

**UTAH STATE TAX COMMISSION
MEETING MINUTES**

9:00 am Thursday, January 12th, 2023

Via Zoom, 210 North 1950 West, Salt Lake City, Utah

Participating:

John L. Valentine – Commission Chair – In person
Michael J. Cragun – Commissioner – Virtually
Rebecca L. Rockwell – Commissioner – In person
Jennifer N. Fresques – Commissioner – In person
Scott Smith – Executive Director – In person

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 Zoom Meeting:

<https://us02web.zoom.us/j/7437193782?pwd=K0pJRTVzTGJrWm14LzIldjY0QzJDUT09>

Meeting ID: 743 719 3782

Passcode: 8fN54hj!

Dial in: +1 253 215 8782 or +1 346 248 7799

Meeting ID: 743 719 3782

Passcode: 07438057

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)

There was no public comment

IV. Consider approving Commission Meeting Minutes of December 22nd, 2022

MOTION: Commissioner Fresques moved to approve the Commission Meeting Minutes of December 22nd, 2022. The motion passed unanimously.

V. Consider amending Administrative Rule. [action item]

1. R865-19S-102. Calculation of Qualifying Exempt Electricity Sales to Ski Resorts Pursuant to Utah Code Ann. Section 59-12-104.
2. R861-1A-46. Procedures for Purchaser Refund Requests Pursuant to Utah Code Ann. Sections 59-1-1410 and 59-12-110.

3. R861-1A-12. Policies and Procedures Regarding Public Disclosure Pursuant to Utah Code Ann. Sections 41-3-209, 59-1-210, 59-1-403, and 59-1-405.
4. R865-14W-1. Mineral Production Tax Withholding Pursuant to Utah Code Ann. Sections 59-6-101 through 59-6-104.
5. R861-1A-16. Utah State Tax Commission Management Plan Pursuant to Utah Code Ann. Section 59-1-207.

Commissioner Rockwell: The following rule was published in the Utah Bulletin on December 1, 2022 and the public comment period ended on January 3, 2023. We did not receive any public comments on the rule.

1. R865-19S-102. Calculation of Qualifying Exempt Electricity Sales to Ski Resorts Pursuant to Utah Code Ann. Section 59-12-104. This proposed amendment updates a reference to a division of the Utah State Tax Commission to be consistent with the recent tax commission reorganization, and makes technical changes.

MOTION: Commissioner Rockwell moved to adopt the amendments to R865-19S-102. Calculation of Qualifying Exempt Electricity Sales to Ski Resorts Pursuant to Utah Code Ann. Section 59-12-104.

Commission Chair Valentine took a roll call vote and the motion passed unanimously

2. R861-1A-46. Procedures for Purchaser Refund Requests Pursuant to Utah Code Ann. Sections 59-1-1410 and 59-12-110. This proposed amendment updates a reference to a division of the Utah State Tax Commission to be consistent with the recent tax commission reorganization, and makes technical changes.

MOTION: Commissioner Rockwell moved to adopt the amendments to R861-1A-46. Procedures for Purchaser Refund Requests Pursuant to Utah Code Ann. Sections 59-1-1410 and 59-12-110.

Commission Chair Valentine took a roll call vote and the motion passed unanimously

3. R861-1A-12. Policies and Procedures Regarding Public Disclosure Pursuant to Utah Code Ann. Sections 41-3-209, 59-1-210, 59-1-403, and 59-1-405. This proposed amendment updates a reference to a division of the Utah State Tax Commission to be consistent with the recent tax commission reorganization.

MOTION: Commissioner Rockwell moved to adopt the amendments to R861-1A-12. Policies and Procedures Regarding Public Disclosure Pursuant to Utah Code Ann. Sections 41-3-209, 59-1-210, 59-1-403, and 59-1-405.

Commission Chair Valentine took a roll call vote and the motion passed unanimously

4. R865-14W-1. Mineral Production Tax Withholding Pursuant to Utah Code Ann. Sections 59-6-101 through 59-6-104. This proposed amendment updates references

to divisions of the Utah State Tax Commission to be consistent with the recent tax commission reorganization, and makes technical changes.

MOTION: Commissioner Rockwell moved to adopt the amendments to R865-14W-1. Mineral Production Tax Withholding Pursuant to Utah Code Ann. Sections 59-6-101 through 59-6-104.

Commission Chair Valentine took a roll call vote and the motion passed unanimously

5. R861-1A-16. Utah State Tax Commission Management Plan Pursuant to Utah Code Ann. Section 59-1-207. This proposed amendment updates references to divisions of the Utah State Tax Commission to be consistent with the recent tax commission reorganization and removes the requirement for the executive director to maintain a log of all correspondence from all sources for periodic review with the commission. This amendment also makes technical changes.

MOTION: Commissioner Rockwell moved to adopt the amendments to R861-1A-16. Utah State Tax Commission Management Plan Pursuant to Utah Code Ann. Section 59-1-207.

