

**UTAH STATE TAX COMMISSION
MEETING MINUTES**

10:30 a.m., Thursday, June 14, 2012

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

Participating:

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

Commission Office:

Christa Johnson, Commission Executive Assistant

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

Commission Chair B. Johnson called the meeting to order at 10:31 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)

Commission Chair B. Johnson asked if anyone wished to address the Tax Commissioners. There were no comments.

III. Consider Approving Commission Meeting Minutes of Thursday, April 12, 2012, Open and Closed Commission Meeting Minutes of Thursday, May 10, 2012 and Commission Meeting Minutes of Tuesday, June 5, 2012

MOTION: Commissioner Dixon moved approval of the Thursday, April 12, 2012 Commission Meeting minutes, Open and Closed Commission Meeting Minutes of Thursday, May 10, 2012 and Commission Meeting Minutes of Tuesday, June 5, 2012. The motion passed unanimously.

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 and submit for publication to the Division of Administrative Rules:

- a. R861-1A-26 Procedures for Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-501 and 63-46b-6 through 63-46b-11
- b. R865-21U-6 Liability of Purchasers and Receipt For Payment to Retailers Pursuant to Utah Code Ann. Section 59-12-107

The amendment to rule R861-1A-26 clarifies an attorney licensed in a jurisdiction outside Utah may represent a taxpayer before the commission without being admitted *pro hac vice* in Utah.

The proposed amendment to Rule R865-21U-6 defines terms, repeals unnecessary language and indicates on which form certain purchasers shall file and remit use tax.

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

V. Consider Amending Administrative Rules

Commissioner Cragun presented the following proposed rule amendments for the Commission to consider and make effective:

- a. R861-1A-16 Utah State Tax Commission Management Plan Pursuant to Utah Code Ann. Section 59-1-207
- b. R877-23V-7 Misleading Advertising Pursuant to Utah Code Ann. Section 41-3-210
- c. R877-23V-22 Reasonable Cause to Waive, Reduce, or Compromise a Penalty Pursuant to Utah Code Ann. Section 41-3-704
- d. R884-24P-68 Property Tax Exemption for Taxable Tangible Personal Property With a Total Aggregate Fair Market Value of \$3,500 or Less Pursuant to Utah Code Ann. Section 59-2-1115

The proposed amendment to Rule R877-23V-22, establishes what may constitute reasonable cause to reduce or compromise a penalty imposed under Title 41, Chapter 3; provides that a person seeking to reduce or compromise a penalty must demonstrate that reasonable cause to reduce or compromise the penalty exists and recommend the amount by which the penalty should be reduced or compromised; provides that ignorance of the law or inability to pay do not constitute reasonable cause.

The proposed amendment to Rule R861-1A-16 provides that the Commission's delegation of duties does not apply to appeals for waiver of penalties imposed by the Motor Vehicle Enforcement Division under Title 41, Chapter 3.

Commissioner Cragun reported that he had received public comments on these proposed changes from the members of the Motor Vehicle Advisory Board who are in support of the rule amendments and from Wayne Jones with the Independent Automobile Dealers Association of Utah who expressed support on behalf of the used auto dealers.

Commissioner Dixon asked if the public comments on the proposed changes were submitted in writing.

Commissioner Cragun responded that the comments were verbal responses to his inquiry.

Mr. Craig Bickmore, Executive Director of New Car Dealers of Utah, stated that his organization supports the rule amendment and thanked the Commissioners and all of the individuals involved.

Commission Chair B. Johnson expressed his appreciation of the communication between the New Car Dealers of Utah and the Utah State Tax Commission.

Commissioner Cragun continued presenting the proposed rule amendments.

Proposed amendment Rule R877-23V-7, replaces the terms “automobile” and “vehicle” with the statutorily defined term “motor vehicle.” This amendment resolves ambiguities argued in recent appeals. The amendment to rule R884-24P-68, replaces the amount “\$3,500 or less” with the phrase “at or below the statutorily prescribed amount” to reflect the consumer price index increases required by statute.

MOTION: Commissioner Cragun made a motion to adopt the rule amendment as proposed. The motion passed unanimously.

VI. Executive Director’s Report

Mr. Smith reported on Rollout 8 of GenTax. All other miscellaneous tax will be generated into Gen Tax on June 24, 2012. Integration of DMV and MVED into GenTax begins July 9, 2012.

Mr. Smith gave an update on the expansion of Fast Enterprise work space reporting that the reconfiguration is almost complete. The former IRS space is undergoing conversion to hold Commission Meetings and is almost complete.

Commissioner Dixon asked how long Fast Enterprise programmers would be working on site at the State Tax Commission offices.

Mr. Smith responded that the programming agreement between the Utah State Tax Commission and Fast Enterprises would extend until the end of 2013. A maintenance team of Fast Enterprises would be on site after that.

VII. Commissioners’ Reports

Commissioner Cragun reported that he just returned from attending the County Assessors Summer Workshop held in Heber, Utah. Ron Smith, Research Consultant of the Property Tax Division, provided USPAP training and Craig Jolley, Assistant Director of the Property Tax Division, gave a presentation on confidentiality regulations related to property taxes .

Commissioner Cragun indicated that he had a dialog discussion with the County Assessors and will send around a memorandum of the issues raised for the Commissioners to review.

Commission Chair B. Johnson suggested that the Commission invite Mr. Jolley present his presentation to the Commissioners.

Commissioner Dixon suggested the Commission hold a public commission meeting on a Friday where others, including members of the Commission staff, could participate.

Commissioner Cragun expanded the idea of scheduling the Special Commission Meeting on a Friday to include the participation of Administrative Law Judges.

Commission Chair B. Johnson asked Ms. Johnson to schedule a time for a Special Commission Meeting when Mr. Jolley is available.

Commission Chair B. Johnson reported that he received a letter regarding Motor Fuel credits He was not aware of the apportionment to retailers of the two percent deduction provided in Utah Code 59-13-207 He referred the letter to Mr. Smith to follow up on.

Commission Chair B. Johnson reported that earlier this morning a committee of the Streamlined Sales Tax Governing Board recommended with a seven to zero vote that Utah become a full member under the Streamlined Use Sales Tax Agreement.

Adjourn

Commission Chair B. Johnson adjourned the meeting at 11:31 a.m.

Approved on: Thursday, July 26, 2012

Attested: Christa Johnson

Executive Assistant

Utah State Tax Commission