

**IDAHO STATE TAX COMMISSION**  
**COMMISSIONERS' OPEN MEETING**  
**MINUTES OF MEETING JULY 10, 2019**

In attendance: Commissioners Tom Katsilometes, Janet Moyle, and Chairman Tom Harris, Debbie Coulson, John Bernasconi, Kathlynn Ireland, Roxanne Lopez, Randy Tilley, Don Williams, Renee Eymann, Mike Chakarun, Glenda Smith, Mark Poppler, Mark Warbis, George Brown, Rod Brevig, Leah Parsons, Michael Pendergrass, Tom Shaner, Cynthia Adrian, Amy Cady, Phil Skinner, Maria Young. Excused: Commissioner Elliot Werk

Guests: Keith Bybee, Legislative Services Office; Miguel Legaretta and Tyler Strickland, Associated Taxpayers of Idaho; Laura Lantz, Executive Director, Idaho Society of Certified Public Accountants.

**Public Session**

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

**Presentation of Certificates of Service**

Roxanne Lopez, Human Resources Officer, acknowledged the employees receiving Certificates of Service. Ms. Lopez noted that their combined total of 145 years of state service is appreciated. The Certificate of Service recipients in attendance were: The Certificate of Service recipients for the Wednesday, July 10, 2019 open meeting are: Anita Korslund, Technical Records Specialist 1, Taxpayer Accounting, 5 years; Cynthia DeLeon, Technical Records Specialist 1, Resource Team, 5 years; Andrea Madsen, Tax Audit Manager, Tax Discovery Bureau, 10 years; Kristy Torres, Tax Appraiser Senior, Property Tax, 10 years;

**Not Present:**

Sean Kerr, Tax Audit Manager, Tax Discovery Bureau, 15 years; Patty Hapke, Financial Specialist, Management Services, 30 years; Alan Pack, Tax Specialist, Tax Appeals, 35 years; MaeAnn Haga, Tax Compliance Technician, Twin Falls Field Office, 5 years; Patricia Hatheway-Gilmore, Compliance Officer 2, Lewiston Field Office, 30 years

The Commissioners expressed their congratulations and appreciation for all the years of service. Chairman Harris noted this will be Ms. Lopez' last Open Meeting as she is retiring. The commissioners thanked her for her years of service and said they, and this organization, will miss her greatly.

**Business requiring a vote of the Commission**

Minutes: Open Meeting – May 1, 2019

Commissioner Moyle moved to approve the minutes of the open meetings held on May 1, 2019. Commissioner Harris seconded the motion. All voted in the affirmative and the minutes of the open meeting held May 1, 2019 were approved.

## **Administrative Reports**

### **Tax Appeals Manager, Mike Chakarun**

Mike Chakarun reported on the cases in appeal at this time. This report only addresses cases in the appeals unit. As of June 30, there were 268 cases in inventory with an average age of 234 days per case. The fiscal year began with 267 cases, with an average age of 349 days per case. Although the case count was nearly the same at the end of the year as at the beginning, there is significant progress in the average of age of cases, which are down by 115 days per case.

Currently, the inventory consists of 203 income tax cases, 58 sales/product tax cases and 7 circuit breaker cases. Of these, 97% are less than 2 years old. The remaining 3% (9 cases) are over 2 years old. Four have been closed since the beginning of the new fiscal year.

Of the 268 cases, 47 decisions have been issued and are now in the 91-day waiting period for the petitioner to file an appeal with the Board of Tax Appeals or district court. If no appeal is filed, the cases will be closed. The average age of these cases is 339 days. There are 221 active cases with an average age of 211 days.

In Fiscal Year 2019, 332 cases were closed with an average age of 356 days per case. 92.5% of those cases were closed within 2 years after transfer to the Appeals Unit. The target is to close 90% within 2 years, which is the target set by the FY2019 Tax Commission Strategic Plan.

### **Audit Division Administrator, Randy Tilley**

Randy Tilley reported that over fiscal year (FY2019), the Audit Division completed 19,532 audits and examinations. Recoveries totaled \$42,160,915.90. They have had significant challenges and a significant number of vacancies; however, there are only a few vacancies remaining. They are finally fully staffed in the Tax Discovery Bureau (TDB).

