Administrative Rule Meeting
Thursday, July 8, 2010 • 8:00 a.m.
Commission Hearing Room 1025 • Tax Commission Building
210 North 1950 West • Salt Lake City, Utah

Participating:
Michael J. Cragun – Commissioner
D'Arcy Dixon Pignanelli– Commissioner
Marc B. Johnson – Commissioner
R. Bruce Johnson – Commission Chair

Commission Staff Present:
Danielle Murphy, Commission Executive Assistant

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.

1. Commission Business

1.1 Call to Order

Commissioner Cragun called the meeting to order at 8:00 a.m. and introduced the Commission.

1.2 Approval of Minutes

Commissioner B. Johnson moved for approval of the rule minutes of April 8, 2009. The motion passed unanimously.

2. Proposed Rule Amendments

Commissioner Cragun noted the Chair of the Utah Tax Review Commission was present. He also noted six public comments were received regarding the amendments of these rules. Most of the comments expressed opposition to 2009 Senate Bill 23. The Utah State Tax Commission responded to the comments, letting the authors know that the USTC does not have authority to change legislative action. Commissioner Cragun also thanked the Utah Association of Certified Public Accountants for their input on these rules.

2.1 R865-9I-13 Pass-Through Entity Withholding Pursuant to Utah Code Ann. Sections 59-10-116, 59-10-117, 59-10-118, 59-10-1403.2, 59-10-1405.

2.2 R865-9I-21 Return by Partnership Pursuant to Utah Code Ann. Sections 59-10-507 and 59-10-514.

COMMISSION COMMENT: Commissioner B. Johnson asked Lynn Solarcyzk to explain a change of wording.

PUBLIC COMMENT: Lynn Solarcyzk explained that 'portfolio income' would be a better term than 'passive investment income' in R865-9I-13. However, since the rule has already been sent to the Division of Administrative Rules, it cannot be changed at this point. The Commission may either pass the rule as is and make an additional amendment or not pass the rule and propose a new amendment with the current changes and the word changes as well.

COMMISSION COMMENT: Commissioner B. Johnson suggested that the rule be passed and an additional amendment be made later as the term 'passive investment income' is not inaccurate.

PUBLIC COMMENT: Richard Greene with Savas Greene & Company, LLC asked if we could make an amendment in the instructions to give a better definition of what 'passive investment income' pending the change to 'portfolio income' in the rule.

COMMISSION COMMENT: Commissioner B. Johnson stated that the change to 'portfolio income' should be made if that is a better fit and that the change could be made well in advance of the next filing season.

PUBLIC COMMENT: Keith Prescott of Wisan Smith Racker & Prescott and Chair of the Utah State Tax Review Commission concurred with Commissioner B. Johnson and also expressed appreciation for the input of the UACPA.

COMMISSION COMMENT: Commissioner B. Johnson echoed Mr. Prescott's comments agreeing that the constructive input from the UACPA has been a tremendous benefit and a great service to the people of Utah. Commissioner Johnson also acknowledged the work of the USTC staff.

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

3. Rules to be Repealed

3.1 R865-9I-56 Determination of Amounts Withheld by a Pass-Through entity that is an S Corporation.

MOTION: Commissioner B. Johnson moved the rule be appealed because it is unnecessary. The motion passed unanimously.

4. Other Items

Commissioner Dixon informed the body that Cheryl Lee is retiring and expressed appreciation for her service. Commissioner Dixon noted her great work and wished her the best.

5. Adjourn

Commissioner Marc Johnson moved to adjourn. The motion passed unanimously.

Commissioner Michael Cragun adjourned the meeting at 8:15 a.m.

Approved:

Attested:
Danielle Murphy
Executive Assistant
Utah State Tax Commission