

**UTAH STATE TAX COMMISSION
MEETING MINUTES**

9:00 a.m., Thursday, August 11, 2011

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

Participating:

R. Bruce Johnson - Commission Chair

Marc B. Johnson - Commissioner

Michael J. Cragun - Commissioner

Barry Conover - Executive Director

Excused

D'Arcy Dixon Pignanelli - Commissioner

Executive Director's Office:

Scott Smith, Deputy Executive Director

Lynn Solarczyk, Director of Legislation

Commission Staff Present:

Christa Johnson, Commission Executive Assistant

Remissa Navarro, Commission Appeals Tech

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 9:00 a.m.

II. Public Comment (members of the public 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 noted that no one wished to address the Tax Commissioners.

III. Approve Minutes Open and Closed Meeting Minutes of July 26, 2011.

MOTION: Commissioner M. Johnson moved approval of the open and closed Meeting minutes of July 26, 2011. The motion passed unanimously.

IV. Motor Vehicles "On The Spot" Award

Commission Chair B. Johnson recognized the Division of Motor Vehicles for receiving an Honorable Mention for Innovation at the Ninth Annual Utah Innovation Awards for the On the Spot (OTS) renewal program. He explained that the OTS program allows vehicle registration renewals through approved state inspection and emission stations. Last fiscal year the program renewed and registered 475,000 vehicles with 490 stations participating.

Motor Vehicle Division Director Brad Simpson introduced David Swan, Deputy Division Director; Debra Ross, Program Coordinator; Heidi Reilly, Auditing Manager; Kevin Park Assistant Division Director; Rick Kirkland, Service Specialist; Stacey Hammond, Assistant Division Director; Colleen Conover, Inventory Control Coordinator and Jayne Gallo, Business System Specialist who all contributed to the OTS program's success.

Commission Chair B. Johnson thanked Mr. Simpson and his staff for all of their work on motor vehicle registration renewal.

V. Approve Business Regulation Review Report to Governor Herbert

Commissioner Cragun reported that Mr. Mike Mower, Governor Herbert's Deputy Chief of Staff asked the Tax Commissioners for additional information related to their Governor's Business Regulation Review report submitted on May, 26, 2011. Commissioner Cragun compiled the Tax Commissioners response with the help of Lynn Solarczyk and Christa Johnson.

MOTION: Commissioner Cragun moved to accept the response and approve submitting it to Governor Herbert. The motion passed unanimously.

Commission Chair B. Johnson thanked Commissioner Cragun for his work on the report.

VI. Ratify Commissioner Dixon's signature on Stipulation and Settlement Agreement, Millard County v. USTC v. Utah Taxpayers Association and Milford Wind Corridor, LLC, Third District Court, 080921255

Commissioner Cragun explained that because of a communication lapse among the parties' attorneys, a Stipulation and Settlement Agreement for Millard County v. USTC v. Utah Taxpayers Association and Milford Wind Corridor, LLC was signed and submitted to the Third District Court before the Tax Commissioners could vote on it in an open and public meeting. The stipulation settlement agreement resolves all of the issues in the litigation and eliminates the need for further action by the Tax Commission.

MOTION: Commissioner Cragun moved to ratify Commissioner Dixon's signature on the Stipulation and Settlement Agreement for Millard County v. USTC v. Utah Taxpayers Association and Milford Wind Corridor, LLC. The motion passed unanimously.

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

Commissioner Cragun noted the striking of R884-24P-71, Agreements with Commercial or Industrial Taxpayers for Equal Property Tax Payments from the agenda. He presented the following proposed rule amendments for the commission to consider submitting to the Division of Administrative Rules:

- a. R865-3C-1. Allocation of Net Income
- b. R865-4D-19. Refund of Special Fuel Taxes Paid by Government Entities

- c. R865-6F-14. Extent to Which Federal Income Tax Provisions Are Followed for Corporation Franchise Tax Purposes
- d. R865-12L-16. Notification to Tax Commission Upon Change in the Election to Collect County or Municipality Imposed Transient Room Taxes
- e. R865-13G-10. Exemption For Purchase of Motor Fuels by State and Local Government Agencies
- f. R865-15O-1. Oil and Gas Severance Tax
- g. R867-2B-1. Collection of Penalty
- h. R884-24P-28. Reporting Requirements For Leased or Rented Personal Property
- i. R884-24P-42. Farmland Assessment Audits and Personal Property Audits
- j. R884-24P-57. Judgment Levies

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

Commissioner Chair B. Johnson stated that Mr. Ron Smith’s appraisal class, which is discussing development and use of personal property tax schedules, has joined the meeting to listen to the Tax Commissioners’ consideration of the proposed amendment to rule R884-24P-33.

