

**IDAHO STATE TAX COMMISSION**  
**COMMISSIONERS' OPEN MEETING**  
**MINUTES OF MEETING MARCH 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: Kay Christensen, Idaho Attorney General Division Chief; Laura Lantz, Executive Director Idaho Society Certified Public Accountants; Matthew Warnick, Division of Financial Management

**Public Session**

Commissioner Werk 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 50 years of state service is appreciated. The Certificate of Service recipients in attendance were: Tyler Mabey, Tax Auditor 3, Twin Falls Field Office – 5 years of service; Adriana Sandoval, Tax Compliance Officer 1, Boise Field Office – 5 years of service; Gloria Taff, Tax Auditor 1, Sales Tax Audit – 5 years of service; Jacob Will, Tax Auditor 3, Coeur d' Alene Field Office – 5 years of service; John Bernasconi, Division Administrator, Revenue Operations – 10 years of service; Rebecca Brehm, Tax Compliance Office 3, Twin Falls Field Office – 15 years of service.

The Certificate of Service recipient not present was: Donna Holden, Technical Records Specialist 1, Income Tax Audit Support – 5 years of service. Ms. Holden will receive the certificate 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 – February 6, 2019

Commissioner Roberts moved to approve the minutes of the open meetings held on February 6, 2019. Commissioner Moyle seconded the motion. There were no comments or amendments. All voted in the affirmative and the minutes of the open meetings held on February 6, 2019 were approved.

**Administrative Reports**

Revenue Operations Division, John Bernasconi

John Bernasconi, Revenue Operations Administrator, presented updates on the return season. An atypical filing season was anticipated, so they began early reporting of key indicators to DFM and to the Governor's office. Electronic returns through March 2, 2019 are only down

1.9%, which is about 5,000 returns of the 296,000 returns received. Electronic returns usually account for any growth, but they are down some this year. Overall returns are down about 3.3% which is about 11,000 returns. Revenue Operations still anticipates that April 15 and the week following they will receive many paper returns. The average refund, through March 2, 2019 is \$532. That is down from the same period last year when it was \$651, or about 18%. The number of refunds for Form 40 (resident income tax) is 117,000 refunds issued compared to 142,000 last year. That is down about 17% in total refund count. With refund count down, and returns relatively flat, it would imply there will be fewer refunds this year.

Commissioner Roberts noted a weekly report that shows the refund fund balances and commented that we have been approved to borrow from the general fund, if needed to ensure refunds are paid in a timely manner. It appears we are on-track to reach the January projections.

Laura Lantz, Executive Director, Idaho Society of Certified Public Accountants, asked how the business returns look. Mr. Bernasconi said refunds generated from those are substantially overpayments of estimated payments. The number of returns filed is comparable to last year. Electronic filing rates could be higher than the current 65% if we had more of our business return types, but there aren't many vendors that support electronic business filings. If vendors could be motivated to provide more support, electronic business filings could increase.

Tax Appeals Manager, Mike Chakarun

Mike Chakarun, Tax Appeals Manager, had no report.

Collection, Debbie Coulson

Debbie Coulson, Tax Collection Division Administrator, reported that the Pocatello field office was successfully moved to 1111 N. 8th Ave., Pocatello ID, 83201-5789 on February 11, and Commissioner Katsilometes was there for the ribbon cutting ceremony on February 25. There were several local and state dignitaries present. Commissioner Katsilometes added that the mayors, county commissioners and the Pocatello-Chubbuck Chiefs – an organization that supports local businesses in Pocatello and Bannock County – were very supportive.

The Secretary of State XML interface project, begun about one year ago to upgrade their computer system and software for reporting the UCC liens on the internet, along with how we send our lien requests, (filing and releasing), went live on February 26 and while there are some issues, they are working closely with the Secretary of State to resolve those.

Collections continues to lose employees. They are now down 13 people and while they are trying to get the work accomplished, it is becoming critical. Commissioner Roberts asked about the hiring prospects for those 13 positions. Ms. Coulson noted there have been few qualified candidates, so they will announce again, for the 5<sup>th</sup> time. Phone Power is paid at the same rate as collectors, which is problematic in that those in phone power have no motivation to move into a collector position, so they tend to leave the Agency. Commissioner Roberts asked if the current staffing will have an impact on collection amounts. Ms. Coulson said they are ahead right now and that is due to balancing workloads to maintain collections cases.

County Support Division Administrator, Steve Fiscus

Steve Fiscus, County Support Division Administrator had no report.

