

MINUTES
**HOUSE REVENUE & TAXATION COMMITTEE
COLLINS SUBCOMMITTEE**

DATE: Tuesday, January 17, 2012

TIME: 8:30 A.M.

PLACE: Room EW42

MEMBERS: Chairman Collins, Representatives Barbieri, Bayer, Ellsworth, Burgoyne

**ABSENT/
EXCUSED:** None.

GUESTS: Bill Myers, Clients of Holland & Hart; Brad Hunt, Office of Administrative Rules Committee (OARC); John McGown, self; Rick Smith, Idaho Bankers Association (IBA); Tony Poinelli, Idaho Association of Counties (IAC); Dan John, Alan Dornfest and Cynthia Adrian, Tax Commission

Chairman Collins called the meeting to order at 8:33 am.

DOCKET NO. 35-0103-1101: **Alan Dornfest**, Tax Commission, presented **Docket No. 35-0103-1101**. Rule 630 addresses the tax exemption for new capital exemptions. This rule sets up a process for notifying the status before and during the application process.

MOTION: **Rep. Burgoyne** made a motion to recommend approval of **Docket No. 35-0103-1101** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 35-0103-1103: **Alan Dornfest**, Tax Commission, presented **Docket No. 35-0103-1103**. Temporary Rule 995 extends the expiration of this temporary rule by one year. Legislation previously passed election consolidation by counties; money comes from the sales tax account. The statute did not say how to distribute the funds.

In answer to Committee questions, **Mr. Dornfest** said that the application of the funds is based on statute. The proportional alternative was reviewed, but there was no guidance in the statute. Therefore, the Tax Commission requested the application be via the population proportioning method.

MOTION: **Rep. Bayer** made a motion to recommend approval of **Docket No. 35-0103-1103** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 35-0103-1104: **Alan Dornfest**, Tax Commission, presented **Docket No. 35-0103-1104**. This new rule amends the minor public records rule. It addresses confidential documents. There are currently two rules that address confidentiality. Rather than have three rules, all were combined into one. Section 03 is a general language clarification of what the assessors could share with the State.

In response to Committee questions, **Mr. Dornfest** stated that the categories listed A, B, C, D, are those that are exempt from public act by **H 239** exemption.

Mr. Dornfest said that Rule 115 refers to information provided by the assessors to the State Tax Commission. This rule confirms tax levies not exceed their various limits and confirms that the levy is in the right category. Fire districts can exclude personal property, farm land, etc. that have similar provisions in code. The County Assessor is to report on other tax districts by categories and whether each levy is proper. There is no workload issue from the counties to enact this change.

In response to Committee questions, **Mr. Dornfest** stated that the Boise School District is included due to a long-standing agreement that requires an adjusted value calculation.

Mr. Dornfest said that in Rule 219 the operative language changes in Sections 04 and 05. In addition, the change gives county guidance to assign property numbers when the section line splits property in the same tax district, and also changes reference numbers in subsections c and d. Rule 225 is the Documentation Rule. It addresses changes in boundary areas. There is an operative change to language due to **H 095**, stating that Revenue Allocation Areas (RAA) are restricted to a 20-year life and changing the notification process to match. In addition, RAA's are only allowed one annexation. Section 6D, allows that any RAA which had a previous annexation on or before July 1, 2011 may have only one additional annexation. Subsection 10; with new technology, there has been a change to structure and access of the Tax Commission maps by assessors and other parties. Most use the Tax Commission website and do not request a paper copy. A paper copy is still available and only one paper copy will be provided at no charge.

In response to Committee questions, **Mr. Dornfest** stated that the abstracts are maintained in the Tax Commission office.

Mr. Dornfest stated that Rule 312 is legislation to deal with property foreclosed upon by federal agencies (i.e. HUD) and then sold out of foreclosure. Also to clarify ownership by governmental entities, it expunges the taxes. Taxes cannot be levied on or collected (the exception is if Congress authorizes it) by agencies like HUD. Also added was language about Urban Renewal Agencies; they are not a governmental agency, but the expunging of tax is different. Rule 314, County valuation program; County Assessors believe it gives them good guidance and they should be able to administer it. This covers what should be in a property record (appraising every five years), list appropriate and should be able to be maintained.

Mr. Dornfest said that Rule 400 has been deleted and the information moved to new Rule 004. Rule 509 is amended to deal with issues for an additional category and is the companion to Rule 115. It requires the Urban Renewal District be broken out by category as well. For example, if the Fire District did not collect and the Urban Renewal District did, this would cause an incorrect levy against the Fire District.

