

**UTAH STATE TAX COMMISSION
MEETING MINUTES**

10:00 a.m., Thursday, May 10, 2012

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

Participating:

R. Bruce Johnson - Commission Chair (by telephone)
Marc B. Johnson - Commissioner
D'Arcy Dixon Pignanelli – Commissioner
Michael J. Cragun - Commissioner
Barry Conover - Executive Director

Commission Office:

Christa Johnson, Commission Executive Assistant
Charlie Roberts, Public Information Officer

Executive Director's Office:

Scott Smith, Deputy Executive Director
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

Commissioner M. Johnson called the meeting to order at 10:00 a.m.

II. Public Comment Public Comment (individuals or groups 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)

Commissioner M. Johnson reported that the Commissioners received public comments.

The first public comment received was a concern regarding this year's tax policy of not providing paper forms or instruction booklets to libraries.

Mr. Conover reported that he had contacted the taxpayer regarding the concern and explained that the Tax Commission sent emails and posters to all of the public libraries in the early part of January. The Tax Commission has regenerated the email to all of the public libraries.

Commissioner Dixon asked Mr. Conover what will be the procedures next year.

Mr. Conover said he would like to continue going paperless and will add sending bulletins to recreation centers for posting since many recreation centers offer computers to the public.

The second public comment received was an anonymous citizen concerning the Utah State Tax Commission number for "Where is my refund?" (1 (800) 662-4335). The message states the

system is being updated and to please call back in one minute. When you call back one minute later it repeats the same message.

Mr. Conover explained that the Tax Commission did have a problem with the Interactive Voice Response (IVR) system and that the Tax Commission was unaware of this issue until the public comment. The system malfunction has been fixed.

Mr. Conover stated that he would like to discontinue with the IVR system and have customer service representatives access refund information for taxpayers who prefer to call in rather than use online resources.

Commissioner Dixon asked Mr. Conover how the Tax Commission would help someone who has a disability if we discontinue with the IVR phone system.

Mr. Conover explained that the Tax Commission offers services for those who need special accommodations such as Telecommunication Device for the Deaf (TDD) for those with hearing impairments.

III. Consider Approving Minutes Of Previous Meetings

Commissioner M. Johnson said the Commission will defer approval of the meeting minutes of April 12, 2012 until the next Commission meeting.

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

Commissioner Cragun explained that R861-1A-12. Policies and Procedures Regarding Public Disclosure Pursuant to Utah Code Ann. Section 59-1-210 will be postponed.

Commissioner Cragun presented the following proposed rule amendments for the Commission to consider and submit for publication to the Division of Administrative Rules:

- a. R861-1A-20. Time of Appeal Pursuant to Utah Code Ann. Sections 59-1-301, 59-1-501, 59-2-1007, 59-7-517, 59-10-532, 59-10-533, 59-10-535, 59-12-114, 59-13-210, 63G-4-201, 63G-4-401, 68-3-7, and 68-3-8.5
- b. R865-6F-6. Application of Corporation Franchise or Income Tax Acts to Qualified Corporations and to Nonqualified Foreign Corporations Pursuant to Utah Code Ann. Section 59-7-104
- c. R865-9I-49. Higher Education Savings Incentive Program Administration Pursuant to Utah Code Ann. Sections 53B-8a-112, 59-10-114, and 59-10-1017
- d. R865-12L-14. Local Sales and Use Tax Distributions and Redistributions Pursuant to Utah Code Ann. Sections 59-12-210 and 59-12-210.1
- e. R865-19S-123. Specie Legal Tender Pursuant to Utah Code Ann. Section 59-12-107
- f. R867-2B-2. Jeopardy Assessment Pursuant to Utah Code Ann. Sections 59-1-701 and 59-1-702

- g. R867-2B-4. Uniform Affixing and Displaying of Drug Stamps Pursuant to Utah Code Ann. Section 59-19-104
- h. R884-24P-66. County Board of Equalization Procedures and Appeals Pursuant to Utah Code Ann. Section 59-2-1004

