

**UTAH STATE TAX COMMISSION
MEETING MINUTES**

9:00 a.m., Thursday, August 27, 2015

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

Participating:

John L. Valentine – Commission Chair
Michael J. Cragun – Commissioner
Robert P. Pero – Commissioner
Rebecca L. Rockwell – Commissioner
Scott Smith– Deputy Executive Director

Commission Office:

Christa Johnson, Commission Executive Assistant

Note: A copy of related materials and an audio recording of the meeting can be found on the Tax Commission website: <http://tax.utah.gov/commission-office/meetings>.

I. Call to Order

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

II. 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 Valentine asked if anyone wished to address the Tax Commissioners. There were no comments.

III. Approving Commission Meeting Minutes of Thursday, June 11, 2015

MOTION: Commissioner Cragun moved to approve the Commission Meeting minutes of Thursday, June 11, 2015. The motion passed unanimously.

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

1. R865-13G-18. Definition of Statewide Average Rack Price of a Gallon of Motor Fuel
2. R877-23V-7. Misleading Advertising (Amendment A)
3. R877-23V-7. Misleading Advertising (Amendment B)
4. R877-23V-20. Reasonable Cause to Deny, Suspend, or Revoke a License Issued Under Title 41, Chapter 3
5. R884-24P-33. Personal Property Valuation Guides and Schedules
6. R884-24P-66. County Board of Equalization Procedures and Appeals

Commissioner Rockwell introduced the following proposed rule amendment for the Commission to consider and submit for publication to the Division of Administrative Rules:

Rule R865-13G-18. Definition of Statewide Average Rack Price of a Gallon of Motor Fuel. The proposed rule defines a term necessary for the implementation of 2015 HB 362. 2015 HB 362 provides that the tax on motor and special fuels is 12 percent of the statewide average rack price of a gallon of motor fuel. This rule defines the statewide average rack price of a gallon of motor fuel as the average of the Salt Lake City and Cedar City terminal prices of the average daily average net closing price of a gallon of branded regular, 10 percent ethanol, 9.0 Reid Vapor Pressure unleaded motor fuel for each terminal. On August 18, 2015, the Legislature's Executive Appropriations Committee approved a motion requesting that the Tax Commission proceed with this proposed rule as drafted.

MOTION: Commissioner Rockwell moved to submit the proposed rule amendment R865-13G-18. Definition of Statewide Average Rack Price of a Gallon of Motor Fuel, to the Division of Administrative Rules. The motion passed unanimously.

Rule R877-23V-7. Misleading Advertising 7 (Amendment A). The rule is amended to provide more specific guidance for motor vehicle advertisements. The proposed amendment indicates how, in a motor vehicle advertisement, the disclosure that a vehicle has a salvage certificate or branded title shall be made.

Commissioner Cragun noted that the rule proposal came up from an issue in an appeal. Both parties asked that the Commissioners give further clarification and the proposal of the rule amendment will accomplish that.

MOTION: Commissioner Rockwell moved to submit the proposed rule amendment R877-23V-7 Misleading Advertising (Amendment A), to the Division of Administrative Rules. The motion passed unanimously.

Rule R877-23V-7. Misleading Advertising (Amendment B). The rule is amended to provide more specific guidance for motor vehicle advertisements. The proposed amendment provides that in a verbal advertisement of a motor vehicle, the speed of the words spoken must be constant throughout the advertisement.

Commissioner Cragun asked if the information that we are targeting is required disclosure information.

Mr. Curtis Stoddard, Motor Vehicle Enforcement Division, Assistant Division Director, responded that it can be. Terms and conditions of a lease are required disclosure information.

Commissioner Cragun asked if the ads on the air are going to have a revenue impact.

Mr. Stoddard responded that if the filler length on the air is cut down, there is no revenue impact.

MOTION: Commissioner Rockwell moved to submit the proposed rule amendment R877-23V-7. Misleading Advertising (Amendment B), to the Division of Administrative Rules. The motion passed unanimously.

Rule R877-23V-20. Reasonable Cause to Deny, Suspend, or Revoke a License Issued under Title 41, Chapter 3. The rule is amended to provide more specific guidance on reasonable cause to deny, suspend, or revoke a license issued under Title 41, Chapter 3. The proposed amendment clarifies that the list of violations of state or federal law that constitute reasonable cause to deny, suspend, or revoke a license issued under Title 41, Chapter 3 is an inclusive, and not an exclusive, list.

MOTION: Commissioner Rockwell moved to submit the proposed rule amendment R877-23V-20. Reasonable Cause to Deny, Suspend, or Revoke a License Issued under Title 41, Chapter 3, to the Division of Administrative Rules. The motion passed unanimously.

