

**UTAH STATE TAX COMMISSION
MEETING MINUTES**

9:00 a.m., Thursday, October 22, 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

Barry Conover – 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 9:01 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, October 8, 2015

MOTION: Commissioner Cragun moved to approve the Commission meeting minutes of Thursday, August 27, 2015. The motion passed unanimously.

IV. Consider Amending Administrative Rules

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

Commissioner Rockwell introduced the proposed rule amendments for the Commission to consider adopting and noted that there have been no public comments on these rules.

The rules were published in the Utah Bulletin on September 15, 2015 and the public comment ended on October 15, 2015.

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 adopt the amendment to Rule R865-13G-18. Definition of Statewide Average Rack Price of a Gallon of Motor Fuel. The motion passed unanimously.

R877-23V-7. Misleading Advertising (Amendment A). The rule is amended to provide more specific guidance for motor vehicle advertisements. Section 41-3-210 prohibits a licensee from intentionally publishing, displaying, or circulating any advertisement that is misleading in any material fact. 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. The rule proposal arises from an issue in an appeal. Both parties asked that the Commissioners give further clarification and the proposed rule amendment will accomplish that.

MOTION: Commissioner Rockwell moved to adopt the amendment to Rule R877-23V-7. Misleading Advertising (Amendment A). The motion passed unanimously.

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. The purpose is to prevent "fast talking," in which material facts are disclosed at a rapid voice speed that may be difficult to understand.

MOTION: Commissioner Rockwell moved to adopt the amendment to Rule R877-23V-7. Misleading Advertising (Amendment B). The motion passed unanimously.

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 adopt the amendment to Rule R877-23V-20. Reasonable Cause to Deny, Suspend, or Revoke a License Issued Under Title 41, Chapter 3. The motion passed unanimously.

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 make 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 (which is 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.

MOTION: Commissioner Rockwell moved to adopt the amendment to Rule R884-24P-33. 2016 Personal Property Valuation Guides and Schedules. The motion passed unanimously.

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 adopt the amendment to Rule R884-24P-66. County Board of Equalization Procedures and Appeals. The motion passed unanimously.

V. Internal Audit Reports

Commissioner Pero recognized Mr. Aman Kudiya, Director of Internal Audit Unit. He asked Mr. Kudiya to give an overview of the reports and answer Commissioners questions.

Mr. Kudiya gave an overview of Internal Audit Report on Performance Review Outside Collection Agencies. Report No. 2015-1 and Audit of Uninsured Motorist Identification Database (UMID) Programs, 2015. Report No. 2015-02.

Commissioner Pero thanked Mr. Kudiya for the thorough overview of the report.

MOTION: Commissioner Pero moved to accept the Internal Audit report on Performance Review Outside Collection Agencies. Report No. 2015-1 and Audit of Uninsured Motorist Identification Database (UMID) Programs, 2015. Report No. 2015-02. The motion passed unanimously.

Commission Cragun clarified that the minutes earlier approved were for Thursday, October 8, 2015 and not 2005.

VI. Executive Director's Report

Mr. Conover reported that voice over Internet protocol (VOIP) system conversion process will take place over the weekend. By Monday, October 26, 2015 the VOIP system will be live. He thanked those involved in the VOIP project.

Mr. Conover reported that a phishing virus hit employees in the agency on Wednesday, October 21, 2015. Those employees notified the Department of Technology Services and Security about the scam.

Mr. Conover reported on future rollouts of GenTax.

VII. Commissioners' Report

Commission Chair Valentine stated that he would like to go into a closed session to discuss a litigation issue.

MOTION: Commissioner Cragun moved that the Commission meet in closed session to discuss pending or reasonably imminent litigation and adjourn from the closed session. The motion passed with Commission Chair Valentine, Commissioner Cragun, Commissioner Pero and Commissioner Rockwell all voting aye.

Approved on: Thursday, December 10, 2015

Attested: Christa Johnson
Executive Assistant
Utah State Tax Commission