

**IDAHO STATE TAX COMMISSION**  
**COMMISSIONERS' OPEN MEETING**  
**MINUTES OF MEETING HELD DECEMBER 12, 2012**

In attendance: Commissioners David Langhorst, Tom Katsilometes, and Ken Roberts; Michael Chakarun, Valerie Dilley, Steve Fiscus, Roxanne Lopez, Mark Poppler, Liz Rodosovich, Ted Spangler, Randy Tilley, Bill von Tagen, Mike Teller, Doreen Warren; Cynthia Adrian, Sherry Cann, Alan Dornfest, McLean Russell; George Brown, Chelsea Kidney, Carl Olsson, and Phil Skinner; Keven Griffin, Rene Holtslander, Glenyce Hug, Kathleen Osborn, Karen Thiel; and Steve Olsen.

**Convene Meeting.**

Commissioner Ken Roberts, Chair, convened the open meeting.

**Executive Session.**

Commissioner Katsilometes moved to go into Executive Session and Chairman Langhorst seconded. Commissioners Langhorst, 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.

**Recess.**

Commissioner Roberts declared the Executive Session was ended, and went into a ten-minute recess.

**Public Session.**

Commissioner Roberts reconvened the open meeting in Public Session.

**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: Roxanne Lopez, Human Resource Officer (Human Resources) for 5 years of service; Rene Holtslander, IT Support Technician, in Electronic Data Management (Revenue Operations), and Keven Griffin, Tax Audit Manager, in Sales Tax Audit (Audit & Collections) for 15 years of service.

The other recipient, Robert Rios, a Tax Appraiser, (Property Tax) consulting in the Twin Falls Field Office was absent and would have his certificate for 5 years of service 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. The Commissioners noted they anticipated seeing the recipients again at the following employee meeting at Central Plaza.

### **Deliberations on Estimated Total Personal Income for Fiscal Year 2014.**

Commissioner Roberts opened deliberations on the projected Idaho Personal Income for Fiscal Year 2014 for the purpose of determining and publishing, prior to January 1, 2013, the estimated total Idaho personal income for the fiscal year ending June 30, 2014, pursuant to Idaho Code §§ 67-6801 and 67-6802. The economists' projected estimates for total Idaho personal income at the 2012 Economic Estimates Commission (EEC), which met on November 28, 2012, ranged from \$56.543 billion to \$58.12 billion.

During the discussion, Chairman Langhorst noted that the estimates of the total Idaho personal income for recent years were all so high that the statutory limits on the legislature's budget in Idaho Code §§ 67-6801 and 67-6802 were never a factor, and were very unlikely to be for FY 2014. He recommended that, lacking any better data than that presented by the economists, the Commission accept the mean average of \$57.24 billion (or 5.53 percent growth over the current FY 2013 DFM estimate of \$54.240 billion.) Commissioner Roberts expressed his view that in view of the unknowns such as the impending fiscal cliff, he supported a lower estimate.

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

#### Estimated Personal Income for Fiscal Year 2014.

Chairman Langhorst moved the Commission adopt the mean average of \$57.24 billion as the estimated total Idaho personal income for the fiscal year ending June 30, 2014, pursuant to Idaho Code §§ 67-6801 and 67-6802. Commissioner Katsilometes seconded the motion. There were no further comments or questions. All voted in the affirmative and the motion passed.

#### Minutes: Open Meetings – November 7, 2012; November 20, 2012; November 28, 2012.

Commissioner Katsilometes moved that the minutes of the open meetings held on November 7, 2012; November 20, 2012; and November 28, 2012, be approved, and Chairman Langhorst seconded. There were no comments or amendments. All voted in the affirmative, and the minutes were approved.

#### Minutes: Economic Estimates Commission – November 28, 2012.

Chairman Langhorst moved that the minutes of the Economic Estimates Commission held on November 28, 2012, be approved, and Commissioner Katsilometes seconded. There were no comments or amendments. All voted in the affirmative, and the minutes were approved.

