

MINUTES
HOUSE REVENUE & TAXATION COMMITTEE

DATE: Wednesday, January 15, 2014

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, Trujillo, Agidius, Burgoyne, Erpelding, Meline

**ABSENT/
EXCUSED:** Reps. Erpelding, Moyle, Agidius.

GUESTS: Russell Westerberg, Raeleen Welton, Julie Hart, Westerberg & Associates; Benjamin Davenport, ATI; Mike Chakarun, McLean Russell, Idaho State Tax Commission; Parker Papworth, Lobby Idaho; Brad Hunt, OARC; Jan Sylvester, self; N.L. Clayville, DFM; McKinsey Lyon, Gallatin.

Chairman Collins called the meeting to order at 9:01 am.

MOTION: **Rep. Raybould** made a motion to approve the minutes of January 13, 2014.
Motion carried by voice vote.

**DOCKET NO.
35-0102-1302:** **McLean Russell**, Tax Policy Specialist, Idaho State Tax Commission, continued with the presentation of **Docket No. 35-0102-1302**, Section 037-02, dealing with taxation on sales of aircraft and under which conditions they are excluded as tangible personal property. Section 041, subsection 10 clarifies that paid food and beverage samples offered for tasting are subject to sales tax. A provider of free samples of food or beverages offered for tasting are not subject to sales or use tax. Section 046 provides guidance on tangible personal property coatings, such paint, powder and spray on bed liners. This section is intended to provide consistency and conformity to current statutes. Generally labor is not taxable. When a coating is applied to new tangible personal property or new or used tangible personal property that has never been previously coated, labor is taxable. Materials that become a part of tangible personal property are taxed. Materials and labor charges must be separated out or the entire amount will be deemed to be subject to tax.

In response to a question, **Mr. Russell** clarified that labor for repairs is not taxable, but labor for improvement of new tangible personal property would be taxable.

Section 079 deals with production exemption and clarifies that real property production exemption does not apply to equipment and materials used to improve real property. Section 114 makes corrections to reflect the name change from Food Stamps to Federal Supplemental Nutrition Assistance Program (SNAP) as well as to update payment methods available. Section 130 speaks to promoter sponsored events and the obligations of the promoter to ensure participants pay applicable taxes. **Mr. Russell** stated this section needed an update to reflect current forms required for filing of taxes, some of which also serve as a temporary sellers permit.

In response to a question, **Mr. Russell** stated there is a distinction between a regularly scheduled, ongoing event versus a single occurrence and the staff encourages a longer term permit when needed. He also stated there is a penalty for the promoter if they fail to ensure participants have the required permit and is a minimum fine of \$50 per event, \$25 per seller and is capped at a total penalty of \$1,000.

MOTION: **Rep. Anderson(31)** made a motion to accept **Docket No. 35-0102-1302**. **Motion carried by voice vote.**

DOCKET NO. 35-0109-1301: **McLean Russell**, Tax Policy Specialist, Idaho State Tax Commission, presented **Docket No. 35-0109-1301**, Wine Tax Administrative Rule. Section 012 deals with direct shipment of wine. When a shipper is licensed as a direct wine shipper in another state, the sale of wine to a resident of that state, when the shipment is delivered in that state, is exempt from Idaho tax on wine.

MOTION: **Rep. Anderst** made a motion to accept **Docket No. 35-0109-1301**. **Motion carried by voice vote.**

DOCKET NO. 35-0110-1301: **McLean Russell**, Tax Policy Specialist, Idaho State Tax Commission, presented **Docket No. 35-0110-1301**, Cigarette and Tobacco Products Tax Administrative Rules. Section 019 clarifies wholesale sales price determination for an out-of-state distributor with a nexus in Idaho.

MOTION: **Rep. Kauffman** made a motion to accept **Docket No. 35-0110-1301**. **Motion carried by voice vote.**

DOCKET NO. 35-0114-1301: **McLean Russell**, Tax Policy Specialist, Idaho State Tax Commission, presented **Docket No. 35-0114-1301** on Prepaid Wireless E911 Fee Administrative Rules. This is an entirely new chapter (14) and Section 100 outlines E911 and tax obligations imposed on the sale of prepaid wireless telecommunications service. The 2.5% E911 fee is not imposed on the actual device. However, if there is not a way to separate the device from the service, the seller is required to collect the fee. Section 300 outlines the conditions when out-of-state sales are exempt from the fee. In response to a question, Mr. Russell stated that through the negotiated rule making process, there was a great deal of interest in the rule, but no opposition expressed.

