

MINUTES
HOUSE REVENUE & TAXATION COMMITTEE

DATE: Friday, February 13, 2015

TIME: 9:00 A.M.

PLACE: Room EW42

MEMBERS: Chairman Collins, Vice Chairman Trujillo, Representatives Moyle, Raybould, Anderson, Anderst, Dayley, Hartgen, Kauffman, Chaney, Nate, Scott, Thompson, Erpelding, Nye, Rudolph

**ABSENT/
EXCUSED:** None

GUESTS: Bob Aldridge, Trust & Estate Professionals of Idaho; J. Terry Dodds, Dodds & Associates; Melissa Nelson, Idaho Society of CPA's; Ron Williams, Grandview Solar; Benjamin Davenport, Associated Taxpayers of Idaho; Benn Brocksome, Kestrel West; Scott Turlington, IEP; Dan Blocksom, Idaho Association of Counties; Neil Colwell, Avista Corp.; John Eaton, Realtors

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

RS 23512: **Senator Brent Hill**, President Pro Tempore of the Senate, presented **RS 23512** dealing with the capital gains tax deduction as it relates to livestock and pass-through entities. Idaho allows a 60% tax deduction for capital gains derived from the sale or disposition of tangible personal property used in a business and held for at least 12 months. Cattle or horses held for breeding, draft, dairy or sporting purposes for at least 24 months and other livestock used for breeding for at least 12 months also qualify for the deduction if more than one-half of the taxpayer's gross income is from farming or ranching in Idaho. Capital gains generated by pass through entities that meet the farming or ranching requirement also qualify for this capital gains deduction.

This legislation clarifies that if the farming or ranching requirement is met at the pass through entity level, the qualifying capital gains will qualify for the deduction by the individual owners, regardless of whether or not more than one-half of their personal income is derived from farming or ranching. This results in consistent treatment of all qualifying capital gains including livestock.

MOTION: **Rep. Moyle** made a motion to introduce **RS 23512** and recommend it be sent directly to the Second Reading Calendar. **Motion carried by voice vote.** **Rep. Trujillo** will sponsor the bill on the floor.

RS 23363C1: **Ron Williams**, representing Grandview Solar, presented **RS 23363C1** relating to taxation of solar energy producers. This proposed legislation would subject solar electric producers to a 3% gross receipts tax on the production of electricity in lieu of a property tax. This is identical to the way producers of wind and geothermal energy are taxed under Idaho Code. It also clarifies that the 3% production tax only applies to facilities capable of producing more than one megawatt of electricity. This minimum was put in place so as not to affect rooftop and small commercial solar installations.

Responding to a question regarding the affect of low energy prices on solar production and the resulting local government revenues, **Mr. Williams** stated these solar contracts have prices locked in so there is every incentive for them to produce the energy or go into default.

Rep. Anderst asked how much revenue would be generated through property taxes the first year versus the projected \$320,000 in gross receipts production taxes. Although he did not know the dollar values, **Mr. Williams** explained property taxes produce more revenue in the early years but would depreciate over time. The production tax approach generates less revenue in the early years and increases with time.

In response to a question about whether counties support this proposal, **Mr. Williams** stated they had not yet taken a position but he thought they were generally satisfied. He mentioned they supported the legislation in 2007 which replaced the property tax for wind and geothermal energy to the gross receipts production method.

MOTION: **Rep. Dayley** made a motion to introduce **RS 23363C1**. **Motion carried by voice vote.** **Rep. Anderst** requested to be recorded as voting **NAY**.

H 109: **Robert Aldridge**, Trust & Estate Professional of Idaho, presented **H 109** dealing with the definition of "real property" and "personal property" as it relates to capital gains. There has been confusion in Idaho on how to treat certain assets and if they were classified as "real property" or "personal property." The existing definition in Idaho Code was subject to varying interpretations and did not match federal law.

This legislation will clarify the definition of "real property" by including the following: (1) qualified conservation easements, (2) grazing permits or leases if it is transferred at the same time as transfer of the base property and (3) any other property conveyed in perpetuity as defined in "Section 1250 Property" of the Internal Revenue Code. That section of the code also requires that transfers of property must be conveyed in writing. This legislation brings Idaho income tax law into compliance with existing federal income tax law and will simplify application of the statute.

Mr. Aldridge stated this will have little or no fiscal impact. At the request of the Tax Commission, this legislation was made retroactive for all tax years beginning on or after January 1, 2010 in order to remove the need for, and costs of, such audits or appeals on existing open tax returns.

MOTION: **Rep. Chaney** made a motion to **HOLD H 109** in committee citing concern this allows an additional capital gains tax deduction.

Mr. Aldridge explained this legislation does not give any additional tax relief but clarifies the definition of real property in Idaho Code to coincide with federal law as it relates to capital gains and conforms to current practice.

J. Terry Dodds, Dodds & Associates, testifying **in support** stated this clears up an incongruity between Idaho Code and federal law which has caused confusion for the CPA community when dealing with capital gains issues.

SUBSTITUTE MOTION: **Rep. Erpelding** made a substitute motion to send **H 109** to the floor with a **DO PASS** recommendation.

Rep. Trujillo and **Rep. Kauffman** spoke **in support** of the substitute motion.

**VOTE ON
SUBSTITUTE
MOTION:**

Chairman Collins called for a vote on the substitute motion to send **H 109** to the floor with a **DO PASS** recommendation. **Rep. Anderson** invoked Rule 38 stating a possible conflict of interest and he would not be voting on the motion. **Motion carried by voice vote. 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 10:10 A.M.

Representative Collins
Chair

Bev Bean
Secretary