached explanations extracted from the Notices of Proposed Rulemaking.)

There were not questions following the presentation.

Motor Fuels Tax Rules – Committee Chair, Randy Nilson.

Randy Nilson recommended the proposed motor fuels tax rules for 2012 and gave a brief explanation of the reason for the change. (See attached explanations extracted from the Notices of Proposed Rulemaking.)

There were no questions following the presentation.

Public Comments.

Commissioner Langhorst, acknowledging that though the time for public comments had closed, opened second half to any additional public comments. There were no public comments.

Other.

Commissioner Langhorst noted the Commission would take action on the proposed rules at the open meeting next Wednesday, November 9, 2011. Chairman Geddes complemented those who presented and noted how the agency's rules are more focused since on tax. The booklets were clear, concise and organized and the presentations well formatted with page numbers to help follow. The commissioners agreed that each committee and committee chair did an outstanding job.

There being no further business, the meeting adjourned.

Valerie Dilley
Secretary

David Langhorst
Chair