

**UTAH STATE TAX COMMISSION  
MEETING MINUTES**

9:00 a.m., Thursday, December 10, 2015

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

**Participating:**

John L. Valentine – Commission Chair (Participated by phone)

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**

Commissioner Cragun called the meeting to order at 9:02 a.m. and noted that Chairman John Valentine was participating by phone.

**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)**

Commissioner Cragun asked if anyone wished to address the Tax Commissioners. There were no comments.

**III. Approving Open and Closed Commission Meeting Minutes of Thursday, October 22, 2015, and Special Commission Meeting Minutes of Thursday, December 3, 2015**

**MOTION:** Commissioner Rockwell moved to approve the Open and Closed Commission Meeting Minutes of Thursday, October 22, 2015, and Special Commission Meeting Minutes of Thursday, December 3, 2015. The motion passed unanimously.

**IV. Approving 2016 Notice of Scheduled Meetings**

Commissioner Cragun explained that the annual notice of regular meeting schedules is required by statute. Regular Commission Meetings are scheduled for every second and fourth Thursday of each month except November and December with meetings scheduled only on the second Thursday.

**MOTION:** Commissioner Pero moved to approve the 2016 Notice of Scheduled Meetings. The motion passed unanimously.

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

1. R865-19S-94. Service Charges, Tips, Gratuities, Cover Charges, and Other Similar Charges Pursuant to Utah Code Ann. Section 59-12-103

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

The proposed amendment clarifies that if a service charge, tip, gratuity, cover charge, or other similar charge is included on a patron's bill, it is part of the sales price and subject to sales tax unless: (1) it states on the front of the bill that the amount is voluntary and may be increased or decreased by the patron; and (2) the language stating that the amount is voluntary must be in the same font size as the service charge, tip, gratuity, cover charge, or other similar charge included on the bill. A voluntary payment is a payment for a nontaxable service. The amendment also deletes redundant language and makes technical changes.

The rule will be published in the January 1, 2016 bulletin. The 30-day public comment period will end on February 1, 2016. The earliest date for the amendments to become effective is February 8, 2016.

**MOTION:** Commissioner Rockwell moved to approve submission of Rule R865-19S-94. Service Charges, Tips, Gratuities, Cover Charges, and Other Similar Charges. The motion passed unanimously.

**VI. Amending Administrative Rules**

1. R884-24P-53. 2016 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

Commissioner Rockwell introduced the following proposed rule amendment for the Commission to adopt:

Rule R884-24P-53. 2016 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

The amendment annually updates the agricultural productive values to be applied by county assessors to land qualifying for valuation and assessment under the Farmland Assessment Act (FAA). The values are recommended to the Commission by the State Farmland Evaluation Advisory Committee, which meets under the authority of Section 59-2-514.

Section 59-2-515 authorizes the State Tax Commission to promulgate rules regarding the Property Tax Act, Part 5, Farmland Assessment Act. Section 59-2-514 authorizes the State Tax Commission to receive valuation recommendations from the State Farmland Evaluation Advisory Committee for implementation as outlined in R884-24P-53. The rule sets the per acre values for 418 separate class-county combinations. This year it is proposed that 126 rates decrease slightly, 164 increase slightly, and 128 have no change.

Commissioner Pero, chair of the State Farmland Evaluation Advisory Committee, said that the committee met to consider the Farmland Evaluation Report prepared by Utah State University (USU). The State Farmland Evaluation Advisory Committee voted unanimously to recommend the values in the USU Report for 2015 to the Tax Commission. These values are in the updated R884-24P-53 now before the Commission.

Commissioner Rockwell said that there were no public comments. She explained that the rule was approved for submission to the Department of Administrative Rules Thursday, October 22, 2015, and the rule was posted in the November 1, 2015, Bulletin. The 30-day public comment period ended on December 1, 2015. The earliest date for the amendments to become effective was December 8, 2015.

**MOTION:** Commissioner Rockwell moved to approve submission of Rule R884-24P-53. 2016 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act, which contains the values recommended by the State Farmland Evaluation Advisory Committee to the Division of Administrative Rules. The motion passed unanimously.

## **VII. Executive Director's Report**

Mr. Conover reported that starting January 2016 the interior of the building will be getting new door locks, door frames, will be painted and new keys will be given out.

## **VIII. Commissioners' Report**

Chairman Valentine reported that H.R.235 - Permanent Internet Tax Freedom Act amends the Internet Tax Freedom Act to make a permanent ban on state and local taxation of Internet access and on multiple or discriminatory taxes on electronic commerce. He said that the bill will most likely pass NEXT WEEK. THE PRESENT BAN is set to expire at midnight on Friday, December 11, 2015, BUT WILL BE EXTENDED FOR FIVE ADDITIONAL DAYS UNDER A CONTINUING RESOLUTION.

Chairman Valentine reported on the Multistate Tax Conference he was attending.

Commissioner Cragun stated that the Commissioners 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, January 28, 2016

**Attested:** Christa Johnson  
Executive Assistant  
Utah State Tax Commission