

Minutes of the Utah State Tax Commission
Administrative Rule Meeting
Friday, June 27, 2008 – 8:30 a.m.
Room 1025, Tax Commission Building
Salt Lake City, Utah

Participating:

D'Arcy Dixon Pignanelli – Commissioner, Chair Administrative Rules
Pam Hendrickson – Commission Chair
R. Bruce Johnson - Commissioner
Marc B. Johnson – Commissioner

Commission Staff Present:

Cheryl Lee, Commission Executive Secretary

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 297-3900.

1. Commission Business

Commissioner Dixon called the meeting to order at 8:30 a.m.

Commissioner Dixon noted this would be the last Tax Commission rule meeting on a Friday as the Tax Commission was moving to four, ten-hour days, Monday through Thursday, per Governor Huntsman's Energy Saving Initiative.

Commissioner Dixon asked for approval of the minutes of March 28, 2007.

MOTION: Commissioner M. Johnson moved approval of the minutes. The motion passed unanimously.

2. Proposed Rules for Adoption by the Commission

Commissioner Dixon said there were two (2) written comments submitted for the first rule R873-22M-41 -- one from John Rubins, of AAA, Northern California, Nevada & Utah and one from Laron Lind, Assistant Attorney General, State of Utah.

2.1 Rule R873-22M-41 – Issuance of Salvage Certificate in Certain Circumstances Pursuant to Utah Code Ann. Section 41-1a-1005.

COMMENT: Mr. Robert Lowe, Branch Manager for the Utah Facility of Insurance Auto Auctions asked: (1) if regular mail would be satisfactory, (2) if undeliverable letters returned to the insurance company need to be sealed to show proof of delivery, (3) if a scanned image of the

returned letter is acceptable, and (4) what would be accepted as proof of payment – a copy of an issued check or a cancelled check?

COMMENT: Ms. Lynn Solarczyk, Director of Legislation, State Tax Commission said the language in the rule states the Tax Commission does not require certified mail nor that the letters be in a specific form, only that copies of what was sent be provided to the Commission. The statute says the insurance company has to have evidence that the insurance company issued settlement payment to the registered owner of the vehicle.

COMMISSION QUESTION: Commissioner B Johnson asked what protects the vehicle owner when he thinks his car is worth more than the reimbursement he receives?

COMMENT: Ms. Solarczyk said once a settlement payment has been issued it becomes a civil matter between the vehicle owner and the insurance company.

COMMISSION QUESTION: Commissioner B Johnson asked to clarify for the record to whom the insurance company is to send letters.

COMMENT: Mr. Kevin Park, Assistant Director of Motor Vehicle (DMV), said it is the understanding letters go to both the lien holder and the registered owner.

COMMISSION COMMENT: Commissioner B. Johnson thought it would be better if it said that in rule. He suggested DMV consider an additional amendment to the rule to that affect.

COMMENT: Mr. Chris Purcell, State Farm Insurance, said they were in favor of the rule, but felt there were other issues that would need to be addressed by the Legislature. Mr. Clay Atkinson, also of State Farm Insurance, asked again about requested documentation.

COMMENT: Mr. Park said the DMV would accept copies of letters and issued checks.

COMMENT: Ms. Jaclyn Smith, representing Copart, asked if there was a timeframe or limitation on when insurance companies could send letters?

COMMENT: Mr. Park stated “No”, only a limitation on when DMV can issue the salvage title.

COMMENT: Mr. Ed Rivas, American Family Insurance, added most problems arise when there is a power of attorney (POA) or two names on the title.

MOTION: Commissioner Hendrickson moved the rule as posted be approved. The motion passed unanimously.

2.2 R877-23V-19 Disclosure of Vehicles Initially Delivered for Sale in a Country Other than the United States Pursuant to Utah Code Ann. Section 41-1a-712.

MOTION: Commissioner B. Johnson moved the rule as posted be approved. The motion passed unanimously.

2.3 R865-19S-105 Procedures for Refund of Sales and Use Taxes Paid on food Donated to a Qualified Emergency Food Agency Pursuant to Utah Code Ann. Section 59-12-902.

MOTION: Commissioner B. Johnson moved the rule as posted be approved. Ms. Solarczyk asked the rule become effective on July 1, 2008 per the effective date of the companion legislation. The motion was amended accordingly. The motion passed unanimously.

3. Other Items/Adjourn

Commissioner Hendrickson moved to adjourn. The motion passed unanimously.

Commissioner Dixon adjourned the meeting at 9:40 a.m.

Approved:

Attested: Cheryl Lee
Commission Executive Secretary