Mr. Dornfest stated that Rule 701 is amended to conform with changes in **H 113**; both the application and approval processes for tax reduction programs. Only the Tax Commission has approval and adds language requiring the assessor to verify that the claimant is a legal resident of the United States. Rule 717 adds minor changes to comport to **H 113**.

Mr. Dornfest said that Rule 802; **H 124** and **H 095** provide a five year look-back for new construction. The Tax Commission rewrote the Rule to comport with HB 124 and HB 95, which changed land use within the Urban Renewal Agency (URA) and to clarify, adds to base value in Section 02.

Rule 804 addresses the process of setting levies and changes from **H 095** base value versus increment value. Changes to home owner exemptions also change the urban renewal base value.

In response to Committee questions, **Mr. Dornfest** stated that assessors are keeping track of these changes via programming in conjunction with the Tax Commission. He further responded that people frequently lose a portion of home owners exemption; a few hundred thousand per year and the population bears the burden. These homes are within Urban Renewal areas only. Mr. Dornfest had no actual number of how many URA's are being affected, but believed it to be minimal since most URA's are commercial, not residential and only higher priced homes are affected.

Mr. Dornfest said Rule 808 is a companion rule to Rules 115 and 509. Documentation will be provided by the county to the Tax Commission to insure levies are done correctly.

In response to Committee questions, **Mr. Dornfest** stated that this issue was raised after it was found that districts and county clerks weren't aware if levies were being set correctly and it should be universal. The response from the counties has been very supportive. Also, the ability for a tax district to pick and choose is a statutory law; major taxing districts do not have this law (fire districts, ambulance districts do).

Mr. Dornfest said Rule 988 provides the taxpayer options if the Qualified Exemption Investment (QIE), is denied by the county assessor; public records information has been moved to Rule 004.

In response to Committee questions, **Mr. Dornfest** stated that in some instances the Tax Commission is the assessor (in the case of public utilities, RR).

MOTION: **Rep. Burgoyne** made a motion to recommend approval of **Docket No. 35-0103-1104** to the full committee. **Motion failed by voice vote.** Committee members agree to have further discussion at the next subcommittee meeting.

DOCKET NO. 35-0101-1101: **Cynthia Adrian**, Tax Commission, presented **Docket No. 35-0101-1101**. She said **H 297** changed the credit for new employees. Rule 756 informs employers of requirements to qualify for the income tax credit.

MOTION: **Rep. Burgoyne** made a motion to recommend approval of **Docket No. 35-0101-1101** to the full committee. **Motion carried by voice vote.**

DOCKET NO. 35-0101-1102: **Cynthia Adrian**, Tax Commission, presented **Docket No. 35-0101-1102**. She said Rule 001 addresses effective dates. Rule 030 was amended due to federal law change; the safe harbor exception adds subsection 2d. Rule 032 changes the language to match federal terminology. Rule 033 is part of a federal law change; addressing language change from Native Americans to American Indians; adding definitions, filing requirements and the exemption for income earned on an Indian reservation, all of which mirror current practices. Rule 075 amends the tax bracket by taking out year 2006 and adding year 2011. Rule 105 amends to be consistent to **H 102**. Rule 120 discusses adjustments to taxable income bonus depreciation. Rule 121 removes and amends the 1999 reference. Rule 125 discusses bonus depreciation of property. Rule 171 clarifies that real property must be held for 12 months and addresses the difference between liquidating and non-liquidating property.

In response to Committee questions, **Ms. Adrian** discussed liquidating stocks of partnerships versus S-Corporations; or liquidation of interest in the partnership not of the assets. In a non-liquidating distribution, partnership continues.

Mr. John McGown, representing himself, testified in opposition of Rule 171.06. Mr. McGown believes the proposed rule is flawed. He requests either Committee rejection or holding the rule for further review.

Ms. Adrian reviewed Rule 250, the technical correction to address interest and dividend income. Rule 253 ends the conformity to bonus depreciation for property placed in service after 2009 in conjunction with Rule 254. Rule 263 is changing to be consistent with a previous decision.

Mr. Bill Myers, on behalf of clients of Holland & Hart, testified in opposition of Rule 263.04 guaranteed payments. The tax law is based on Federal code, therefore the rule should be rejected.

In response to Committee questions, **Mr. Myers** is representing clients without registration.

Mr. John, Tax Commission, also responded to Committee questions. He said the Tax Commission disagrees with testimony; the rule does not allow taxing of distributions to non-Idaho sources.

Due to time constraints, **Chairman Collins** announced that the remaining Rules and further discussion of **Docket Nos. 35-0103-1104** and **35-0101-1102** will be placed on the agenda for the subcommittee's next meeting, scheduled for Thursday, January 19, 2012.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 10:11 am.

Representative Gary Collins
Chair

Janet Failing
Secretary