Commission Chair Valentine took a roll call vote and the motion passed unanimously

VI. Consider Publication Revisions

1. Pub 19 - Business Personal Property Audits
2. Pub 20 - Business Personal Property Taxes
3. Pub 58S - Utah Interest and Penalties (Spanish)

VII. Consider Tax Commission positions on 2023 General Session pending legislation [action item]

1. HB 55, Off-Highway Vehicle Registration Requirements (Rep. Albrecht) –
 - This bill corrects a drafting error from HB 180 Off-road Vehicle Safety Education, which passed during the 2022 General Session.
 - The drafting error in HB 180 resulted in the requirement that starting January 1, 2023, snowmobiles would be required to be issued a license plate instead of the current registration sticker.
 - After the passage of HB 180, members of the Legislature and legislative staff alerted us that it was not the intent of the Legislature that snowmobiles be required to be issued a license plate, and asked that the Commission delay issuance of snowmobile license plates until the error could be corrected during the 2023 General Session.
 - The Commission is temporarily delaying the implementation of the requirement to issue a license plate to snowmobiles to give the Legislature an opportunity to correct the error by reinstating the requirement for snowmobiles to be issued a registration sticker.
 - Because the Commission cannot accomplish the intent of the Legislature without this bill, we have supported the efforts to make this correction.

MOTION: Commissioner Rockwell moved that the Commission support HB 55, Off-Highway Vehicle Registration Requirements.

Commission Chair Valentine took a roll call vote and the motion passed unanimously

2. HB 56, Tax Assessment Amendments (Rep. Eliason) –
 - This bill enacts a process for a Tax Commission examination of county property tax assessment data to help the counties ensure fair market value assessments.
 - It also clarifies pass-through entity withholding requirements applicable to an amended or audited pass-through entity return.
 - We approached the Legislature about these issues and this bill was drafted in response to these issues.

MOTION: Commissioner Rockwell moved that the Commission support HB 56, Tax Assessment Amendments.

Commission Chair Valentine took a roll call vote and the motion passed unanimously

3. HB 58, Tax Modifications (Rep. Spendlove) –
 - This bill updates language in the Tax Commission administrative garnishment statute.
 - The bill addresses burden of proof in property tax appeals.
 - The bill also specifies sales and use tax revenue distribution responsibilities between the Tax Commission and the Division of Finance.
 - Finally, the bill eliminates obsolete language from tax statutes.
 - We approached the Legislature about these issues and this bill was drafted in response to these issues.

MOTION: Commissioner Rockwell moved that the Commission support HB 58, Tax Modifications.

Commission Chair Valentine took a roll call vote and the motion passed unanimously

4. SB 13 Motor Vehicle Registration Amendments (Sen. Harper) –
 - This bill clarifies that the Division of Motor Vehicle may only charge a \$100 registration reinstatement fee under Section 41-1a-1220 if a registration is revoked for operation of a vehicle without liability insurance.
 - This bill also repeals the honorary consulate special group license plate. The Commission requested this change because the Commission received a letter from the United States State Department requesting that Utah repeal

our Honorary Consul license plates because there has been a trend nationwide for these plates to be used to commit fraud.

- This bill also recodifies the current license plate dedicated credit fund as a license plate restricted account consistent with the recommendation of the 2018 legislative audit of the Tax Commission. All license plate fee revenue will be deposited into this restricted account.

MOTION: Commissioner Rockwell moved that the Commission support SB 13, Motor Vehicle Registration Amendments.

Commission Chair Valentine took a roll call vote and the motion passed unanimously

5. SB 14, Leased Tangible Personal Property Tax Amendments (Sen. Wilson) –

- This bill clarifies that the sale of leased tangible personal property from the lessor to the lessee in the state is subject to sales and use tax on the purchase price.
- This bill also authorizes the Division of Motor Vehicles to issue a temporary permit to an applicant who purchases a leased vehicle to allow the applicant to legally operate the vehicle until title to the vehicle can be transferred from the lessor to the lessee and then from the lessee to the applicant.
- We approached the Legislature about this issue and this bill was drafted in response to discussions in the Revenue and Taxation Committee on this issue.

MOTION: Commissioner Rockwell moved that the Commission support SB 14, Leased Tangible Personal Property Tax Amendments.

Commission Chair Valentine took a roll call vote and the motion passed unanimously

6. SB 82, Sales Tax Amendments (Sen. Harper) –

- This bill specifies that if a purchaser has an exemption certificate on file with a seller but has not made any purchases from that seller for a 12-month period, the seller must obtain an updated exemption certificate from the purchaser before any additional exempt purchases can be made.
- This provision clarifies sales and use tax statutes to be more consistent with disclosed practices we submit to the Streamlined Sales Tax Governing Board and provide greater transparency to taxpayers.

MOTION: Commissioner Rockwell moved that the Commission support SB 82, Sales Tax Amendments.

Commission Chair Valentine took a roll call vote and the motion passed unanimously

VIII. Commissioners' Reports

Commissioner Valentine reported that the Tax Commission has made a budget presentation to the Governors office.

IX. Executive Director's Report

Scott Smith reported on the tax commission reorganization and our mission. The Tax Commission mission is to promote tax and motor vehicle compliance.

X. Adjourn

Commission Chair Valentine adjourned the meeting at 9:40 a.m.

Approved on: 1-26-23

Attested: Chantay Asper

Executive Assistant

Utah State Tax Commission