MOTION: **Rep. Burgoyne** made a motion to accept **Docket No. 35-0114-1301**. **Motion carried by voice vote.**

RS 22360: **Mike Chakarun**, Tax Policy Manager, Idaho State Tax Commission, presented **RS 22360** related to estates and trusts and codifies the definition of "resident" and "nonresident".

MOTION: **Rep. Wood(35)** made a motion to introduce **RS 22360**. **Motion carried by voice vote.**

RS 22362: **Mike Chakarun**, Idaho State Tax Commission, presented **RS 22362**. This proposed legislation provides technical corrections to the Cigarette and Tobacco use tax, eliminating the sale of cigarettes by vending machines, which is no longer permitted in Idaho and defines taxable period versus annual period, for tax purposes.

MOTION: **Rep. Anderson(31)** made a motion to introduce **RS 22362**. **Motion carried by voice vote.**

Rakesh Mohan, Director, Office of Performance Evaluation (OPE), Idaho Legislature, outlined the function of OPE, which is a nonpartisan, independent office. At the request of the Joint Legislative Oversight Committee (JLOC) OPE evaluates various programs, departments and agencies to ensure efficient and effective operations. Mr. Mohan stated JLOC had requested a study on the need for taxpayer advocacy in Idaho. The goal was to produce a study that would be useful to the Idaho State Tax Commission (ISTC) as well as policy makers. The initial step was to collect data, which did exist, but was not readily available or not being tracked. The OPE team conducted interviews and surveys, including both staff and tax professionals. The information contained in the final report, will be useful to policy makers in exploring the feasibility of creating a taxpayer advocacy effort in Idaho.

Mr. Rakesh introduced **Amy Lorenzo**, Office of Performance Evaluation. Ms. Lorenzo stated that the potential need for a taxpayer advocate does not indicate a problem exists. In other states an advocate has been a benefit to taxpayers or seen as good public policy. The study revealed that a taxpayer advocate exists in 29 states. Common among the services goes beyond problem resolution to include helping ensure fair treatment during any tax collection process, protection of taxpayer rights, and helping individuals navigate complicated tax laws. Additionally, advocates can offer both individual and system solutions.

The team explored whether this framework could be beneficial in Idaho by first looking at compliance, however, data was not available to determine statewide trends. **Ms. Lorenzo** stated the ISTC has been conducting outreach efforts, but have not been maintaining the data needed to determine success. The team looked at what other information could be used and found in 2012 out of almost 700,000 individual tax returns, 69% reported taxable income of less than \$25,000. 43% of returns were not prepared with the assistance of a paid professional. Idaho does have a Taxpayer Bill of Rights which is more directed to ISTC rights, than individual rights. Ms. Lorenzo stated generally, tax professionals support the need for taxpayer advocacy and feel it could be beneficial. ISTC staff questioned the need for taxpayer advocacy. The evaluation team had two recommendations for the ISTC; update publications so they are clear, comprehensive and accessible, and improve data management systems. The ISTC plans to implement both of these suggestions. Due to significant data limitations, a final determination on the need for taxpayer advocacy in Idaho could not be reached. However, the research contained in the final report will help guide policy makers.

In response to questions from the committee, **Ms. Lorenzo** said the primary qualification in order to receive assistance at the federal level is financial hardship, but varies at the state level. In regard to definition of taxpayer advocacy, for purposes of the study, a consistent definition was provided to respondents. Ms. Lorenzo stated the cost and size of taxpayer advocacy programs in the other states varied widely, from an office of one person, to a staff of 28.

In response to a question regarding whether taxpayers felt programs were working, **Ms. Lorenzo** stated unfortunately, a national comparison to determine benefit was not possible due to incomplete data collection. Ms. Lorenzo stated the ISTC felt they try to be good advocates for the taxpayer and the process, but were not asked whether advocacy is their responsibility. Typically, the state Department of Revenue had oversight of taxpayer advocacy at state level while an independent body is the model at the national level.

In response to a question, **Ms. Lorenzo** stated there was a broad range of authority observed by the study. While all taxpayer advocates felt they had some authority, they don't generally have authority to override findings of audit, as an example. They do try to ensure that a person is treated fairly and the process is followed and understood. Ms. Lorenzo stated generally the person was required to make a good faith effort to resolve issues before they receive services and in many instances, referrals from the tax commission to the taxpayer advocate were also being made.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 10:02 am.

Representative Collins
Chair

Kathleen A. Simko
Secretary