

IDAHO STATE TAX COMMISSION
COMMISSIONERS' OPEN MEETING
MINUTES OF MEETING MAY 1, 2019

In attendance: Commissioners Ken A. Roberts, Tom Katsilometes, Janet Moyle, and Elliot S. Werk, Shelli Boggie, Michael Pendergrass, John Bernasconi, Mark Poppler, Mark Warbis, Mike Chakarun, Randy Tilley, George Brown, Terry Ford, Glenda Smith, Alan Dornfest, Renee Eymann, Phil Skinner, Maria Young.

Guests: Idaho Attorney General Division Chief Kay Christensen and Andy Snook, Andrew Mitzel, Office of the Governor, Hayden Rogers, Governor's Constituent Services Liaison, Matt Warnick and David Hahn, Division of Financial Management (DFM).

Public Session

Commissioner Roberts 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 108 years of state service is appreciated. The Certificate of Service recipients in attendance were: The Certificate of Service recipients for the Wednesday, May 1, 2019 open meeting are: Connie Morris, Tax Compliance Technician, Collection/Boise Field Office – 5 years; Mark Southard, Property Tax Appraiser Senior, Property Tax/Property Tax Appraisal – 5 years; Maria Young, Management Assistant, Administration/Commissioners – 20 years; Merry Gorremans, Tax Compliance Technician, Coeur d'Alene Field Office – 40 years.

Certificate of Appreciation recipients for annual Tax Drive Service: Darlene Snell, Seasonal Tax Drive Employee, Revenue Operations/Initial Operations – 18 years Tax Drive Service; Margaret Corn, Seasonal Tax Drive Employee, Revenue Operations/Initial Operations – 20 years Tax Drive Service.

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

Commissioner Roberts introduced Andrew Mitzel, Governor's Senior Advisor and our liaison with the Governor's office. Mr. Mitzel introduced Hayden Rogers, recently hired to manage Constituent Services for the Office of the Governor. Matt Warnick is present for this meeting as well as David Hahn, both of Division of Financial Management (DFM)

Business requiring a vote of the Commission

Minutes: Open Meeting – April 3, 2019

Commissioner Werk moved to approve the minutes of the open meetings held on April 3, 2019. Commissioner Moyle seconded the motion. All voted in the affirmative and the minutes of the open meeting held April 3, 2019 were approved.

Administrative Reports

Revenue Operations Division, John Bernasconi

John Bernasconi reported on revenue operations. One goal is to have all timely returns and payments (received through April 15th) processed and in the bank by the end of the month. Revenue Operations succeeded in doing that again this year. Return filings were unpredictable considering the large changes in the tax code. Returns stayed fairly consistent, as of April 29th. They received 687,000 electronic returns, which is up 3.2% from the prior year. Paper returns are down 2.8%, which is about 3,000 returns; that is statistically insignificant. Revenue Operations has received 786,000 returns so far this year. They expect to receive a total of about 850,000 returns total for the year reflecting an increase in the late September and October tax season.

Each week we send information to DFM, the Governor's office, and LSO about the number of refunds, and revenue numbers are provided every month. The average refund is down about \$93.00 from last year (from \$607 to \$514) and is the lowest average refund on Form 40 alone, in many years. RO has issued 15,000 fewer refunds. The trends were accurately predicted.

Commissioner Werk said the Commissioners appreciate the efforts of the employees of Revenue Operations for always working hard and getting things done, on time, every year. Also convey our thanks to the Tax Drive temporary employees.

Tax Appeals Manager, Mike Chakarun

Mike Chakarun noted the appeals reference guide is almost complete. It is designed as a job aid and will help to guide any new employees. This guide will address case management, case file documentation, the informal hearing processes, communication with the petitioner and their attorneys, and dealing with new information and issues. The next phase will involve case-specific information.

Commissioner Moyle said she appreciates everyone who helped work on this guide. It has been a very interesting procedure to have these two groups work together so closely. This will all be very beneficial.