### **Administrative Reports.**

#### Audit & Collections, Randy Tilley.

Randy Tilley, Audit & Collections Division Administrator, reported that the calculation of November recoveries is complete. Through November 30, the Audit and Collection Division has recovered \$77,540,858. This recovery amount is \$13.9 million ahead of recoveries achieved this same time last year and equates to approximately \$56.7 million of General Fund revenues.

The division has completed 10,116 audits through the month of November. Individual income tax audits made up the largest portion of audits completed with 7,104 cases followed by

sales tax with 2,122, corporate income tax with 416, fuels tax with 229, withholding at 183, and all other tax types at 62 completed cases.

On the collection side, the number of collection cases currently stands at 39,322 with an accounts receivable balance of \$103.8 million. Each of these numbers is up slightly from previous weeks due to the addition of unpaid liabilities from the October 15 filing period.

#### Revenue Operations, Doreen Warren.

Doreen Warren, Revenue Operations Division Administrator, reported that the results of the recent IFTA peer review indicated that Idaho is very compliant with the IFTA procedures and requirements. Idaho was 100 percent compliant in 14 areas that were under review and was only minimally noncompliant in four areas. The areas of noncompliance were resolved prior to the review or will take minimal correction. Overall, Idaho received a very positive report thanks to the efforts of Audit and Collections, Management Services, and Revenue Operations.

Revenue Operations is currently wrapping up the calendar year with minimal returns still in processing.

#### Management Services, Mark Poppler.

Mark Poppler, Financial Officer, noted that the IRS has announced that the mileage reimbursement rate will increase to 56.5 cents effective January 1, 2013. The current IRS rate is 55.5 cents per mile. Assuming the State Board of Examiners approves this as a change to the state travel policy at their next meeting, and once the official minutes of the Board of Examiners are posted on their website, the State Tax Commission Travel Policy will be changed and brought before an open meeting for official approval in the coming months.

Mark reported on the Pilot Demonstration Project Fund program, also called the STARs program – Sales Tax Anticipation Revenue. He referenced his earlier reports when claims were received. This is a law passed in the 2008 Legislature for the purpose of establishing a new method for financing public transportation infrastructure. Basically, developers who spend the necessary minimum (currently \$4 million) on a qualifying retail complex can register with the Tax Commission and have 60% of their sales tax payments go into the Pilot Demonstration Project Fund. If the developers are then able to obtain approval from the Idaho Transportation Department to build an interchange or other public transportation improvement with a minimum value of \$6 million, they can file claims for cost reimbursement from the Pilot Demonstration Project Fund. The sales tax diverted is capped at a maximum of \$35 million per project.

Mark provided this update because Management Services (MS) has received a fourth claim on the first project (North Idaho). The cumulative claims exceed the amount of money that has been diverted into the fund for this development by approximately \$8.3 million. Doreen and Mark also had recent conversations with the developer of the second project qualified for the fund, the Village at Meridian (formerly the Meridian Town Center). Retailers there have recently opened and contributed approximately \$165,000 into the fund through the end of November. Doreen is helping the developer identify which of its retailers are registered with the Tax Commission and which are not.

The State Refund Intercept Program with the Internal Revenue Service is the program in which the IRS sends us a bi-weekly file of Idaho taxpayers who owe the IRS money. As state refunds are processed in GenTax, they are compared against this file and can be flagged for interception. A job is run each week that collects the intercepted refunds and a file of information, and the money is sent to the feds in Washington. As reported at the executive leadership meetings, an error in the program was recently identified and now corrected. However, the error resulted in approximately \$41,000 of overpayments on about 130 claims to be made. Accounting has

identified each error and is working with the IRS to obtain a full refund. No taxpayer accounts or revenue reports were effected, just the cash balance of the refund fund.

Legal, Bill von Tagen.

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

This Day in History, December 12:

2012 – George Brown accepted a deputy attorney general (DAG) position with the Attorney General’s Office and will be assigned to the Tax Commission.

