

**IDAHO STATE TAX COMMISSION**  
**COMMISSIONERS' OPEN MEETING**  
**MINUTES OF MEETING FEBRUARY 6, 2019**

In attendance: Commissioners Ken A. Roberts, Tom Katsilometes, Janet Moyle, and Elliot S. Werk, Shelli Boggie, John Bernasconi, Mark Poppler, Mark Warbis, Mike Chakarun, Randy Tilley, Steve Fiscus, Terry Ford, Alan Dornfest, Cynthia Adrian, Leah Parsons, Phil Skinner, Maria Young.

Guests: Idaho Attorney General Division Chief Kay Christensen, Division of Financial Management Analyst Matthew Warnick, and former Public Information Director Doreen Warren

**Public Session**

Commissioner Katsilometes called the meeting to order and welcomed all those in attendance.

**Presentation of Certificates of Service**

Michael Pendergrass, Human Resources Officer, acknowledged the employees receiving Certificates of Service. Mr. Pendergrass noted that their combined total of 135 years of state service is appreciated. The Certificate of Service recipients in attendance were: Karin Benz, Technical Records Specialist 1, Revenue Operation/Taxpayer Accounting – 5 years of service; Tim B. Clark, Program Information Coordinator, Revenue Operations/Electronic Data Management – 5 years of service; Dylan Ford, Technical Records Specialist 1, Revenue Operations/Resource Team – 5 years of service; Bill Hofstra, Data Coordinator, Revenue Operations/Electronic Data Management – 5 years of service; Dean Reich, Audit/Tax Discovery Bureau – 5 years of service; Renee Marsh, Business Analyst, Revenue Operations/Coordination and Automation Bureau – 35 years of service; Kent Patterson Revenue Operations/Central Processing – 50 years of service.

The Certificate of Service recipients not present were: Maria Obosky, Tax Auditor 1, Audit/Sales Tax Audit – 5 years of service and Sam Merrick, Audit/Sales Tax Audit – 20 years of service. They will receive their certificates at a later time.

The Commissioners expressed their congratulations and appreciation for all their years of service.

**Business requiring Vote of the Commission**

Minutes: Open Meeting – December 7, 2018

Commissioner Roberts moved to approve the minutes of the open meetings held on January 4, 2019. Commissioner Werk seconded the motion. There were no comments or amendments. All voted in the affirmative and the minutes of the open meetings held on January 4, 2019 were approved.

### Forestland Values for Assessment Year 2019 – Rod Brevig

Rod Brevig, Tax Administration Forester, presented the 2019 Forestland Values for the State of Idaho to the Commission and recommended the Commission adopt the Forestland Values for 2019 to be used for assessment purposes. Mr. Brevig said these may be the last forestland values presented for review under the 2012 agreement. There is a 5% increase across all the zones for 2019.

The Committee on Forest Taxation and Methodologies (CFTM), has held meetings through the course of the last year and into this year. At those meetings, a new rule has been discussed that determines how productivity classes are established. Mr. Brevig addressed all questions and concerns presented, including the history behind the decision to value forest land as it is done currently.

Commissioner Roberts moved to adopt the proposed Forest Land Values for Assessment Year 2019, as presented. Commissioner Moyle clarified the percentage values and seconded the motion. There was no further discussion and the Forestland Values for Assessment Year 2019 was unanimously adopted.

Commissioner Werk noted Mr. Brevig often works in obscurity, but he has seen the good work he has done, and the Commission appreciates the years he has been in this position.

Commissioner Katsilometes invited any commissioners to attend a CFTM meeting in Northern Idaho on March 15.

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

### **Administrative Reports**

#### Collection, Debbie Coulson

Debbie Coulson, Tax Collection Division Administrator

Commissioner Moyle reported that Ms. Coulson is currently in Pocatello moving offices and working hard to get the Pocatello office up and running.

Commissioner Katsilometes said the grand opening of the Pocatello office will be on February 25, 2019. City, County, and State representatives have been invited to attend.

#### Revenue Operations Division, John Bernasconi

John Bernasconi, Revenue Operations Administrator, reported that we are ready for the tax season to begin. Returns have been coming into the office; however, there aren't enough returns yet to prognosticate what the year will hold. They are paying close attention to the revenue and reporting to the Commissioners, but there isn't enough information. There are over 50 temporary employees that have been hired and they are ready for the returns to start in earnest.

Commissioner Werk commented there is a desire by some legislators to change the sales tax coupon reporting return and there may need to be some work done quickly. Mr. Bernasconi said they have already begun.