Commissioner Werk noted appeals and policy were split several years ago and he remembers what the aging cases looked like at that time. Commissioner Werk asked how long a case takes now. Mr. Chakarun said at the end of Fiscal Year 2016, there were over 350 cases in inventory and 43 of those were over 2 years old. Now, there 260 – 270 cases; 11 – 12 of those are over 2 years old. The new cases are being resolved more quickly and the older cases are being resolved. New cases are generally under 2 years old. They want 90% of their cases resolved in 2 years or less.

Business requiring a vote of the Commission

Resolution 19-02 – Property Tax Temporary Rule 717T

Pamela Waters presented Resolution No 19-02 Property Tax Temporary Rule 717T. Ms. Waters reviewed Temporary Rule 717T to amend sections of existing [Rule 717](#). Ms. Waters is asking for the amendment to include a process for counties to follow to institute the changes that were made as a result of [HB 62](#) to apply existing Property Tax Reduction and 100% Service-Connected Disabled Veterans Property Tax benefits to occupancy tax parcels throughout the calendar year. HB 62 is effective retroactively to January 1, 2019 creating an immediate need to provide guidance to county assessors on how to include Occupancy Tax Reduction claims on the current Property Tax Reduction rolls and allow for applications submitted after April 15 to be approved and forwarded to the State Tax Commission. Current rule 717 also does not allow for supplemental rolls or payments for Occupancy Tax Reduction claims. This amendment is also needed to allow for the inclusion for Occupancy Tax Reduction Claims on the current Property Tax

Reduction rolls and to create a supplemental roll process for claims submitted after the standard April 15 deadline. They did receive approval from DFM to work on the permanent rule which will be similar.

Commissioner Katsilometes moved to approve Resolution 19-02. Commissioner Werk seconded the motion. There was no further discussion. All voted in the affirmative and Resolution 19-02 was approved.

Alan Dornfest thanked Pam Waters for all the work she has done on this rule. Chairman Roberts related for those present that Ms. Waters is lead on our circuit-breaker program for tax relief for all individuals who qualify based on income and age and veteran's status. The Commission appreciates all her work. The Commission asked Ms. Waters how many cases she audits annually; she said she audits every application that comes in. Last year there were about 28,000 and this year will be closer to 30,000. There are only 4 people conducting those audits.

Collection, Debbie Coulson

Debbie Coulson, Collection Division Administrator, no report

Property Tax Division Administrator, George Brown

George Brown is new to the County Support Division Administrator position. He appreciates the incredible work Ms. Waters does and said that she really helps to hold that program together. Property Tax is incorporating Agriculture Ratio Studies this year. There has been an emphasis, in accordance with [HB 164](#) that mandated notice requirements, about what happens when the counties' agricultural values are either in or out of compliance with where the state Tax Commission feels they should be. There has been no specific guidance before. Mr. Brown's division is developing letters to the counties for whether they come into compliance. He will be personally visiting counties, depending on specific needs. The counties have complied with the new statutory requirements.

Property Tax will be conducting training in six (6) counties for newly elected commissioners. Each county commission acts as a board of equalization to hear appeals of county assessments. Residents can appeal the assessed value of their property. Three (3) State Tax Commissioners sit as the state Board of Equalization for two (2) weeks in August. If property values in a county are either too low or too high, that is where the State Board of Equalization comes in. The County Support Division is trying to get in front of the issues so there aren't so many appeals. Mr. Brown anticipates meeting with every County within the next year. He would like to ensure good relationships.

Information Technology, Terry Ford

Terry Ford reported that the IT team is currently working to build out the Building 2 Chinden Campus infrastructure. There have been delays but they were able to move the infrastructure for the GenTax Environment into another building so they will be able to continue working and stay on schedule. She is working with the DPW (and the construction company), Department of Administration, and ITS to emphasize the importance of the data center: occupancy is still scheduled for July 8 and the GenTax Service Pack updates will be released to production in September. She is coordinating with ITS for all our network needs at the Chinden Campus to ensure continuity of service post-IT Modernization.

