

**UTAH STATE TAX COMMISSION
MEETING MINUTES**

9:00 a.m., Thursday, June 23, 2011

Commission Hearing Room 1025, 210 North 1950 West, Salt Lake City, Utah

Participating:

R. Bruce Johnson - Commission Chair

Marc B. Johnson - Commissioner

D'Arcy Dixon Pignanelli - Commissioner

Michael J. Cragun - Commissioner

Barry Conover - Executive Director

Office of the Commission:

Christa Johnson, Commission Executive Assistant

Executive Director's Office:

Lynn Solarczyk, Director of Legislation

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be obtained from the Office of the Commission at 801-297-3901.

I. Call to Order

Commission Chair B. Johnson called the meeting to order at 9:00 a.m.

II. Public Comment (members of the public wishing to address the Commissioners for up to three minutes on matters not related to a pending or reasonably imminent appeal to the Tax Commission)

Commission Chair B. Johnson noted that no one wished to address the Tax Commissioners.

III. Approve Minutes Open and Closed Meeting Minutes of April 28, 2011 ,and May 26, 2011 Commission Meeting and Open and Closed Meeting Minutes of June 16, 2011 Special Commission Meeting

MOTION: Commissioner Dixon moved approval of the Open and Closed Meeting Minutes of April 28, 2011, May 26, 2011 and June 16, 2011. The motion passed with Commissioner B. Johnson, Dixon and Cragun voting aye and Commissioner M. Johnson abstaining.

IV. Approve submission of proposed rule amendments to Division of Administrative Rules for publication in Utah Register

Commissioner Cragun presented the following proposed rule amendments for the commission to consider submitting to the Division of Administrative Rules. He stated that proposals result from the Governor's business regulation review initiative. He noted that the public comment period on these proposals will end on August 15, 2011 if they are submitted to the Division of Administrative Rules by July 1, 2011.

- a. R865-4D-19. Refund of Special Fuel Taxes Paid by Government Entities.
- b. R865-13G-13. Refund of Motor Fuel Taxes Paid
- c. R865-13G-15. Reduction in Motor Fuel Tax for Distributors Subject to Navajo Nation Fuel Tax
- d. R865-7H-1. Environmental Assurance Fee for Retailers or Consumers Not Participating in the Environmental Assurance Program
- e. R865-7H-2. Environmental Assurance Fee on Packaged Petroleum Products
- f. R865-7H-3. Environmental Assurance Fee on Exports of Petroleum Products
- g. R865-14W-1. Mineral Production Tax Withholding
- h. R884-24P-17. Reappraisal of Real Property by County Assessors
- i. R884-24P-34. Use of Sales or Appraisal Information Gathered in Conjunction With Assessment/Sales Ratio Studies 704

MOTION: Commissioner Cragun moved to submit the foregoing proposed rule amendments as presented to the Division of Administrative Rules. The motion passed unanimously.

As Chair of the State Farmland Evaluation Advisory Committee, Commissioner Dixon spoke to item j. R884-24P-72 State Farmland Evaluation Advisory Committee Procedures. She said the State Farmland Evaluation Advisory Committee recommends to the Commission a range of values for land devoted to agricultural use, which the Commission reviews and adopts in rule. The proposed rule states the Committee is subject to the Open and Public Meetings Act and outlines the conditions necessary for that committee to convene and conduct an electronic meeting. She said the proposed rule will facilitate maximum participation in the meeting in which values are reviewed and recommended. Commissioner Dixon read an email from Mr. Rex Larsen, who is a member of the committee serving in the farmer/rancher position. Mr. Larsen wrote that being able to participate electronically would be very helpful and appreciated. Commissioner Dixon recognized Mr. Sterling Brown from the Utah Farm Bureau Federation who sits as a non-voting member of the Committee and thanked him for attending the meeting.

MOTION: Commissioner Dixon moved to submit the proposed rule as presented to the Division of Administrative Rules. The motion passed unanimously.

V. Consider adoption of Amending Administrative Rules

Commissioner Cragun presented the following rule amendments for the commission to consider and stated that the Commission did not receive any comments that he was aware of.

R861-1A-29 Decisions, Orders, and Reconsideration Pursuant to Utah Code Ann. Section 63G-4-302. The proposed amendment provides that for purposes of the requirement that in a tie vote of the commission, the position of the taxpayer is considered to have prevailed, the term "taxpayer" includes a person that has received a license from the commission and an applicant for a license issued by the commission.

MOTION: Commissioner Dixon moved to approve the rule amendment. The motion passed unanimously.

R861-1A-43 Electronic Meetings Pursuant to Utah Code Ann. Section 52-4-207. The proposed amendment provides that up to three commissioners may participate electronically in a meeting open to the public, and if only one commissioner is present at the anchor location, that commissioner shall conduct the meeting.

Commissioner M. Johnson asked that we take action now but ultimately change the text of the rule to clearly state that up to three Commissioners shall participate by phone if one Commissioner is present at the anchor location.

