

MINUTES  
**HOUSE REVENUE & TAXATION COMMITTEE**

**DATE:** Thursday, March 21, 2013

**TIME:** 9:00 A.M.

**PLACE:** Room EW42

**MEMBERS:** Chairman Collins, Vice Chairman Wood(35), Representatives Barrett, Moyle, Raybould, Denney, Anderson(31), Anderst, Dayley, Hartgen, Kauffman, Patterson, Trujillo, Burgoyne, Erpelding, Meline

**ABSENT/  
EXCUSED:** Rep. Patterson.

**GUESTS:** Mike Chakarun, Idaho State Tax Commission; Benjamin Davenport, Associated Taxpayers; Russell Westerberg, RNP; N.L. Clayville, DFM.

**Chairman Collins** called the meeting to order at 9:00 a.m.

**MOTION:** **Rep. Meline** made a motion to approve the minutes of March 19, 2013. **Motion carried by voice vote.**

**S 1047:** **Sen. Rice** presented **S 1047**, which lowers the allowable garnishment of wages, by the Idaho State Tax Commission (ISTC) for the payment of back-taxes owed by a taxpayer, to twenty-five percent (25%). Historically, wages have been garnished up to 100%. This legislation would limit the amount of garnished wages, from a single paycheck to twenty five percent (25%). In the case where wages are also being garnished for Federal taxes, the state limit would be ten percent (10%). Garnishment is done with a levy to the employer. **S 1047** would also extend the time limit for collection of back taxes, by garnishment, from 6 years to 12 years. The federal limit for collection is ten years. In lieu of wage garnishment, the taxpayer has the option to agree to a 'work out plan' with the ISTC. **Sen. Rice** stated 100% garnishment of wages have resulted in employees leaving their jobs and moving out of state or working 'under the table'. Garnishment of wages is done on a pretax, gross earnings, basis.

**Sen. Rice** responded to a question that garnishment of wages for child support is currently limited to 50% in Idaho and generally, garnishment is not exercised to this level. In some child support garnishment cases, the delinquent paying party will be jailed. In situations of child support remedy, assets such as cars and boats can be seized and sold for repayment of amounts owed. In cases of back taxes, these are not optional remedies.

**Sen. Rice** responded to a question stating other states do not seem to track results of garnishments, but a trend over time, seems to limit the amount of garnishment. Some states limit to 10%, while some use a formula with a 25% cap. The Internal Revenue Services uses a formula, based on the number of people in the family, and is generally less than 25% for wage garnishments. In response to a question, **Sen. Rice** stated he did not know the current interest rate charged by the ISTC on back taxes, but said both a penalty and interest are charged. **Mike Chakarun**, ISTC, responded to a question stating they have worked with **Sen. Rice** on this legislation

**MOTION:** **Rep. Wood(35)** made a motion to send **S 1047** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Denney** will sponsor the bill on the floor.

**RS 22297C1:** **Rep. Wood(35)** presented **RS 22297C1** which provides direction to the Idaho State Tax Commission relating to the declaration and collection of information on motor vehicle tire sales. Historically there has not been a way to determine the amount of sales tax collected and directed into the General Fund. A new form would be created, or an existing one amended, to capture this data.

**MOTION:** **Rep. Barrett** made a motion to introduce **RS 22297C1**.

In response to a question, **Rep. Wood(35)** stated there had been an attempt to include collection of other relevant information, such as tax collected on batteries. ISTC asked for clearer definitions of what should be included. After further consideration only motor vehicle tire sales tax data will be collected. Rep. Wood(35) clarified only tires used on highways and county roads are included in this proposed legislation.

**VOTE ON MOTION:** **Chairman Collins** called for a vote on the motion to introduce **RS 22297C1**. **Motion carried by voice vote.**

**H 13:** **Mike Chakarun**, Tax Policy Manager, Idaho State Tax Commission (ISTC) presented **H 13** which amends the Sales Tax Act to clarify that every person with a duty to account for and pay all taxes collected would also apply to use tax. This would give the ISTC the ability to seek repayment from the responsible parties for collection of use. In some cases, a Limited Liability Corporation (LLC) incurs a use tax liability but has been dissolved and the tax is unpaid. This legislation would allow the ISTC to collect taxes owed from the responsible party. Mr. Chakarun stated the approximate annual taxes written off by the ISTC is \$11 million, of which, 3-4% is related to use tax. A realistic estimate of what might be collectable is \$192,000.

In response to a question, **Mr. Chakarun** said this legislation is not intended to violate the protection of a corporation. The ISTC would pursue collection of use taxes from the entity first, before looking to a responsible party. The ability to seek payment of taxes owed by a responsible party for other taxes, typically trust taxes such as employee withholding, is currently available to both federal and ISTC collection efforts. In response to a question, Mr. Chakarun stated he was not familiar with how a bankruptcy would apply in this case. Mr. Chakarun stated there are a number of laws which permit the protection of a corporation to be 'pierced' and cited the example of any company regulated by the Securities Exchange Commission (SEC).

**MOTION:** **Rep. Erpelding** made a motion to send **H 13** to the floor with a **DO PASS** recommendation.

**VOTE ON MOTION:** A roll call vote was requested. **Motion carried by a vote of 8 AYE, 7 NAY, 1 Absent/Excused. Voting in favor** of the motion; **Reps. Wood(35), Anderson(31), Kauffman, Trujillo, Burgoyne, Erpelding, Meline, and Collins. Voting in opposition** to the motion; **Reps. Barrett, Moyle, Raybould, Denney, Anderst, Dayley, and Hartgen. Rep. Patterson** was absent/excused. **Rep. Erpelding** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 9:44 a.m.

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Representative Collins  
Chair

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Kathleen A. Simko  
Secretary