There have been 16 identified fraudulent returns this year; last year there were 20. This number does not include preparer schemes. There were 13 verified identity thefts this year. Last year there were 70, but 60 of those were from one preparer breach. The Audit division reduced the number of identity verification letters sent: last year at this time, there had been 38,105 letters sent. This year there have been 25,054 letters sent. Audit continues to improve the variables that determine when an individual must verify their identity, and they are still concerned with the non-response rate, where Audit assumes there are fraudulent returns, but they do not have the ability to clarify those are fraudulent since the taxpayer has not responded and there isn't sufficient evidence to confirm the return is fraudulent.

Commissioner Katsilometes asked what the recoveries were in FY2018. Mr. Tilley responded that recoveries last year totaled \$52,000,000. Recoveries are variable and he expects next year's recoveries to be higher. Chairman Harris noted that four or five years ago, fraud statistics were much higher. Mr. Tilley said Audit works with partners in the industry, other states, and the IRS who have "hardened the target" for tax revenue agencies. Those individuals are pursuing fraudulent activities in other areas, like welfare fraud or other types of activities that go outside the tax ecosystem. Mr. Tilley said this year is about the best that can be expected. They are a significant number of non-responders to identity verification letters, and under ideal circumstances, he would like to see which of those are fraudulent, but with the data they have, they will likely never have an answer.

#### Collection, Debbie Coulson

Debbie Coulson reported collections recovered a total of \$138,692,885 in FY2019. That is an increase of \$11,815,730 over the last fiscal year. The total number of collections cases closed is 110,133, an increase of 1,687 over the last fiscal year. The total collection cases opened is 118,227, an increase of 10,129. The goal is always to close more than are opened; however, that was not the case this year. The collection case numbers, as of June 30, are 54,606 open active collection cases, an increase of 8,094 cases over last year and there were an increased number of liens filed, at 4,628. She is surprised by the number of closed cases as staffing in Collections has been extremely low. They are actively working to fill all vacancies.

There is \$152 million in Accounts Receivable whereas last year, there was \$137 million.

The Collections Division will move to the Chinden campus Friday, July 19 and will be open for business on July 22.

Chairman Harris asked what the biggest impediment is to hiring people that are needed for Collections Division. Ms. Coulson responded that pay is the biggest impediment and the positions are in a call center environment. It is a difficult job and while some employees have been there for several years, those individuals are nearing retirement. One employee is transferring to another state agency, into the same type of job but with better pay.

Commissioner Katsilometes asked how they are able to collect more money with fewer people. Ms. Coulson said the higher dollar cases from the compliance officers were resolved.

#### Management Services, Mark Poppler

Mark Poppler reported that while it is fiscal year-end, he cannot report the actual balances because they have not yet been released by the Division of Financial Management (DFM). The Tax Commission has submitted our numbers to DFM and we expect the final numbers to be released soon; we must balance with the State Treasurer's office and with the State Controller's office.

Expenditures are primarily involved with the move from the Park location to the Chinden location. The last group to leave the Park building will be Purchasing in mid-September. Twenty-seven (27) purchase orders, totaling approximately \$849,000, were submitted to DFM for approval to spend carryover money for cubicles, desk parts, and furniture for the move. "Carryover" means the orders were placed in FY2019 but will not be paid out until FY2020.

The Tax Commission submitted the Strategic Plan to DFM on July 1.

#### Human Resources, Roxanne Lopez

Roxanne Lopez has no report.

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

Mark Warbis reported there has been personnel turnover in Taxpayer Resources, as with other Divisions within the Tax Commission. Three full-time taxpayer service representatives have been hired and the taxpayer services supervisor is retiring in August. They will announce that position soon.

The Policy group will move to the Chinden location on July 19.

#### Property Tax Division Administrator, George Brown

George Brown reported the property tax year is a little different: The County Assessment cycle is in progress and the Board of Equalization will begin in August. Property values in the

state have risen this year in an unprecedented fashion; there are significantly higher increases across the board: a 15% – 20 % increase is not much this year; some locations are 35% - 40% higher. There has been a decrease in appeals in the counties which is primarily due to communication with the counties and the taxpayers. The Property Tax Division also has 26 counties on the tax estimator program, which is a program that allows a taxpayer to input information from the tax assessment notice and receive a relatively good estimate of how much is owed, within about 2%. (As an example, an assessment that is up 16% will owe approximately \$35.00 more.) There have been three counties converted to the UAD Web system now. The Property Tax technical support bureau has done an excellent job with the conversion. While there are always some issues with any conversion, the programming has worked very well, and they anticipate doing at least three more counties next year.