Commissioner Cragun presented proposed rule R884-24P-33. 2012 Personal Property Valuation Guides and Schedules.

Mr. Herb Jenkins, with the Property Tax Division explained the Division’s process for developing the property valuation guides and schedules and answered the Commissioners’ questions.

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

VIII. Consider adoption of Amending Administrative Rules

Commissioner Cragun presented the following rule amendments for the commission to consider.

- a. R865-4D-3. User-Dealer's License
- b. R865-6F-23. Utah Steam Coal Tax Credit
- c. R865-13G-16. Aviation Fuel Tax Refund or Credit
- d. R865-19S-42. Sales to The State of Utah and Its Subdivisions
- e. R865-20T-5. Bonding Requirements for Cigarette and Tobacco Products
- f. R865-20T-6. Purchase of Cigarette Stamps
- g. R865-20T-13. Calculation of Tax on Moist Snuff
- h. R873-22M-31. Determination of Special Interest Vehicle
- i. R873-22M-37. Standard Issue License Plates
- j. R884-24P-8. Security for Property Tax on Uranium and Vanadium Mines
- k. R884-24P-14. Valuation of Real Property Encumbered by Preservation

Easements

1. R884-24P-41. Adjustment or Deferral of Property Taxes

MOTION: Commissioner Cragun moved to approve the rule amendments. The motion passed unanimously.

Commissioner Cragun presented Rule R865-20T-5, R865-20T-5 (a) Bonding Requirements for Cigarette and Tobacco Products and rule R865-20T-6. Purchase of Cigarette Stamps. He reminded the Commissioners that they published two versions of the bonding requirements rule. One version limited cash purchases of stamps to ninety percent of the purchasers' bond amount. The other placed no limit on cash purchases.

Ms. Lynn Solarczyk reported on rule R865-20T-5 and rule R865-20T-5(a) Bonding Requirements for Cigarette and Tobacco Products. She said that an e-mail was sent on June 2, 2011 to three tobacco industry lobbyists indicating that the two rules had been submitted to the Division of Administrative Rules for publication. Only one of them had responded with no suggested changes.

Commissioner Cragun recommended that rule R865-20T-5(a). Bonding Requirements for Cigarette, and Tobacco Products—the version without a limit on cash purchases—be withdrawn from the Division of Administrative Rules. He reported that the Commission did not receive any other comments that he was aware of.

MOTION: Commissioner Cragun moved to approve the amendments to rule R865-20T-5. Bonding Requirements for Cigarette and Tobacco Products and rule R865-20T-6. Purchase of Cigarette Stamps and to withdraw proposed amendment R865-20T-5(a). Bonding Requirements for Cigarette and Tobacco Products. The motion passed unanimously.

IX. Discuss Potential Amendments

a. R861-1A-9(C)(3) to clarify that the Tax Commission will consider issues not raised at a County Board of Equalization hearing

Commissioner Cragun suggested that the Commission should consider removing “An appeal from a decision of a county board must be presented upon the same issues as were submitted to the county board in the first instance” from the rule in order to match the Commission’s preference for permitting a petitioner to raise all relevant issues in an appeal hearing.

b. R861-1A-24 to permit the Tax Commission to appoint hearing officers rather than administrative law judges for certain appeal hearings

Commissioner Cragun explained that the statutory requirement that Commissioners or an Administrative Law Judge conduct an initial hearing (see 59-1-502.5) applies only to the taxes, fees or charges enumerated in 59-1-1402. He suggested that the Commission should consider broadening the rule to permit the Commissioners to appoint hearing officers who may not be law

trained or permanent employees to help conduct initial hearings for appeals of taxes, fees and charges not listed in 59-1-1402.

X. Executive Director's Report

Mr. Conover introduced new Deputy Executive Director, Scott Smith. He said he is confident in the abilities, leadership and knowledge Mr. Smith brings to the position. Mr. Smith will meet the challenges of his new post position well.

Mr. Conover also reported that the Tax Commission has a new custodial service as of July 26, 2011.

XI. Adjourn

MOTION: Commission M. Johnson moved for adjournment.

Commission Chair B. Johnson adjourned the meeting at 9:58 a.m.

Approved on: Thursday, August 25, 2011

Attested: Christa Johnson
Executive Assistant
Utah State Tax Commission