ITS is still working to fill their open positions. ITS has extended commitment letters to two more Tax Commission employees who will move on June 16. Ideally, we will see more Tax

Commission employees accept positions with ITS. Commissioner Werk said it is very beneficial for the Tax Commission and for ITS to get Tax Commission employees into positions at ITS.

Human Resources, Roxanne Lopez

Shelli Boggie, Human Resource Officer, had no report.

Management Services, Mark Poppler

Mark Poppler noted that April is our busiest month. Accounting is getting the preliminary numbers finalized so they can be sent over to Derek Santos, State Economist at DFM.

Mr. Poppler reported that the lowest amount recorded in the Refund Fund on April 9, was \$33.77 million. We did petition the Board of Examiners for permission to borrow money from the General Fund to pay refunds should we go below \$25 million. Mr. Poppler is happy to report we will not need to borrow anything.

Another reason April is busy is because the Change in Employee Compensation (CEC) plan details are disseminated. The Tax Commission CEC plan was drafted, submitted, and approved. It will be implemented during the first pay period in May.

April is also one of the four months that we pay quarterly revenue shares to the cities and counties. One of the aspects of revenue sharing is that those districts that are not in compliance with reporting to Legislative Services Office (LSO) on an annual basis about their organizations, have their revenue share withheld. As of this quarter, there is \$86,566 that is being held by the Commission. Once those taxing entities come into compliance, they will receive the payment. One agency, a highway district, can claim about half of that amount once they come into compliance.

Alan Dornfest said a district was dissolved in Boundary County. He asked about the revenue sharing: what happens to that share? Mr. Poppler said the district dissolved about 20 years ago. It was a small amount of money that was absorbed and distributed to the other counties. Mr. Poppler said we don't actually pay the districts directly; we pay the county and they make the distribution. Commissioner Werk asked if the Legislative Service's Office (LSO) contacts the counties or if the Tax Commission does? Mr. Poppler responded that the Tax Commission doesn't have direct authority to contact the counties. Mr. Dornfest added we monitor the payments, but the counties are responsible to pay and if they don't, it comes back as unclaimed property. Commissioner Werk asked if we see a taxing district out of compliance, do we contact them? Mr. Dornfest said LSO is the primary contacting authority. Mr. Brown added that LSO has exclusive jurisdiction over that function.

Mr. Poppler thanked Matt Warnick, DFM, for all his service and assistance over the years he has served as the Tax Commission Analyst. He was instrumental in helping to get the CEC plan approved for the employees of the Tax Commission. David Hahn will assume the duties of analyst for the Tax Commission. He was our analyst in 2010 or 2011, so he is familiar with the Tax Commission.

St. Luke's has now officially taken over management of the Plaza IV complex and has dismissed Thornton-Oliver Keller.

Commissioner Moyle said in the beginning, there were several taxing districts that had been dissolved. She is pleased to hear that we are finding some of those districts. Commissioner Katsilometes asked how many districts are monitored. Mr. Dornfest said it is over 1,000.

Mr. Dornfest said they will begin their annual budget levy training next week. They generally have a very good turnout.

Commissioner Moyle said there is also the added compliance issue with LSO where those entities were supposed to be audited and weren't, so they weren't reporting. It is nice to see that the

legislation is working. Mr. Dornfest added that during the workshops, they mention the contact information for LSO and continually reinforce that.

Audit Division Administrator, Randy Tilley

Randy Tilley reported they have been busy in Audit over the last several weeks. They have hired several people, but still need to hire more. The income tax audit group is holding their annual training this week. It began yesterday. Brian Kane, Idaho Attorney General's Office, presented Ethics training. It was well-received; Brian is an excellent trainer. Kelly McConnell, from the Internal Revenue Service Taxpayer Advocacy Office, explained his role and the role of the taxpayer advocate, providing insight into the issues he sees. Part of his job is fighting the regular IRS bureaucracy. Audit is also effectively managing taxpayer concerns and issues by focusing on the taxpayer and using good customer service and education. Mr. McConnell's message was well-received.