Mr. Brown will be attending the Timber School in Sandpoint that is being held July 15 – 19. There will be 12 – 13 people in the class. The annual Summer School will occur the following week in Boise. They have 302 people registered to attend, which is a 10% decrease from the last year. The Ada County Assessor's Office is only sending about half the people they have in the past.

The Committee on Forestland Taxation Methodologies (CFTM), a committee of the Tax Commission, is made up of five industry members and five county staff. Commissioner Katsilometes is the chairman of the Committee. CFTM is tasked to design a system to appraise timber land. There are two ways to be taxed on timber: either pay on the land and pay when a tree is processed or pay on the productivity of the land. The productivity option is what the larger companies want. There has been legislation introduced within the last two years that would change things. The CFTM has now signed a memorandum of understanding (MOU) to support legislation next year to make fundamental changes to the system. They will index the values based on a commercial index and freeze zones after this year. This year is very important for the counties and the timber industry to make sure their land is categorized correctly. In Clearwater County, 43% of their property tax revenue is directly from timberland. There are 11 northern counties that have timber as a significant portion of their property tax revenue.

#### Revenue Operations Division, John Bernasconi

John Bernasconi reported that Revenue Operations (RO) splits their year into two for planning purposes. The report today is for the first half of the year. RO has seen a decrease in the average individual income tax refund of about \$89.15 to \$486.41. The refunds are down 29,126, for a total of 536,554. The percentage of returns that received a refund in 2018 was 69.4%. As of July 10, 2019, the percentage of returns receiving a refund is 64.6%. That difference translates into a tax due and, ultimately, work for Collections Division. RO has not yet processed all returns that have been received. They receive approximately 400 electronic individual income tax returns per day. He will continue to receive 400 per day into October. They projected a 2% increase in the number of returns filed for the year. They are currently at 1.9%, having received 830,025 income tax returns. Of those, 707,000 are electronic returns and about 123,000 paper returns. Electronic filing is up 3.5% over last year and paper filing is down about 6%. That is interesting because they anticipated people would file on paper, instead of electronically, when they saw they had a tax due. RO does expect to see more paper returns in October.

Revenue Operations will move from the Park location to Chinden on July 26, 2019, although mail processing and a few other operations will remain at Park.

Revenue Operations completed an imaging system upgrade two weeks ago. That upgrade helped to increase security and made the image processing more stable, allowing RO to process more quickly.

Miguel Legaretta asked how the refund percentages this year compared to previous years. Mr. Bernasconi said the refund percentage dropped about 5%. Commissioner Katsilometes asked if this was because of the change in the tax laws. Mr. Bernasconi said it is likely due to the changes in withholding. The refunds this year were lower, and they are developing some reporting around that. It is very important to process all the returns that are filed. They receive a surprising number of returns between April 16 and July 1 every year and want to get those processed as quickly as possible. Refund returns are a priority and are processed quickly. They will then process the tax due/unpaid taxes so those can be forwarded to Collections.

### **Reports on Rules Committees**

Tom Shaner, Rules Review Officer, said the Tax Commission has submitted 10 legislative ideas this year. Mark Warbis, Kathlynn Ireland and he met with the Andrew Mitzel, of the Governor's Office and David Hahn, DFM to answer questions for them prior to submitting those ideas. All the ideas are submitted electronically. August 15 is the deadline to submit the draft language.

Kathlynn Ireland, Property Tax Policy Specialist, said they have had three rules committee meetings. They have had many supportive stakeholders at these meetings, and she said it is very much appreciated. Commissioner Katsilometes noted there were many people on the phone. Ms. Ireland said there were many elected officials participating. It is very nice to see. Currently, the Administrative Rules Committee, Property Tax is reviewing four Administrative Rules: Rule 225 – regarding Boundary Changes for revenue allocation area on urban renewal districts and agencies. This was precipitated by a house bill brought forth by Rep. Wagner last year. He has been participating and working with them, drafting and approving the language. They have an excellent relationship with Representative Wagner. Rules 317 and 804 – regarding occupancy tax and the lending calculations, or certification for payments, and allocation of base, and increment values, and revenue allocation areas that are newly-formed. Occupancy is a variation of property tax, that isn't property tax, and only for new construction properties. These changes are primarily to clean-up the language to bring these rules into alignment with administrative practices. Currently, they are also working on Rule 717: Senator Burgoyne sponsored House Bill 62 last year, for claimants who received the property tax reduction benefit, but that are also on the occupancy roll. While it is not a large population that will be affected, it does open the property tax reduction program to a sector of the population that wasn't receiving it previously.

