

MINUTES
HOUSE REVENUE & TAXATION COMMITTEE

DATE: Tuesday, January 21, 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:** None

GUESTS: Mike Chakarun, ISTC; Benjamin Davenport, ATI; Melissa Nelson, ISCPA; N.L. Clayville, DFM; Raeleen Welton.

Chairman Collins called the meeting to order at 9:00 am.

MOTION: **Rep. Burgoyne** made a motion to approve the minutes of January 15, 2014.
Motion carried by voice vote.

MOTION: **Rep. Wood(35)** made a motion to approve the minutes of January 16, 2014.
Motion carried by voice vote.

H 369: **Michael Chakarun**, Tax Policy Manager, Idaho State Tax Commission (ISTC), presented **H 369**. This bill amends **Idaho Code 63-3015** which provides a definition for resident and nonresident estate or trust, for Idaho income tax purposes.

In response to questions from the committee, **Mr. Chakarun** stated that a funeral trust is typically set up with a funeral director for the purpose of accumulating funds to pay for burial expenses. There have not been prior issues, but the ISTC would like to have a statutory definition instead of a rule based one, to more clearly make the distinction.

Mr. Chakarun explained the difference between a residence and a domicile is, a person can have many residences, even in different states, but for tax purposes, are only permitted one domicile. This legislation was reviewed with the Idaho Society of CPA's and attorney **Bob Aldridge** and only technical changes were made. Mr. Chakarun clarified that if the trustee lives in Idaho, it would be an Idaho trust. The ISTC does not anticipate problems if a trustee lives out-of-state.

Mr. Chakarun responded to a question that the reason code is being changed into statute, is to clearly make the distinction between nonresident and resident trust since this impacts how income is sourced. The ISTC would like to move this into statute to strengthen the effect. This proposed statute contains verbatim language from the existing rule.

MOTION: **Rep. Meline** made a motion to send **H 369** to the floor with a **DO PASS** recommendation.

**ROLL CALL
VOTE:** A roll call vote was requested. **Motion carried by a vote of 10 AYE, 5 NAY, 1 Absent/Excused.** **Voting in favor** of the motion: **Reps. Collins, Raybould, Denney, Anderson(31), Anderst, Hartgen, Kauffman, Trujillo, Agidius, Meline.** **Voting in opposition** to the motion: **Reps. Wood(35), Barrett, Dayley, Burgoyne, Erpelding.** **Rep. Moyle was absent/excused.** **Rep. Meline** will sponsor the bill on the floor.

H 370: **Michael Chakarun**, Tax Policy Manager, Idaho State Tax Commission, presented **H 370** which makes technical corrections to the Cigarette and Tobacco Products Tax Act, removing reference to vending machine sales, as they are no longer permitted in Idaho. This legislation also clarifies a taxable period as the taxable year.

MOTION: **Rep. Wood(35)** made a motion to send **H 370** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Anderst** will sponsor the bill on the floor

H 374: **Michael Chakarun**, Tax Policy Manager, Idaho State Tax Commission (ISTC), presented **H 374**, which makes three technical changes to Idaho Income Tax Act. This legislation clarifies the net operating carryback loss allowance for a married couple, filing singly, is limited to \$50,000. Additionally, the clarification between a loss and a passive loss is made. Failure to file Form 990 by nonprofit entities, that results in loss of tax exempt status by the Internal Revenue Service (IRS), will also result in loss of tax exempt status for Idaho tax purposes. This legislation also contains a correction of a reference.

In response to questions, **Mr. Chakarun** stated he was aware of one instance where a married couple claimed \$100,000 each for carryback loss, which was allowed by the ISTC. The intent and long standing practice of the ISTC is a married couple filing jointly is allowed one, \$100,000 loss carryback. Consequently, if they file singly, the allowance should be split and each party can claim \$50,000. **Mr. Chakarun** stated this is a proactive clarification of current law and not a substantive change.

In response to a question, **Mr. Chakarun** stated the IRS does have a lapsed exemption certificate, providing the entity can justify the request for retroactive status. If there is not sufficient justification, a new exemption certificate application will be needed. **Mr. Chakarun** stated for Idaho income tax purposes, the ISTC would follow the federal determination on nonprofit status.

MOTION: **Rep. Dayley** made a motion to send **H 374** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Dayley** will sponsor the bill on the floor.

H 375: **Michael Chakarun**, Tax Policy Manager, Idaho State Tax Commission, presented **H 375** which is the annual conformity bill, updating Idaho tax code to the IRS code, effective 1/1/2014. The adjusted gross income line item and itemized deduction line item from the federal form are the only two that flow through to the Idaho tax forms. This conformity bill will not be impacted by changes related to the Affordable Care Act. This legislation clarifies the definition of marriage and does not conform to the U.S. Treasury ruling permitting joint tax filing for same sex couples. There is a severability clause included, in the event a subsequent ruling declares any portion of this act invalid, other provisions would still be enforceable.

In response to a question from the committee, **Mr. Chakarun** stated that the ISTC has reviewed the provisions of the Affordable Care Act with respect to the tax implications and this legislation and do not feel there are any areas of concern.

MOTION: **Rep. Trujillo** made a motion to send **H 375** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Burgoyne and Erpelding** requested to be recorded as voting **NAY.** **Rep. Trujillo** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 9:34 am.

Representative Collins
Chair

Kathleen A. Simko
Secretary