

**IDAHO STATE TAX COMMISSION**  
**COMMISSIONERS' OPEN MEETING**  
**MINUTES OF MEETING HELD NOVEMBER 7, 2012**

In attendance: Commissioners David Langhorst, Tom Katsilometes, and Rich Jackson; Michael Chakarun, Valerie Dilley, Steve Fiscus, Roxanne Lopez, Robin O'Neill, Mark Poppler, Liz Rodosovich, Ted Spangler, Randy Tilley, Bill von Tagen, Mike Teller, Doreen Warren; Cynthia Adrian, Rick Anderson, Sherry Cann, McLean Russell; George Brown, Chelsea Kidney, Carl Olsson, Erick Shaner, and Phil Skinner; Steve Olsen.

Guest: Kristin Jones

**Public Session.**

Commissioner David Langhorst convened the open meeting.

**Presentation of Certificates of Service.**

Roxanne Lopez, Human Resources Officer, acknowledged the employees that were receiving a Certificate of Service, and stated how much all of their work efforts were appreciated.

The recipients were: David Perdue, Tax Compliance Technician, in Central Collections (Audit & Collections) for 5 years of service; Annette Hoy, Office Specialist 2, in Sales Tax Audit (Audit & Collections), and April Kooch, Taxpayer Services Specialist, in Taxpayer Services (Audit & Collections) for 10 years of service.

The Certificates of Service recipients that were absent: Steve Onofrei, IT Programmer Analyst, in County Technical Support (Property Tax) for 5 years of service; and Sandy Miller, Tax Compliance Officer 2, in the Twin Falls Field Office (Audit & Collections) for 25 years of service, with a thank-you letter from the Governor, would have their certificates presented at a later date.

The Commissioners said how the recipients' years of service and efforts were commendable and appreciated. Chairman Langhorst reminded the recipients that the Tax Commission is the revenue engine for state services, and what they do keeps the schools open, supports law enforcement, public safety, and multiple public services.

**Business Requiring Vote of the Commission.**

Minutes: Open Meetings – October 10, 2012.

Commissioner Katsilometes moved that the minutes of the open meeting held on October 10, 2012, be approved, and Commissioner Jackson seconded. There were no comments or amendments. All voted in the affirmative, and the minutes were approved.

**Administrative Reports.**

Revenue Operations, Doreen Warren.

Doreen Warren, Revenue Operations Division Administrator, reported that work in Revenue Operations (RO) is flowing through as expected and the staff is working through their backlog.

Doreen noted that the International Fuel Tax Agreement (IFTA) renewal season is about to begin. The initial planning and preparation has taken place and RO is ready to begin when the

renewals are mailed on November 15, 2012. This is a collaborative effort with Audit & Collections (A&C), Management Services (MS), and RO.

RO is half way through their IFTA peer review with minimal issues identified so far. The final results will be available within the next couple of weeks.

Commissioner Jackson noted that Doreen and Commissioner Katsilometes attended the Federal Tax Administration Motor Fuels Tax Section Annual Conference in Providence, Rhode Island last week, where the Robert E. Beck Award was presented to Steve Miller, a former ISTC administrator, in appreciation and recognition of all his years of service in motor fuels tax administration.

#### Property Tax, Steve Fiscus.

Steve Fiscus, Property Tax Division Administrator, noted that centrally assessed property appraisers are working with certain owners to determine what percentage, if any, of the equipment qualifies for the pollution exemption from property tax.

The Property Tax Reduction Rolls have been sent to the counties, so the amount of state reimbursement to the counties can be attributed to each qualifying taxpayer.

Steve reported that a complex issue arose with an Urban Renewal Agency (URA) that is in two different counties, but only one city. Also, there are multiple Revenue Allocation Areas with different dates of levies passing within their jurisdiction. Some of the levies, based upon when they were passed, are not allowed to contribute to the cumulative levy that the URA can generate revenue from. Discussion followed.