Bill congratulated George on his new position with the Attorney General’s Office and noted how his training with ISTC on fuels and property tax qualified him for replacing the soon-to-be retired DAG, Carl Olsson. Chairman Langhorst congratulated George and said he was happy to have him at the Tax Commission. George thanked everyone for their support and congratulations.

Ted Spangler, Special Legal Consultant, noted his draft was circulating on testifying in legislative committees, and asked for the ELT to contact him with any revisions. Commissioner Roberts thanked Ted and appreciated his compiling this valuable information and aid for staff testifying. Chairman Langhorst mentioned that last year, in preparation for the upcoming 2012 legislative session, former Chairman Bob Geddes took the Executive Leadership Team (ELT) members over to the Capitol for a brief tour and mock committee hearing.

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. There is a committee meeting scheduled on January 23, 2013, to discuss some rules that need changing. These rules can be found internally on the SharePoint collaboration site to see if the rules need to be changed or not. Michael Chakarun, Tax Policy Manager, added that this is a part of the new year-round negotiated rule-making process.

Sales Tax Administrative Rules – Committee Chair, McLean Russell.

McLean Russell, Sales Tax Administrative Rules Committee Chair, noted that the committee will begin meeting on the Proposed Rules for the 2014 Legislature.

A notice of intent to initiate negotiated rule-making on Sales Tax Proposed Rule 027 – Computer Equipment, Software, and Data Services will be published on January 2, 2013. Responses are due by January 31, 2013, and barring any legislative activity on the issue, the first meeting on the issue will be held sometime in February.

McLean noted that this software rule is in need of an update to account for significant changes to the industry in recent years including the rapidly growing trend of remotely accessing databases and software. However, the statute upon which the rule is based was last amended 20 years ago, so it has obvious limitations. A proposed rule draft was brought forward by industry representatives from Idaho Power, Micron, Simplot, and Supervalu. They have jointly proposed a

draft of the rule, which will serve as a good starting point for discussion, though it departs from the Commission's approach over the past few years.

Chairman Langhorst asked about looking at how other states are treating the taxation of software. McLean noted that there is not much precedent out there, but he will be pulling together that kind of information for the committee and commissioners.

McLean will also be working with Don Williams, who will be temporarily assigned to Tax Policy, to update the fuels tax rules.

There were no further questions.

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

Alan Dornfest, Property Tax Rules Committee Chair, reported that the committee had its second property tax meeting for the 2014 legislative session on November 29, 2012, the first meeting was on October 16, 2012. The committee discussed five property tax rules that are repeatedly considered every year.

Alan noted that Idaho Transportation Department (ITD) discussed the need to update the Idaho State Tax Commission Rule 020 on Recreational Vehicles for Annual Registration and Taxation of Unregistered Recreational Vehicles. This rule determines the value calculation for tax on RVs, horse trailers, and utility trailers that also have living quarters as a portion of the vehicle. Living quarters or after-market conversion to living quarters in horse and utility trailers, not being properly stated on the bill of sale, is causing problems in valuing the living portion of the trailer, versus the utility portion of the trailer. The allocation process needs to be simplified and changed. The Property Tax Rules Committee will see if this is something they want to take up.

Alan briefly mentioned updating Rule 006, that incorporates certain cost manuals, guidelines, and standards referenced in property tax rules, to recognize the most recent editions. In addition, the rule that guides the appeal process for operating property, Rule 407, was presented for review by the committee at the request of the Commission.

The committee also discussed adding a provision to Rule 803, the budget certification rule, to insure that levy rates are computed based on amounts that do not exceed amounts proposed in the notice of budget hearing. Alan noted that Rule 804 on Urban Renewal Districts was referred to a subcommittee. Since several issues came up at the recent classes on urban renewal, it is good to revisit the rule and process.

There were no questions.

#### **Public Comments.**

There were no public comments.

#### **Other.**

There being no further business, the meeting adjourned.

Valerie Dilley  
Secretary

Ken Roberts  
Commissioner