

# IDAHO STATE TAX COMMISSION

## COMMISSIONERS' OPEN MEETING MINUTES OF MEETING SEPTEMBER 14, 2018

In attendance: Commissioners Ken A. Roberts, Elliot S. Werk, Tom Katsilometes, and Janet Moyle, Randy Tilley, Debbie Coulson, Mark Warbis, Roxanne Lopez, John Bernasconi, Michael Chakarun, Tom Shaner, Glenda Smith, Renee Eymann, Leah Parsons, Phil Skinner, and Kelly Martinez.

Guests: Idaho Society of CPAs Executive Director Laura Lantz

### **Public Session**

Commissioner Ken Roberts convened the open meeting and welcomed all those in attendance.

### **Presentation of Certificates of Service**

Roxanne Lopez, Human Resources Officer, acknowledged the employees receiving a Certificate of Service. Ms. Lopez stated how much their combined total of 140 years of state service is appreciated. The Certificate of Service recipients in attendance were: Sheila Prawitz, Technical Records Specialist 1, Account Registration Maintenance – 5 years; Mark Stevens, IT Systems Analyst, IT Applications – 5 years; and Siroos Safaii, IT Programmer Analyst, Senior, Coordination and Development – 20 years.

The Certificate of Service recipients not in attendance were: Rose Calico, Technical Records Specialist 2, Tax Discovery Technical Support – 15 years; Amy Dinius, Technical Records Specialist 2, Bankruptcy – 20 years; Susan Lewis, Tax Compliance Officer 3, Coeur d' Alene Field Office – 20 years; Theresa Upshaw, Tax Compliance Technician, Boise Field Office – 20 years; and Kevin Solomon, Tax Auditor 4, Pocatello Field Office – 35 years. They will receive their certificates at a later time.

The Commissioners expressed their congratulations to all the recipients and how much they appreciate all of their hard work.

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

Chairman Roberts said there are two items that don't require a vote, as listed on the agenda. Commissioner Werk moved to amend the agenda to remove the Administrative Policy Memorandum No. 19-01: Acceptable Use of Idaho State Tax Commission IT Resources and Acceptable Use Policy No. 19-01: Acceptable Use of Tax Commission IT Resources Standards from the agenda. Commissioner Katsilometes seconded the motion. All voted in the affirmative and the agenda was amended.

Minutes: Open Meetings – August 11, 2018, Idaho State Board of Equalization Open Meetings on August 13, 2018, August 17, 2018, August 23, 2018, August 24, 2018, and August 27, 2018

Commissioner Moyle moved to approve the minutes of the open meeting held on August 10, 2018 and the Idaho State Board of Equalization open meetings on August 13, 2018, August 17, 2018, August 23, 2018, August 24, 2018, and August 27, 2018. Commissioner Werk seconded the motion. There were no comments or amendments. All voted in the affirmative and the minutes were approved.

Resolution No. 18-06 – 2019 Interest Rate

Tom Shaner presented Resolution No. 18-06 for the 2019 Interest Rate. Mr. Shaner said this is the annual determination of the interest rate for the upcoming year. This is calculated by the formulas in statute and the interest rate being presented is 5%. Mr. Shaner said the federal midterm rate is 3% as it applies on September 15 and we add 2% to that rate. This rate is applied for both overpayment and delinquent payments. Commissioner Werk moved to approve Resolution No. 18-06. Commissioner Katsilometes seconded the motion. All voted in the affirmative and Resolution No. 18-06 for the 2019 Interest Rate was approved.

Resolution No. 18-07 – Temporary Income Tax Rule 291T

Tom Shaner presented Resolution No. 18-07 Temporary Income Tax Rule 291T. Mr. Shaner said this temporary rule is necessary to give guidance on the tax reform repatriated earnings on 965 dividends. The add back statute requires that corporations add back any federal deductions they are receiving regarding dividends. With S corporations, they are actually passthroughs and the tax liability falls on the individuals, so it would not be appropriate for them to add this back. Mr. Shaner said the add back statute doesn't distinguish, it just says corporations which would include S corporations. We wanted to be able to make that distinction and allow S corporations, even though they are paying in a composite return, to not add those back and keep the federal dividend deduction. Mr. Shaner said it would have been a big problem because residents have to file on their individual returns and they would get both the income and the federal offset. This would treat non-residents differently if we didn't make this temporary rule. Commissioner Werk asked if we have statutory authority to do this. Mr. Shaner said yes, we do. Commissioner Katsilometes moved to approve Resolution No. 18-07. Commissioner Moyle seconded the motion. All voted in the affirmative and Resolution No. 18-07 Temporary Income Tax Rule 291T was approved.