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, Mine License Rules Committee Chair, noted that the committee had not conducted any rules meetings since the last open meeting.

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

McLean Russell, Sales Tax Administrative Rules Committee Chair, noted that the committee met on October 10, 2012, on Proposed Rule 037 on aircraft and flying services. The meeting was to discuss a taxpayers concern about the use of aircraft for flights when hired by individuals that are not members of the public yet are paying market rates for the flight.

In discussing the taxpayer's concerns, the committee agreed that the current rule language treats the use of an aircraft for such a flight as falling outside the exemption. The committee also agreed that given that set of facts, the flight should probably be treated as an exempt use of the aircraft. Several alternatives were raised as to how the language could be revised to carve out the noted exception, but the committee felt that all of them were cumbersome or otherwise unsatisfactory.

In the end, the committee was concerned that a revision would increase confusion surrounding the rule to address what everyone agreed was a rare fact pattern. With the above in mind, the committee decided it was not worth revising the draft. This was done with the expectation that an auditor reviewing flights in the future would exercise discretion in applying the rule when facts indicated that a different treatment may be warranted.

Chairman Langhorst noted that a requested declaratory ruling may be less cumbersome than changing a rule, but there is some ambiguity there. The Chairman asked Randy Tilley, Audit & Collections Division Administrator, how the language affects Audit. Randy noted that A&C prefers the language to be black and white. Yet while this was grey, this scenario would be treated as an arm's length transaction, not receiving benefits of relationship with the employers.

Chairman Langhorst noted the Commission appreciated McLean's reporting and explaining the concern about Proposed Sales & Use Tax Rule 037.

There were no further questions.

Property Tax Rules – Committee Chair, Alan Dornfest.

Alan Dornfest, Property Tax Rules Committee Chair, reported that the committee did receive a comment on Proposed Property Tax Rule 620 that was substantial, and some concern on Proposed Property Tax Rule 605. The Commission will hold a public hearing for these two rules on November 20, 2012.

Alan noted that the committee will recommend withdrawing Proposed Property Tax Rule 620 and would copy the commissioners on his response. The committee is going ahead with Proposed Property Tax Rule 605 and the legal staff is working on a response. In addition, a sub-committee was set up to clarify the urban renewal rules and to also clarify those rules for the assessors.

Chairman Langhorst introduced Sherry A. Cann, who is taking Shelley Sheridan's place as the Rules Coordinator for the Tax Commission.

Ted Spangler covered the big picture on the rules and noted that at the open meeting on November 28, 2012, the Commissioners would vote on which rules to submit for the 2013 legislative session.

**Public Comments.**

There were no more public comments.

**Recess.**

Chairman Langhorst recessed the Public Session for 10 minutes to reconvene for the commissioners to meet with the Commission's legal counsel.

**Reconvene Meeting.**

Chairman Langhorst reconvened the open meeting.

**Executive Session.**

Commissioner Katsilometes moved to amend the agenda and move into the Executive Session. Commissioner Jackson seconded. Commissioners Langhorst, Katsilometes, and Jackson 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 Langhorst declared the Executive Session was ended, and returned to the public session.

**Other.**

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

This Day in History, November 7:

- 1805 – The Pacific Ocean sited in Oregon.
- 1874 – First political cartoon depicting the Republican party as an elephant.
- 1916 – Jeannette Rankin becomes the first U.S. congresswoman.
- 1940 – The Tacoma Bridge collapses.
- 1944 – FDR wins unprecedented fourth term.
- 1972 – Nixon re-elected president.
- 1980 – “King of Cool” Steve McQueen dies.

#1 Songs

- 1957 – “Jailhouse Rock” sung by Elvis Presley.
- 1962 – “He’s a Rebel” sung by the Crystals
- 1968 – “Hey Jude” by the Beatles.
- 1977 – “You Light Up My Life” sung by Debby Boone.

There being no further business, the meeting adjourned.

Valerie Dilley  
Secretary

David Langhorst  
Chairman