Rule R861-1A-20 clarifies that appeals of Motor Vehicle Division and Motor Vehicle Enforcement Division actions must be filed within 30 days of the date of the division's notice; Rule R865-6F-6 changes reflect current agency practice and results from case law and amendments to the corresponding Multistate Tax Commission model rule; Rule R865-9I-49 revises the date by which the trustee of the Utah Educational Savings Plan Trust must file information with the Tax Commission concerning amounts contributed to or disbursed from the trust from January 31 to March 31; Rule R865-12L-14 updates the current rule on sales tax redistributions to reflect changes made in 2012 HB 476; Rule R865-19S-123 indicates the London fixing price that a seller shall use to determine the amount of sales tax due in specie legal tender and in dollars when the London fixing price is not available for the day on which a purchase is made in specie legal tender; Rules R867-2B-2 and R867-2B-4 are repealed since the statute that authorizes them was repealed by 2012 SB 243 and Rule R884-24P-66 reflects a request by county assessors that the rule that became effective in the Commission's last meeting. The amendment to require a property owner to provide a county board of equalization (BOE) evidence with the application form when appealing the valuation of property.

Commissioner Cragun explained that the rules will be posted in the June 1, 2012 Bulletin. The 30-day public comment period will end on July 2, 2012. The earliest date for the rules to become effective is July 9, 2012 and the earliest Commission Meeting to make the rules effective is July 12, 2012.

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

V. Schedule AS for All New Employees in the Internal Audit Unit and the Appeals Staff Pursuant to Utah Code Ann. Section 59-1-206

Commissioner Dixon read Utah Code Section 59-1-206 and explained that in the Commission Meeting of April 12, 2012, the Commission took action to classify future Internal Audit positions as schedule "AS." The Commission did not take action to classify future Appeals Unit positions because Commissioner M. Johnson requested that all four commissioners participate in the action and Commission Chair B. Johnson had to leave the last meeting early to attend a hearing.

Commissioner Cragun asked if the Commission needed to designate the benefits package for new schedule "AS" employees as part of the action taken at this meeting.

Rosanne Ricks, Human Resource Manager, clarified that the benefits package would be included in each AS job description.

Commissioner Dixon thought it would be appropriate for the supervising Commissioner of each unit to work with DHRM to make sure the benefits were outlined in the applicable unit job descriptions.

MOTION: Commissioner Dixon moved to have the Division Human Resource Management change the schedules for future positions advertised in the Appeals Staff including the clerks and administrative law judges to “AS.” The motion passed unanimously.

VI. Executive Director’s Report

Mr. Conover gave an update on the current cubicle rearrangements to make room for GenTax testing. The Commission Meeting Room is scheduled to be painted and carpeted in the next few weeks and the remodel for the Internal Audit office is waiting for contract signature.

Mr. Conover said that on May 21, 2012, the Utah State Tax Commission is scheduled to move over to Google Mail (Gmail) from Novell GroupWise e-mail. The Tax Commission and Division of Technology Services are working on security concerns the IRS has with Google Mail and may possibly have to postpone the rollout date.

VII. Commissioners’ Reports

Commission Chair Bruce Johnson reported on FTA Legislative Day and the MTC Executive Committee Meeting held in Washington, D.C. He met with some of Utah’s congressional members and their staffs.

Commissioner Cragun recognized Mr. Conover’s birthday and wished him many happy returns of the day.

VIII. Adjourn to Closed Session

MOTION: Commissioner Cragun moved that the Commissioners meet in closed session to discuss pending litigation. The motion passed with Commissioners B. Johnson, M. Johnson, Dixon and Cragun voting aye.

IX. Return to Open Session

Commissioner M. Johnson called the meeting back to order at 11:32 a.m. and noted that Commission Chair B. Johnson ended his telephone participation in the meeting during the closed session.

X. Consider settlement request in JMH Holdings Corp. v. Utah State Tax Commission, Second District Court case no. 110702305

MOTION: Commissioner Cragun move to instruct counsel to make a counteroffer consistent with the discussion held in closed session in JMH Holdings Corp. v. Utah State Tax

Commission, Second District Court case no. 110702305 and to authorize counsel's signature on the counteroffer on behalf of the Commissioners. The motion passed unanimously.

XI. Adjourn

Commission M. Johnson adjourned the meeting at 11:35 a.m.

Approved on: Thursday, June 14, 2012

Attested: Christa Johnson

Executive Assistant

Utah State Tax Commission