#### Management Services, Mark Poppler

Mark Poppler, Financial Officer, reported that JFAC has announced its budget setting schedule that begins next Friday. The Tax Commission budget hearing is on March 7, 2019. There is uncertainty about revenue that may come into the Refund Fund. To address this

Management Services will petition the Board of Examiners in February for the permission to borrow from the General Fund, in case it is needed to pay for tax refunds if the Refund Fund balance dips too low. Going into February the Refund Fund is approximately \$65 million lower than it was at this time last year as a result of lower withholding and early income tax payments. Refunds are expected to be lower, but Management Services wants to ensure there is no delay in issuing refunds. The request will be presented to the subcommittee for the Board of Examiners on February 12, 2019.

The revenue share, one of the major sources of revenue for counties and cities, was just paid for the 2<sup>nd</sup> quarter of FY19 and it was a record for that quarter: just over \$54 million, about 7.6% more than last year. Last quarter we paid \$58 million in revenue share. The summer quarter brings in more sales tax revenue even though the Christmas season (December) brings in the most in one month.

The supplemental budget requests were heard last week at JFAC and all received approval on a unanimous vote of the committee. One of the supplementals was for additional money for the move, bringing the balance for the move to about \$2.5 million, of which half has been spent or committed. Substantially all IT equipment is ordered, and some has already been received.

#### Public Information and Taxpayer Resources, Mark Warbis

Mark Warbis, Public Information Director, reported the legislative team and Tom Shaner and Cynthia Adrian have been busy. Governor Little signed the annual IRS conformity bill ([HB13](#)) on Monday February 4, 2019). There were five other bills that are going to the Governor for signature. The Administrative Rules on product tax and fuels tax have been approved by the House and Senate. The House approved all of the income tax rules and the Senate has approved all but one docket. A hearing will be held on February 7, 2019 in Committee on Rule 015: Clarifying how the Tax Commission applies federal retroactive provisions and provides that uncodified provisions of federal law are included when calculating Idaho taxable income. The sales tax rules were approved by the House; the Senate rejected 106.5, paragraph b. relating to low bills of sale on vehicle transactions. There will be another hearing in Senate Committee on 02/07/2019 on Rule 107, which is to provide consistency in reference to motor vehicles in the rules. The policy staff will continue to analyze other legislation throughout the year.

The Governor has signed [Executive Order No. 2019-02](#): Red Tape Reduction Act. Commissioner Roberts acknowledged the executive order and welcomed Matt Warnick to the meeting. Commissioner Roberts agreed with the context behind the order (to reduce the number and complexity of rules) and noted there will be a workload issue and that the Commission would support and work to comply with the order. The Tax Commission Rules are carefully reviewed annually. Mr. Warnick said there is a memo that gives more detail about the process and lists training dates. There will be a moratorium on submitting rules requests that will be reviewed by the 2020 legislature until the training has been attended.

Commissioner Moyle said Mr. Warnick will be greatly missed by the Tax Commission. He said he has been asked to work with the migration to LUMA and does not know who will be assigned to the Tax Commission. The Commissioners appreciate all he has done to help the Commission.

### Tax Appeals Manager, Mike Chakarun

Mike Chakarun, Tax Appeals Manager, will only report on cases in his unit. At the end of January, there were 232 cases in inventory with an average age of 273 days per case. There are 161 income tax cases, 63 sales tax cases, and 8 circuit breaker cases. Of the 232 cases, 44 have decisions issued and that is important because they are no longer active and now wait 91 days before being closed. The average age of these inactive cases was 353 days. The 188 active cases have an average age of 255 days. Since July 1, Appeals has closed 220 cases with an average age of 377 days. 93% of the cases were closed within 2 years after transfer to appeals. The target is to close 90% within two years, as set forth in the Strategic Plan.

Additionally, the Appeals unit has been working on a broad set of guidelines for Appeals Specialists. He is working to capture the expertise of experienced appeals staff and to help transfer that knowledge to those that will follow in their footsteps.

Commissioner Roberts said that approximately 3 – 4 years ago, there was a significant backlog of Appeals cases; however, an Appeals Review Officer was hired, with the support of DFM, and some of the backlog was alleviated. The average of 353 days has gone down significantly from what they were and that means we are more quickly answering the taxpayer that wanted a second look at their case. The taxpayer does not always want an answer right away. Sometimes it is the taxpayer that wants to hold something open. Commissioner Roberts thanked Mr. Chakarun.

Commissioner Moyle also thanked Mr. Chakarun and his team. They completed the policies and she appreciates the work. It is difficult to come up with policies for a team establishing independence from another agency unit while retaining good relations. Trying to fit that together has been challenging.

### Audit Division Administrator, Randy Tilley

Randy Tilley, Audit Division Administrator, reported the calendar year numbers. By December 31, 2018, there were 21,383 audits completed, and the recoveries totaled \$49.3 million. Recoveries are variable based on the cases closed. Audit has been using the audit stage report and that has allowed them to move audits through the process to closure much more rapidly. It has highlighted some challenges including one in protest where the taxpayer protests but requests that it be retained in audit. They have had some success in closing out some very old cases that have been in that protest stage for multiple audit cycles.