Information Technology, Terry Ford

Terry Ford was not present; however, Commissioner Werk reported that the Information Technology Services (ITS) budget passed, with the transfer of our detailed questionnaire to ITS

IT staff are working on a smooth transition now. He thanked the managers for providing Ms. Ford the information to forward to the ITS managers. We will ensure ITS has access to everything they need. We have lost 4 people in anticipation of the move to ITS. We have been receiving help from ITS and we will likely hire contractors for networking in the interim. We are preparing a service level agreement so ITS understands the critical nature of our systems and so that we can get 24 hours work completed within 24 hours. He recognized that Ms. Ford and her team have been working very hard to make this transition smooth.

Commissioner Katsilometes voiced concern over how the loss of personnel is currently affecting our operations. We have lost 4 employees and may lose another 4 soon. He asked if this is crippling us and whether it will affect returns and audits. Commissioner Werk responded that our GenTax staff will remain, so the GenTax product shouldn't be impacted. We do have issues supporting our network right now due to the lack of staff, however; Ms. Ford, her staff and ITS will ensure we have the resources we need. We may need to hire temporary employees if ITS does not have those resources, but we will work to make sure there is no disruption between now and the June implementation. Commissioner Katsilometes asked about the GenTax group that coordinates between us and them: who are they and are they going to stay? ITS needs to understand how closely we must work to ensure issues are identified early and are resolved as soon as possible to reduce any downtime that could result from a slow-running report. Commissioner Werk said we have met with Jon Pope, Chief of Operations at ITS, to ensure we are in compliance for our audit in August and to let them know that we want them here. They will hire staff as soon as possible; they have announced some positions already and will announce more soon. We have encouraged our staff to apply to ITS because it is important for their expertise to be present there. Hopefully, ITS will hire people from the Tax Commission that bring that knowledge with them. Commissioner Roberts and Jeff Weak met last week and discussed the transition. ITS wants to make this work, as do we.

Human Resources, Roxanne Lopez

Shelli Boggie, in Roxanne Lopez's absence, has no report but will stand for questions. There were no questions.

Management Services, Mark Poppler

Mark Poppler, Financial Officer, reported our budget is before JFAC tomorrow morning, March 7, 2019. The supplemental bill for our additional moving costs, the additional spending authority in property tax, and the partial year position property tax was approved by both houses and has been signed by the President of the Senate. It has an emergency clause, so when it is signed by the Governor it will be effective.

There has been a question from the Idaho Department of Transportation (ITD) about the Beck Road sales tax anticipation revenue (STAR) project. Beck Road is the interchange in Coeur d'Alene, the first STAR project from 10 years ago. Because of this question, Mr. Poppler asked if there are more STAR projects. ITD sent two agreements. One was signed at the end of July last year, the other was signed in January 2019: one is for Costco at Ten Mile Road, the other for Linder Village that will include a Winco, at Linder and Chinden. It doesn't appear either has started construction. The Costco project could be approximately \$35 million, the other about half of that, for road improvements.

The refund fund is still doing well. Refunds in February were close to expectations. Mr. Poppler expects the fund to remain healthy, but we do have the authority to borrow up to \$45 million, if needed.

As discussed earlier, IT is preparing to cover their needs. There is a contract in place to bring a network engineer onboard on as a consultant as soon as IT decides they need that position.

Commissioner Roberts asked if that consultant will provide the necessary support for our move or will there be subcontractors to set up the workspaces in June and July. Mr. Poppler said it is expected they will have to hire additional people to set up computers and peripherals. This contract is specific to handle network issues we may have within the next few months. Commissioner Werk added that we will have a more difficult time setting up our data center at the new location because of the personnel losses we have experienced. We will rely on ITS to try to provide additional expertise and then contract, if needed.

Commissioner Werk asked if the cost for a contract employee will be higher than for an employee that has left the agency. Mr. Poppler said yes. The state has a statewide contract for these services and that rate is \$70 per hour, compared to a fully weighted employee at \$40 – \$50 per hour.