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

**Administrative Reports**

Collection, Debbie Coulson

Debbie Coulson reported that all of the field office leases have been signed and approved. There is an eight-year lease in Coeur d'Alene, a ten-year lease in Pocatello, and a five-year lease in Twin Falls. Chairman Roberts asked if we have any indication of what the escalators are for the eight-year and ten-year leases, for budgetary purposes. Ms. Coulson said the Pocatello lease does not. The lease for the Coeur d'Alene office does, she will get him that information after the meeting.

Public Information and Taxpayer Resources, Mark Warbis

Mark Warbis had no report.

Revenue Operations, John Bernasconi

John Bernasconi had no report.

Management Services, Glenda Smith

Glenda Smith reported that Legislative Services has finished their field work and have left the building. She was made aware that Key Bank is now the bank being used for warrants and checks issued through the Controller's Office. Ms. Smith said she sent this information to Taxpayer Services in case they received any phone calls about where to cash checks. Chairman Roberts noted that state warrants can also be cashed at the Treasurer's Office.

Ms. Smith said last weekend they successfully implemented the first service pack for GenTax Version 10. There are still four items outstanding to be resolved, they are working diligently to finish those items.

Tax Appeals, Michael Chakarun

Michael Chakarun had no report.

Audit Division, Randy Tilley

Randy Tilley gave an update on the fraud and identity review process saying that there have been 38,656 verification letters sent out this year as compared to 30,805 sent out last year. In addition to that, they have sent out 12,161 final notice letters to those who have not responded to the original request for information. Mr. Tilley said 5,694 taxpayers ultimately did respond to the final notice, which moved their returns forward to complete the process. The fraud team has been reviewing the criteria for selection of returns that require identity verification, with the intent to reduce the number of letters sent to legitimate taxpayers. The team has made several modifications to the criteria and are reviewing the results to ensure that known fraud and identification theft returns would have been stopped using the new methodology. Mr. Tilley said the results are promising and they hope to implement the changes in the next tax season.

He said there have been a number of vacancies they have been working to fill and there will be several new sales tax auditors that will begin on September 24. He said they will have a new staff member in the multistate income tax starting as well.

Human Resources, Roxanne Lopez

Roxanne Lopez reported that they have revised the Acceptable Use of IT Resources Policy and Standards. The purpose of the Acceptable Use Policy and Standards are to outline the acceptable use of IT resources at the Tax Commission. The agency is committed to protecting taxpayer and other confidential information. She said inappropriate use of agency resources exposes the Tax Commission to risk including viruses, phishing attacks, and data breaches, compromising the network system and also poses legal issues. Ms. Lopez said in efforts to minimize our risks, the Executive Leadership Team has decided that employees are no longer permitted to use their personally owned mobile devices to conduct State Tax Commission business, including accessing their state email account. The only exception to this, is that employees may use their personally owned devices to *authenticate* for logging on to their state

email. Ms. Lopez said this is the only significant change made to the current policy and standards and it is effective today unless there are any concerns from the Commissioners. She said this policy and standard does apply to all Tax Commission employees, contractors, and others assigned to work at the Tax Commission. Ms. Lopez said she intends to send out the updated policy and standard to all staff along with a policy acknowledgement statement.

There were no more administrative reports.

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

There were no Rules Committees reports.

#### **Other Business**

There were no items of other business.

#### **Public Comments**

Commissioner Roberts asked if the guests in attendance had any comments. He also asked Ms. Lantz what her sense on whether taxpayers in the state have changed or examined their withholding. Ms. Lantz said nobody has reached out to her and it has not come up yet. She did offer to send out a poll to see if anyone is having any issues with the withholding amounts. There were no other public comments.

#### **Executive Session**

Commissioner Katsilometes moved to go into 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. A roll call vote was taken by Kelly Martinez, Administrative Assistant and Commissioners Roberts, Werk, Moyle, and Katsilometes, 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 Roberts declared the Executive Session ended and returned to the public session. There being no further business, Commissioner Werk moved to adjourn, and Commissioner Katsilometes seconded the motion. All voted in the affirmative and the meeting adjourned.

Kelly Martinez

Ken A. Roberts