Additionally, Audit is beginning fraud reviews with the tax drive. So far, they have reviewed 686 returns. Of those, 433 have gone through with no issue, 243 have received letters to verify identity, and there are a few with W-2 mismatches. Audit is following up on those to see why there is a mismatch.

Mr. Tilley also reported that there have been some significant challenges recruiting and hiring auditors in all divisions. Shelli Boggie, from HR, has set up a career fair and they are attending that at NNU and BSU later this month.

The income tax audit group will hold their annual training April 30 – May 2 at Chinden, Building 8. The Field Office Auditors will be present.

Commissioner Roberts said there was an increase in the number of identification verification letters last year. There was an effort to reduce those over the summer and to reduce the number of false-positives and he asked what efforts have been taken to reduce those numbers. Mr. Tilley said last summer they worked with FAST Enterprises, who reviewed how the Audit Division reviews suspicious returns. After review and analysis, Audit altered their

protocols and expects to drop the number of letters by an estimated 30 – 40%. Commissioner Roberts noted there is also the savings of the employee time needed to review those.

Doreen Warren, former Tax Commission Public Information Officer, said she is still participating in her advisory committee to the IRS. She did a quick survey of states with identification verification that she knew would provide that information and Idaho does fall into the range, and, if the predicted drop occurs, as described, Idaho will be on the low end of identity verification letters that are sent to taxpayers.

Commissioner Werk commented that we can tighten ourselves down to absolutely never send out a fraudulent refund, but we would not likely send out many refunds. This is about adjusting to an acceptable risk. He trusts the Audit team to evaluate that adequately and he hopes with this process, we serve the public better and protect the taxpayer's dollar as well.

Commissioner Katsilometes asked if reports are sent to the Governor's office monthly. Mr. Tilley said the month-to-month numbers vary dramatically and could be confusing. Commissioner Roberts said the Annual Report includes those statistics.

#### Human Resources, Roxanne Lopez

In Roxanne Lopez's absence, Shelli Boggie had no report at this time.

#### County Support Division Administrator, Steve Fiscus

Steve Fiscus had no report at this time.

#### Information Technology, Terry Ford

Terry Ford reported the IT team is currently working on 20 active projects. 90% of the agency phones were migrated to the ITS phone system. Once the remainder are migrated, the project will close.

They now have a paperless change process for IT. It has moved to electronic review and routing which reduces physical touching and improves approval tracking and historical searches.

The hardware for Building 2 has been ordered and some has been received. The team is prepared to build out and configure the infrastructure as needed. The data center will be ready for move-in on April 23. That will give ITS, the Industrial Commission and the Tax Commission IT teams time to prepare for occupancy on July 8.

The team is still focused on protecting Idaho state taxpayer data. Last month, there were 59 suspected phishing emails; 28 of those were spam or phishing, 8 were malicious and access was blocked to avoid accidental access, and 3 e-mails were confirmed blackmail. This weekend (2/9 and 10), there are IT team members on their way to Pocatello and tomorrow more will go, including herself. They will work over the weekend to build out the new Pocatello office.

Commissioner Werk appreciates the hard work she is doing with the multiple projects and the potential move to ITS. All of this while dealing with issues associated with the difficulties of the employees. The Commissioners appreciate her, and her teams, efforts.

#### Property Tax, Steve Fiscus

The RS that was introduced this morning will make the tax commission subject to the administrative procedures act.

#### **Reports on Rules Committees**

There were no reports on rules currently.

**Other Business**

There was no other business to discuss currently.

**Public Comments**

Doreen Warren thanked the Commission and shared that the IRS has a challenge in the ability to communicate to a group of taxpayers to make the changes they need to make. The challenges Idaho has had with the W-4 will be helpful to report back to her committee. She is looking for the communication method that works best to get the taxpayer to do something proactively.

**Executive Session**

Commissioner Werk moved to go into Executive Session with legal counsel pursuant to Idaho Code § 740296(1)(f) to discuss the current status of litigation to which the Commission is a party. A roll call vote was taken by Maria Young, Management Assistant and Commissioners Roberts, Katsilometes, Moyle and Werk all voted in favor and the motion passed.

The Commission met in Executive Session with its legal counsel pursuant to Idaho Code § 74-206(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 Katsilometes declared the Executive Session ended and returned to the public session. There being no further business, Commissioner Katsilometes moved to adjourn the meeting. All Commissioners voted in the affirmative and the meeting was adjourned.

Maria Young

Tom Katsilometes