Commissioner Werk said we are just now learning there was a project signed over 6 months ago that should have come to us for sales tax withholding and he asked if there is a need for a statutory requirement to have ITD mandated to transfer those agreements to us after signature. Mr. Poppler said he believes this was a communications issue. It will be about one year before retailers are in those locations and submitting returns, but then we will be able to collect. Randy Tilley, Audit Division Administrator, said there is a need for an updated Memorandum of Understanding (MOU) to be able to exchange information with ITD, but we are aware they are upgrading many of their automated systems. Until we know how and what to access within those new systems – we are waiting for them to finish the project – so we could develop a revised, more comprehensive MOU that includes some of these features discussed today. ITD is having preliminary meetings and members of our staff are attending to understand how the platforms are going to be developed and how that exchange may work in the future. His intent is to develop one comprehensive agreement.

Commissioner Werk asked about the Idaho Falls and Chubbuck Auditorium Districts, where we will develop a specific tax type and we will help them set up to collect their tax. Is our transfer of personnel to ITS pushing back the development of the tax type and to be able to implement? Mr. Poppler said it is not directly related. The GenTax developers are staying, and they are the ones that will be involved in creating the new form and in modifying GenTax. The loss of the managers and our project manager will impact all project development. The Auditorium District project is starting development now, with a projected start date on July 1, but they have both been warned that it may be later. They have responded that they will continue to operate. Commissioner Moyle noted that Mark Fuller, the Attorney representing the Idaho Falls Auditorium District is aware that implementation may be delayed.

Audit Division Administrator, Randy Tilley

Randy Tilley, Audit Division Administrator, No Report.

Public Information and Taxpayer Resources, Mark Warbis

Mark Warbis, Public Information Director, thanked the Commissioners for appointing Tom Shaner as the agency's Rules Review Officer. Mr. Shaner has assembled a committee of approximately 6 individuals to assist in the rules review. They have already begun their work and had preliminary meetings. Most have attended the training presented by Division of Financial Management and received good information. Other business units are encouraged to support this group, to identify opportunities for simplifying, or to reduce the number and size of the rules.

Outreach has increased; Financial Literacy Day at the Capitol was last week. This is the first year we have been involved in this statewide effort. Two Taxpayer Resource staff are involved in planning "Scam Jam," a statewide anti-fraud education effort for various organizations and agencies.

Outreach training continues at a rapid pace and there is a full calendar of trainings throughout the state in March. There is a training for Event Planners about the new tax protocol. There will also be tax drive curbside collection events.

Commissioner Katsilometes asked about "Scam Jam." Mr. Warbis said the Financial Literacy Coalition has long championed this along with the Department of Finance, Department of Insurance; private organizations including the Better Business Bureau, Chambers of Commerce and others have promoted this awareness effort about fraud and similar criminal activities and how to prevent those.

### **Reports on Rules Committees**

There was no report on rules; however, Tom Shaner, Tax Policy Manager, said all our Tax Commission legislation has gone through the system and is now signed into law. They have already begun accepting new ideas for the upcoming year and the Committee has a good start on the rules review. They are awaiting the re-designed Administrative Rules Request Form (ARRF). It is time to begin those because the ARRF must be approved prior to open negotiated meetings.

Commissioner Werk said he recently learned that if a piece of legislation goes through that contains a provision that the Tax Commission is authorized to create rules associated with the statute, his understanding is that would override the need for other measures limiting other rules. Mr. Shaner said there is an exemption if a rule is necessary because of a federal or state statute. Having the language specifically in the rule may help, but it isn't required because we would never receive that in a federal law. If there is a need to clarify a federal law for Idaho taxpayers, that would be allowed. We must make the case that the rule is necessary to get an exemption from the Executive Order.

Commissioner Katsilometes asked when this legislative session will end. Mr. Shaner said the target for Sine Die is March 23.

### **Other Business**

There was no other business to discuss currently.

### **Public Comments**

Laura Lantz shared that she appreciates the relationships and cooperation between the ISCPA and the Tax Commission. She recently received an emailed question that she forwarded to Tom Shaner and Cynthia Adrian. Ms. Adrian simply called the member and answered the

question and Ms. Lantz said she appreciates that the Commissioners talk to them and foster this working relationship.

Commissioner Roberts said from a national perspective, the CPA outreach we have in Idaho is quite unique. As a result of that, we have a good working relationship with the Society of CPAs and he has been able to share that at national meetings. He thinks it is worthwhile to go on tour with them.

Commissioner Moyle added the CPAs are sometimes a quiet group, but when they open up, we are able to bring back so much and she appreciates the dialogue and looks forward to continued communication.

### **Executive Session**

Commissioner Katsilometes 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 Werk declared the Executive Session ended and returned to the public session. There being no further business, Commissioner Werk adjourned the meeting.

Maria Young

Elliot Werk