Mr. Tilley said they are still working with fraud and identity theft. As of April 26, they had sent approximately 22,000 letters, or letters to about 3% of the total returns received. That is a significant improvement over last year. Last year at this time they had sent about 35,000 letters. These are identity verification letters, requests for documentation, and PIN letters. There have been 12 confirmed frauds and 5 confirmed identity thefts. It is now more challenging for individuals to commit tax fraud. These confirmed frauds don't cover all cases of fraud since Audit finds other issues as well. Audit looks at the intent to defraud or evade tax, but the biggest issue found this year was perpetrated by preparers, unbeknownst to the taxpayers. There were several preparers from other states that prepared returns with the intent to maximize the federal earned income tax credit. When it was discovered, the Audit Bureau immediately contacted the IRS Criminal Investigation Unit because these were not Idaho Tax Preparers. There were 275 returns involved in this scheme. The taxpayers were contacted and reported having received small refunds. A \$200 refund was only part of the \$1,600 reported on the tax return, based on the false information provided by the preparer. Not only were the preparers falsifying the return, they were taking a portion of the refund, in cash. Those things are not viewed kindly by the Internal Revenue Service Criminal Investigation Unit, nor by Idaho.

Commissioner Werk asked if the 275 returns were reflected in our fraud statistics, noting we do not look at those as fraudulent returns, but as fraudulent schemes by preparers. Mr. Tilley said that is correct. The Audit Manager can now see the returns and schemes in real time instead of post-tax season. They can catch them prior to paying out the refund. Commissioner Werk confirmed that in Idaho there is no certification process or educational requirement to offer services to the public as a tax preparer. The Idaho Society of Certified Public Accountants (ISCPA) has standards, attorneys have standards and enrolled agents all have requirements set; however, there is no requirement to belong to any group that conducts certifications.

Mr. Tilley said that next week there is a national "e-file symposium." They will be working with other states on how to define fraud; it will be beneficial to work with other states to have a uniform definition.

Audit regularly reviews and matches W-2s to returns and they have found several anomalies. Some are significant, others may just be errors, but they are following up on all of them to ensure the correct amounts are reported.

Public Information and Taxpayer Resources, Mark Warbis

Mark Warbis, Public Information Director, no report.

Reports on Rules Committees

Alan Dornfest, Chairman, Property Tax Rules Committee, thanked Matt Warnick for his years working with the Tax Commission.

The Property Tax Rules Committee had a meeting on April 10, 2019. They discussed areas where, as a result of legislation, they are contemplating rulemaking. They have submitted 10 Property Tax Rules to DFM; 8 have been approved already. Additionally, in response to the Governor's decision to re-publish all the rules in July, and the need to review and consider rules for deletion, he has proposed 4 rules in the Property Tax area that can be deleted. Because there are so many stakeholders in Property Tax about whom they are all concerned, he sent a letter on April 29 to the 3 representatives of each county (the Treasurer, the Assessor, and the Clerk) and asked them to check with their constituencies to make sure those rules can be deleted. The deadline is May 9. Mr. Dornfest said he will also be discussing those rules during the training.

Mark Warbis said the rules coordinator, Kimberlee Stratton, is working with the rules teams. They have a May 10 deadline to submit the rules for deletion to DFM. They will have a complete report of the rules submitted for that process at the next Open Meeting.

Other Business

Kay Christensen, Idaho Attorney General Division Chief, said she is retiring from state government after almost 30 years. She has enjoyed working with the Idaho State Tax Commission. Andy Snook will be the new Division Chief. He is from Salmon, ID and attended Idaho State University. He has worked with their office for over 10 years now and has been her understudy for the last year. She knows she is leaving the Tax Commission in exceedingly good hands. Mr. Snook has been briefed on the issues that have arisen over the last couple of years.

Chairman Roberts said it has been great working with her. They appreciate her insight and guidance. Commissioner Katsilometes also thanked her for all her help over the years. Mr. Snook said he looks forward to working with the Tax Commission.

Public Comments

There were no public comments.

Executive Session

Commissioner Katsilometes moved to go into Executive Session with legal counsel pursuant to Idaho Code § 74-206(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 Moyle adjourned the meeting.

Maria Young

Ken A. Roberts