There are two subcommittees on agricultural land assessments: one is specific to compliance and the other is about the mechanics of developing an agricultural land assessment.

They have reviewed 18 separate rules as a part of the Red Tape Reduction Act to determine if they can be put into a manual. The goal is to have a manual that is available through the Tax Commission website to ensure the rules are transparent and easily accessible. Of those 18 reviewed, 7 are designated to be removed to manuals. They have feedback regarding the recommended disposition of the rules and their next meeting will be July 30. Commissioner Katsilometes said it is good to hear there was almost a 50% reduction in the rules that were reviewed.

Cynthia Adrian, Income Tax Rules and Administration and Enforcement Rules Chair reported that in Income Tax, there are three non-negotiated rules that have statutorily required changes. Two were published in the July Bulletin. One will be published in the August Bulletin. There is one negotiated rule to change a temporary rule to a permanent rule. The negotiated rule meeting was held on June 12 and it will also be published in the August Bulletin.

In Administration and Enforcement, there is one non-negotiated rule dealing with our interest rate. It cannot be sent for publication until the IRS Revenue ruling is received in August.

Don Williams, Product Tax Rules, reported there are four fuel tax rules that will be published. One will be presented to the public this afternoon. One rule will add hydrogen to the conversion rule. Miguel Legaretta asked the basis for the non-negotiated rule. Mr. Williams responded that one rule will be deleted, and that language will be combined with another, making a single rule with all the refunds and credits that a distributor can claim. Regarding Rule 10, there will be changes to some definitions; the biggest will be in the bonding definition, referencing Admin and Enforcement Rule 600 and taking out all the detail, simply referring to Admin and Enforcement Rule 600. These will be published in the August Bulletin.

Leah Parsons, Sales Tax, reported there are a total of seven Sales Tax Rules and five Hotel/Motel rules under consideration. One is still being evaluated for approval by DFM. They will be published in the August and September Bulletins. Mark Warbis asked if there are any issues or feedback from the public. Ms. Parsons said there has been no controversy. The Tax Commission will now administer some taxes that have not previously been administrated. Some rules were modified to be more generic for auditorium districts and there were statute changes dealing with a new exemption that needed to be addressed, as well as the Wayfair Marketplace changes. Mr. Legaretta said he appreciates the work of all the rules committees.

Tom Shaner thanked all the rules committee chairs for all the work done on the Red Tape Reduction Act. They have cut two complete chapters with the Governor's omnibus notice and they continue to eliminate things where they can.

### **Other Business**

Keith Bybee said it is nice to be back in the agencies. He appreciates the opportunity to be present at this meeting.

Commissioner Moyle thanked all the staff for the coordination with the move. Next week will be busy. The employees have been amazing and while our move dates have seemed to be fluid, it seems we are now on track. She thanked everyone.

Chairman Harris has now been at the Tax Commission for two months. The people at the tax commission are welcoming and helpful. For about four weeks, the strategy team recalibrated our strategy. The words that define our strategy were established, the values were re-worked, and we are currently working on the metrics that measure our success. The Commissioners will meet with every employee in the agency soon. The strategy team, which is the Executive Leadership Team (ELT) has done very well. We prioritized our work for the year and as we go through our ELT meetings, we will have updates on how this works.

Commissioner Katsilometes appreciates that Chairman Harris has done so well. This strategic plan is one of the few that won't just be put on the shelf, it is a living document. This will continue from month to month and year to year. Chairman Harris said this is not extra work, it is how we work.

**Public Comments**

There were no public comments.

**Executive Session**

Commissioner Moyle 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 Harris, Katsilometes, and Moyle 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. Phil Skinner introduced, Kolby Reddish, from Nampa, who is the newest Deputy Attorney General assigned to the Tax Commission.

There being no further business, Commissioner Katsilometes adjourned the meeting.

Maria Young

Tom Katsilometes