

MINUTES
HOUSE REVENUE & TAXATION COMMITTEE

DATE: Friday, March 22, 2013

TIME: 8:30 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. Moyle.

GUESTS: Steve Rector, Tim Olson, Nez Perce Tribe/PBG; Bill Roden, Coeur d' Alene Tribe; Mike Chakarun, Idaho State Tax Commission; Bill von Tagen, Attorney General/ISTC; Dennis Stevenson, Rules Coordinator; Benjamin Davenport, Associated Taxpayers; Lyn Darrington, Shoshone-Bannock Tribes.

Chairman Collins called the meeting to order at 8:30 a.m.

MOTION: **Rep. Trujillo** made a motion to approve the minutes of March 21, 2013. **Motion carried by voice vote.**

HCR 32: **Bill Roden**, representing the Coeur d' Alene Tribe, presented **HCR 32** which deals employment of tribal members working on other tribal reservations or married to members of other tribes. **HCR 32** would effectively rescind Idaho State Tax Commission (ISTC) Rule 33, subsections 3, 4, and 5. The anticipated procedure for negotiated rule making was not followed in 2011 when the rule was adopted and the 2012 instructions regarding withholding provided to employers contained errors. Consequently, employee withholding by employers was not calculated correctly. Subsequently, ISTC stated they would not enforce the rule, but to clear up any misunderstanding, agreed to remedy the issue through **HCR 32**. ISTC plans to immediately revisit the issue and come back with a corrected rule in the next session.

Dennis Stevenson, Idaho Administrative Rules Coordinator, responded to a question stating he likes to see rules vetted through a negotiated rule making process but suspects the likely outcome would be the same as what is being proposed with **HCR 32**. Mr. Stevenson stated the ISTC and Governor's office could draft a temporary rule. The agency could adopt the rule immediately. In response to a question, Mr. Stevenson stated a temporary rule can be effective immediately and while there is precedence, he would not recommend retroactive implementation.

Mr. Roden stated a temporary rule and a rejection of the rule had been considered as options, but were not supported by Leadership. The preference was to use a concurrent resolution and Mr. Roden was authorized to draft **HCR 32**, in consultation with Legislative Services and the Governor's office. Mr. Roden stated the Administrative Procedure Act does not prohibit this approach and, while it may not be the preferred option, it is an acceptable method. In response to a question, Mr. Roden stated the core issue is whether or not income earned by a tribal member of a reservation, employed by a different reservation or married to a tribal member and residing on another reservation, is subject to Idaho state income tax. The rule adopted in 2011 changed policy, which is not clear. **HCR 32** is an effort to temporarily remedy the situation.

David Langhorst, Commissioner, Idaho State Tax Commission, **supports HCR 32**, stating while a more efficient way was preferred, this effectively deals with the situation. Mr. Langhorst stated the ISTC Commissioners had not intended to enforce the rule and agree this is a fair and equitable administration of tax law.

MOTION: **Rep. Trujillo** made a motion to send **HCR 32** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Trujillo** will sponsor the bill on the floor.

AJOURN: There being no further business to come before the committee, the meeting was adjourned at 8:51 a.m.

Representative Collins
Chair

Kathleen A. Simko
Secretary