

**UTAH STATE TAX COMMISSION
PENDING MEETING MINUTES**

9:00 a.m., Thursday, March 26, 2020

Via Google Hangouts, 210 North 1950 West, Salt Lake City, Utah

Participating:

John L. Valentine – Commission Chair
Michael J. Cragun – Commissioner
Rebecca L. Rockwell – Commissioner
Lawrence C. Walters – Commissioner
Scott Smith – Executive Director

Commission Office:

Chantay Asper, 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. Join Google Hangouts Meeting by calling 1-470-242-8062 PIN: 168739956#

II. Call to Order

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

III. 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)

Steve Young with Holland and Hart asked about sales tax extensions. The Tax Commission took no action on this issue.

- I. **Consider approving Special Commission Meeting Minutes of February 27th, 2020 and March 2nd, 2020**

MOTION: Commissioner Walters moved to approve the Commission Meeting Minutes of February 27, 2020 and March 2, 2020. The motion passed unanimously.

IV. Consider emergency amendment of Administrative Rule

Commissioner Rockwell: The following rule amendment is in response to the COVID-19 outbreak, and in consultation with the Governor and legislative leadership.

- I. R861-1A-42. Waiver of Penalty and Interest for Reasonable Cause Pursuant to Utah Code Ann. Section 59-1-401. As a result of the COVID-19 emergency, the proposed amendment authorizes the waiver of interest accrued between April 15, 2020 and July 15, 2020 on unpaid 2019 income tax liability.

Commissioner Rockwell moved that Under Utah Code Ann. Section 63G-3-304 Emergency Rulemaking Procedure, the Commission adopt the amendment to R861-1A-42 Waiver of Penalty and Interest for Reasonable Cause, on the grounds that complying with the rulemaking procedures under Section 63G-3-301 would cause an imminent peril to the public health, safety, or welfare.

Commissioner John Valentine took a roll call vote and the motion passed unanimously.

Commission Chair Valentine noted that the amendments to Rule R861-1A-42. Waiver of Penalty and Interest for Reasonable Cause, will be sent to the Office of Administrative Rules to be effective immediately for a period of 120 days.

II. Consider commission action on matters related to the extension of income tax filing and payment deadlines.

Commissioner Cragun moved that for individuals:

(1) Consistent with IRS Notice 2020-18I which automatically postpones “the due date for filing Federal income tax returns and making Federal income tax payments due April 15, 2020” to July 15, 2020, the Utah State Tax Commission acknowledges that Utah Code Annotated subsections 59-10-514(1)(a) & (b) conforms the due dates for filing Utah individual and fiduciary income tax returns to the Federal return filing due date, thus making these returns now due July 15, 2020;

(2) Contrary to past practice, for returns now due on July 15, 2020, the Commission, under Utah Code Annotated subsection 59-10-516(1)(a), restricts the filing extension for individual income taxpayers, estates and trusts, and S corporations, to three months which ends on October 15, 2020;

(3) As permitted by Utah Code Annotated section 59-10-522, the Commission extends to July 15, 2020, the time for payment of individual income tax shown or required to be shown on individual income tax returns now due on July 15, 2020.

Commissioner John Valentine took a roll call vote and the motion passed unanimously.

Commissioner Cragun moved that for corporations and pass-through entities:

(1) The Utah State Tax Commission reminds taxpayers required to make returns under Utah Code Annotated Title 59, Chapter 7, that subsection 59-7-505(2) requires

that “returns shall be made on or before the 15th day of the fourth month following the close of the taxable year;”

(2) The Commission reminds pass-through entities required to make returns under Utah Code Annotated Subsection 59-10-514(1)(c) that “returns shall be filed with the commission on or before the 15th day of the fourth month following the last day of the taxpayer’s taxable year”;

(3) Continuing past practice, the Commission permits taxpayers required to make returns and payments on or before April 15, 2020, under Utah Code Annotated Title 59, Chapter 7 (the “Affected Taxpayers”), the full six month filing extension allowed under Utah Code Annotated subsection 59-7-505(3), which ends on October 15, 2020;

(4) Continuing past practice, the Commission permits taxpayers who file a partnership return a five month filing extension under Utah Code Annotated Subsection 59-10-516, which ends on September 15, 2020;

(5) Under Utah Code Annotated subsection 59-7-507(2)(a), the Commission finds that Affected Taxpayers request a payment extension due to the state of emergency declared by Gary R. Herbert, Governor, State of Utah in Executive Order 2020-1 on 18 March 2020 (the “State of Emergency”);

(6) Under Utah Code Annotated subsection 59-7-507(2)(a) the Commission grants Affected Taxpayers a payment extension which ends on July 15, 2020;

(7) The Commission notes that Utah law imposes failure to file penalties for returns not made on or before the statutory due date (see Utah Code Annotated sections 59-1-401);

(8) So long as Affected Taxpayers comply with Utah Administrative Rule subsections R861-1A-42(1)(a)(ii)-(iv), the Commission finds under Utah Code Annotated subsection 59-1-401(14) and Utah Administrative Rule Annotated section R861-1A-42, reasonable cause to waive failure to file penalties imposed on Affected Taxpayers due to “clearly supported extraordinary and unanticipated reasons for late filing” (Utah Administrative Rule subsection R861-1A-42(4)(b)) caused by the State of Emergency;

(9) The Commission also notes that Utah law imposes an extension penalty upon any amount of tax due from Affected Taxpayers but not paid by April 15, 2020 (see Utah Code Annotated subsections 59-1-401(5) and 59-7-507(1)(c))

(10) So long as Affected Taxpayers comply with Utah Administrative Rule subsections R861-1A-42(1)(a)(ii)-(iv), the Commission finds under Utah Code Annotated subsection 59-1-401(14) and Utah Administrative Rule Annotated section R861-1A-42, reasonable cause to waive extension penalties imposed on Affected Taxpayers due to “clearly supported extraordinary and unanticipated reasons for late filing” (Utah Administrative Rule subsection R861-1A-42(4)(b)) caused by the State of Emergency;

(11) The Commission retains all other authority under state law to waive, reduce or compromise penalties and interest;

(12) The Commission also notes that Utah law imposes interest on any amount of tax due from Affected Taxpayers but not paid by April 15, 2020 (see Utah Code Annotated subsections 59-1-402(6) and section 59-7-513); and

(13) The Commission retains under Utah Code Annotated subsections 59-1-401(14), 59-1-402(6) and Utah Rule Annotated subsection R861-1A-42(2), authority to waive interest imposed upon Affected Taxpayers between April 15, 2020 and July 15, 2020, and interest was addressed by the administrative rule amendment approved in a prior motion.

Commissioner John Valentine took a roll call vote and the motion passed unanimously.

V. Commissioners’ Reports

Commissioner Valentine thanked all the employees who have worked so hard to get us this far in teleworking and setting up this electronic meeting.

Commissioner Cragun recognized the appeals staff and administrative law judges for all their work during the pandemic adjustments.

VI. Executive Director’s Report

Scott Smith reported that 59% of the Tax Commission employees are telecommuting. The agency continues processing returns and most other things as normal. IFTA Decals may be delayed following other states, but IFTA returns are due on time.

Deanna Herring thanked DTS and Fast enterprises for their help in quickly getting everybody set up to telecommute.

VII. Adjourn

Commission Chair Valentine adjourned the meeting at 9:27 a.m.

Approved on:
Attested: Chantay Asper
Executive Assistant
Utah State Tax Commission

PENDING