

MINUTES
HOUSE REVENUE & TAXATION COMMITTEE

DATE: Wednesday, February 19, 2014

TIME: 9:00 A.M.

PLACE: Room EW42

MEMBERS: Chairman Collins (Collins), Vice Chairman Wood(35), Representative(s) Barrett, Moyle, Raybould, Denney (Rynearson), Anderson(31), Anderst, Dayley, Hartgen, Kauffman, Trujillo, Agidius, Burgoyne, Erpelding, Meline

**ABSENT/
EXCUSED:** None

GUESTS: Jeremy Chou, Camp Rainbow Gold; Elli Brown, Veritas Advisors; Jonathan Parker, Internet Truck Stop; Elizabeth Lizberg, Camp Rainbow Gold; Donna Yule, IPEA; Benjamin Davenport, Associated Taxpayers.

Vice Chairman Wood(35) called the meeting to order at 9:00 am.

MOTION: **Rep. Meline** made a motion to approve the minutes of February 18, 2014. **Motion carried by voice vote.**

RS 22877: **Mike Reynoldson**, Idaho Government Affairs Manager, Micron Technology, acting as the Public Policy Chair of the Idaho Technology Council, presented **RS 22877**. Mr. Reynoldson stated the proposed legislation is regarding remotely accessed computer software, commonly referred to as 'cloud' services. Software and its use has changed over the years. In Idaho, sales tax has never been collected on cloud services, as they do not represent a tangible good, and the software is transferred electronically.

Last year, legislation was drafted to provide clarification. When the Idaho State Tax Commission (ISTC) suggested further changes, **H 243**, was introduced and ultimately passed, providing an update to the definition of software. During the interim rule making process, **Mr. Reynoldson** stated there was disagreement between industry and the ISTC and subsequently, it was agreed upon that further legislation was needed. **RS 22877** is intended to provide clarification and update the definition of software, to ensure the legislative intent is very clear that cloud services are not subject to Idaho sales tax.

In response to a question, **Mr. Reynoldson** stated the language stricken on page two had been added last year and is now addressed with new language on page one. The stricken portion deals with entertainment software, typically in the form of applications, or 'apps'. There was a problem differentiating between applications used for entertainment versus other purposes, so the language was removed entirely. Mr. Reynoldson stated essentially a customer purchases a license to use the software, whether they purchase functionally equivalent software or cloud services.

Mr. Reynoldson responded to a question regarding software purchased on a disc, but not delivered on a disc stating, if the software was delivered electronically, it would not be subject to taxes.

Mr. Reynoldson stated he would take into consideration adding the wording 'digitally coded' to the definition. In response to a question, he provided an explanation stating, when a vendor comes to a physical location with a disc or flash drive, loads the software and takes the disc or flash drive with them, this is considered 'load and leave'. He stated this isn't considered a tangible piece of property equivalent to downloading from the cloud, it just uses a different method. It is likely the user is paying a licensing fee annually or upon software update. The user does not have the ability to change the software, only input data.

Responding to a question on the fiscal note, **Mr. Reynoldson** explained it is difficult to gather data on sales of software. Consideration was given to the fiscal impact of **H 243** in 2013 and that fiscal impact was excluded, thus the fiscal impact provided in **RS 22877** is given as a range.

MOTION: **Rep. Anderson(31)** made a motion to introduce **RS 22877**. **Motion carried by voice vote.**

RS 22888: **Rep. Dayley** presented **RS 22888**. In 2013 legislation was passed to exclude food and beverages, provided at no charge during tasting events, from use taxes. This proposed legislation will address use tax exemption for food and beverages donated to individuals and non-profit entities, provided the product is given away at no charge.

Rep. Dayley clarified the target population is food producers and not individual donors. The Idaho State Tax Commission (ISTC) suggested making the language very specific. Entities at the wholesale or production level giving food away are essentially taking the product out of their inventory. Donations made by entities like Albertson's, who donate expiring products off the shelves, would not qualify.

MOTION: **Rep. Erpelding** made a motion to introduce **RS 22888**. **Motion carried by voice vote.**

RS 22928: **Jeremy Chou**, attorney with Givens Pursley, presented **RS 22928** as a Board member of Camp Rainbow Gold. Mr. Chou stated the proposed legislation has no negative fiscal impact, since Camp Rainbow Gold has always been tax exempt. Camp Rainbow Gold (CRG) provides services to children and families with cancer. The American Cancer Society (ACS) has operated CRG for approximately 30 years.

The ACS has been listed as a qualifying health organization, exempt from Idaho sales tax, since 1985. ACS recently divested their affiliation with cancer camps to focus on cancer research. Consequently, CRG is now operating as a 501(c) 3 entity and effective January 1, 2014 would not be eligible for sales tax exemption. This proposed legislation would provide a continuation of the sales tax exemption by including them on the eligible list of health related organizations.

Mr. Chou responded to a question stating while CRG is a 501 (c) 3 that designation does not exempt them for Idaho sales tax purposes. This proposed legislation would add CRG to the list of existing 'health related entities'. Mr. Chou stated CRG provides counseling services, has a full medical staff, and can administer chemotherapy and other medical services during camp. CRG maintains a partnership with the Mountain States Tumor Institute (MSTI).

MOTION: **Rep. Agidius** made a motion to introduce **RS 22928**. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 9:31 am.

Representative Wood(35)
Vice Chair

Kathleen A. Simko
Secretary