Rule R884-24P-33. 2016 Personal Property Valuation Guides and Schedules. The valuation guides and schedules contained in this rule are reviewed and updated annually by the Property Tax Division. The personal property guides and schedules are used for local property tax valuation and assessment of business personal property and certain motor vehicles by county assessors. Section 59-2-107 authorizes the State Tax Commission to promulgate rules that define classes of items considered to be personal property and provide valuation percent good schedules to value locally assessed personal property. County assessors must use the percent good schedules as contained in this rule. Any deviation that affects an entire class or type of personal property requires a written report documenting the schedule change to be submitted to the Tax Commission for approval prior to use. This year, the changes to the percent good schedules also included the following changes to the personal property classes:

Class 3, point of sale (POS) equipment: POS equipment was moved from Class 3 to Class 12 (computer equipment) in 2014. Large retailers provided information that POS equipment is now computers. The POS equipment is linked to a computer mainframe. When a sale occurs, the computer notes the sale, automatically takes it from inventory, and tracks the inventory at each location and ships items or goods when the inventory reaches a certain level. Computers are already included in Class 12.

Class 16, solar panels and supporting equipment: In 2012 the Tax Commissioners ordered solar panels and the equipment that supports the solar panels to be listed as personal property. It was immediately listed in the classification guide online and the counties were sent a notice. The rule change places the commission decision into rule.

Class 16, underground fiber optic cable: In 2015 the Tax Commission reached a stipulation that underground fiber optic cable should be moved from Class 8 to Class 16.

Commissioner Cragun had changes to language that will be submitted to DAR that accompany the rule.

Mr. Herbert Jenkins, Property Tax Division, Personal Property Appraisal Manager, explained the changes to the language.

MOTION: Commissioner Rockwell moved to submit the proposed rule amendment R884-24P-33. 2016 Personal Property Valuation Guides and Schedules, subject to changes to the description on the tax commission rule review check list, to the Division of Administrative Rules. The motion passed unanimously.

Rule R884-24P-66. County Board of Equalization Procedures and Appeals. The proposed amendment deletes an unnecessary step in the process a county goes through in approving its board of equalization rules by deleting language requiring the Tax Commission to approve local board of equalization rules and procedures.

MOTION: Commissioner Rockwell moved to submit the proposed rule amendment R884-24P-66. County Board of Equalization Procedures and Appeals, to the Division of Administrative Rules. The motion passed unanimously.

V. Consider Amending Administrative Rules

1. R865-4D-21. Consistent Basis for Diesel Fuel Reporting
2. R865-20T-10. Procedures for the Revocation, Renewal, and Reinstatement of Licenses Issued

Commissioner Rockwell introduced the following proposed rule amendments for the Commission to consider adopting and noted that there were no public comments.

Rule R865-4D-21. Consistent Basis for Diesel Fuel Reporting. The proposed amendment deletes an outdated form name. The most current information regarding tax forms is on the Tax Commission website.

MOTION: Commissioner Rockwell moved to adopt the amendment to Rule R865-4D-21, Consistent Basis for Diesel Fuel Reporting. The motion passed unanimously.

Rule R865-20T-10. Procedures for the Revocation, Renewal, and Reinstatement of Licenses Issued. Provisions of the rule are unnecessary; we are proposing to repeal this rule. Statutory provisions adequately describe the period of a license revocation. In addition, the Tax Commission website contains the most current tax form requirements.

MOTION: Commissioner Rockwell moved to adopt the amendment to Rule R865-20T-10, Procedures for the Revocation, Renewal, and Reinstatement of Licenses Issued. The motion passed unanimously.

VI. Commissioners' Report

Commissioner Cragun welcomed Commissioner Rockwell to her first public Commission meeting and expressed his appreciation to Commissioner Rockwell for her extensive knowledge and expertise she brings to the Tax Commission.

Commissioner Cragun reported that the annual breakfast will be held on September 10, 2015. The breakfast is a thank you to our dedicated employees for another successful year.

Chairman Valentine echoed Commissioner Cragun's comments in regards to Commissioner Rockwell and noted that he assigned Commissioner Rockwell to oversee the rules process.

VII. Adjourn

MOTION: Commissioner Cragun moved to adjourn the meeting. The motion passed unanimously.

Commission Chair Valentine adjourned the meeting at 9:25 a.m.

Approved on: Thursday, October 8, 2015

Attested: Christa Johnson
Executive Assistant
Utah State Tax Commission