MOTION: Commissioner Dixon moved to approve the rule amendment. The motion passed unanimously.

R861-1A-45 Procedures for Commission Meetings Not Open to the Public Pursuant to Utah Code Ann. Section 59-1-405. The proposed rule indicates the procedures the commission will follow when in a meeting that is not open to the public. These procedures include maintaining confidential minutes of the meeting.

MOTION: Commissioner Dixon moved to approve the rule amendment. The motion passed unanimously.

R865-6F-40 Foreign Operating Company Subtraction from Unadjusted Income Pursuant to Utah Code Ann. Sections 59-7-101 and 59-7-106. The proposed rule provides that the activities of a partnership interest are taken into account in determining whether a corporation qualifies as a foreign operating company and in the calculation of an y adjustment for which the corporate partner that is a foreign operating company is eligible; requires a foreign operating company that is a member of a unitary group to eliminate any transaction between that foreign operating company and a partnership held by another member of the same unitary group prior to determining the amount of the foreign operating company subtraction from unadjusted income.

MOTION: Commissioner Dixon moved to approve the rule amendment. The motion passed unanimously.

R865-19S-92 Computer Software and Other Related Transactions Pursuant to Utah Code Ann. Section 59-12-103. The proposed amendment indicates how a transaction involving computer software is sourced if the transaction does not include a copy of the software to the purchaser and the purchaser uses the software at more than one location.

MOTION: Commissioner Dixon moved to approve the rule amendment. The motion passed unanimously.

R865-19S-103 Municipal Energy Sales and Use Tax Pursuant to Utah Code Ann. Sections 10-1-303, 10-1-306, and 10-1-307. The proposed amendment reduces the filing frequency from a quarterly to an annual filing for the report required from persons that deliver taxable energy to users for whom the person does not supply taxable energy.

MOTION: Commissioner Dixon moved to approve the rule amendment. The motion passed unanimously.

R873-22M-27 Issuance of Special Group License Plates Pursuant to Utah Code Ann. Sections 41-1a-418, 41-1a-419, 41-1a-420, and 41-1a-421. The proposed amendments place in rule current division practice in determining who qualifies for a search and rescue special group license plate; at the request of search and rescue groups, provides procedures for revoking a special group license plate; and conforms the revocation procedures for the firefighter special group license plate to match the revocation procedures for the search and rescue special group license plate.

MOTION: Commissioner Dixon moved to approve the rule amendment. The motion passed unanimously.

VI. Designate Tax Commission representative on the Worker Classification Coordinated Enforcement Council created by 1st Sub. SB 11

Commissioner Dixon reported as the Chairman's appointment to the Worker Classification Coordinated Enforcement Council (SB 11 1st Sub. (2011)) she was able to provide a transition from the legislative working group on which she had served to the agency enforcement council. . With the scope and function of the enforcement council taking form it was her recommendation to the Chairman that his appointment to the Council be Dolores Furniss.

Commission Chair B. Johnson thanked Commissioner Dixon for all of her work on the Worker Classification Enforcement Council.

Commissioner B. Johnson appointed Dolores Furniss to representative the Tax Commission on the Worker Classification Enforcement Council.

VII. Executive Director's Report

Mr. Barry Conover first reported that GenTax roll out six will be live on Monday, June 27, 2011. GenTax six includes: Miscellaneous tax, Municipal Energy, Cigarette, and Tobacco taxes.

Mr. Conover reported that the agency's Taxpayer Access Point (TAP) will replaced WebExpress on June 27, 2011. Taxpayer Access Point (TAP) now includes the following taxes: Cigarette and tobacco, Corporate, Fuels, Income, Motor carrier, Municipal Energy, Sales, and Sales-Related taxes and Withholding, including both wage withholding and mineral production withholding.

Mr. Conover reported that the Deputy Director position recruitment closed on June 20, 2011 and that he received 54 applicants. He also reported that Commissioner Chair Johnson and he received an award on behalf of Rod Marrelli for Leadership and Service in Tax Administration at the FTA annual meeting in Omaha, Nebraska.

VIII. Adjourn to Closed Session

Commissioner Chair B. Johnson stated that the Commission will need to meet in a closed session to discuss pending litigation with Clark Snelson, Assistant Attorney General.

MOTION: Commissioner Cragun moved that the Commissioners meet in closed session to discuss pending litigation. Commission M. Johnson voted aye Commissioner Dixon voted aye Commissioner Cragun voted aye and Commission Chair B. Johnson voted aye.

After the closed session, the Commissioners reconvened in open session.

VII. Adjourn

MOTION: Commissioner Chair B. Johnson moved for adjournment.

Commission Chair B. Johnson adjourned the meeting at 10:45 a.m.

Approved on: Tuesday, July 26, 2011

Attested: Christa Johnson
Executive Assistant
Utah State Tax Commission