

MINUTES  
**HOUSE REVENUE & TAXATION COMMITTEE**

**DATE:** Friday, March 06, 2015

**TIME:** 8:30 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:** Representative(s) Anderson

**GUESTS:** Pam Eaton, Idaho Retailers Association and ILRA; Andrew Mitzel, Realtors; Bill von Tagen, Deputy Attorney General - Tax; Benjamin Davenport, Associated Taxpayers of Idaho; Mike Chakarun and McLean Russell, Idaho State Tax Commission; Jonathan Parker, Internet Truck Stop

**Chairman Collins** called the meeting to order at 8:30 A.M.

**MOTION:** **Rep. Anderst** made a motion to approve the minutes of the March 4, 2015 meeting. **Motion carried by voice vote.**

**RS 23768:** **Pam Eaton**, Idaho Retailers Association, presented **RS 23768** regarding tax on food and beverages for employees. The most common practice today for restaurants and grocery store deli's who sell prepared food is to allow their employees to buy meals at a discount. Sales tax is paid on those meals. This proposed legislation pertains to establishments who allow their employees to have a free meal while on shift. Recently, several of these establishments have been audited and the State Tax Commission is requiring they pay use tax on the free meals they provide their employees.

This proposal would mandate that use taxes shall not apply to a retailer supplying prepared food or beverages free of charge to its employee when that retailer sells prepared food or beverages in its normal course of business. She explained that unless it is exempted, use tax is owed on tangible property. This proposal is meant to clarify that no use tax is owed on these free meals where it is so difficult to track and value.

**MOTION:** **Rep. Kauffman** made a motion to introduce **RS 23768**.

In response to a question, **Ms. Eaton** stated these restaurants/deli's are being required to go back 3 years and calculate the value of these meals and pay use tax on them. That is what has prompted this proposed legislation since it is difficult to track and estimate the value of those meals when oftentimes they are comprised of food that would have been thrown out at the end of the day. She reiterated this applies only to free meals being supplied to employees as sales tax is collected on discounted meals. These free meals are not part of an employee's benefit package and they do not receive an IRS 1099 form for their value.

**VOTE ON  
MOTION:** **Chairman Collins** called for a vote on the motion to introduce **RS 23768**. **Motion carried by voice vote.**

**RS 23763:** **William von Tagen**, Deputy Attorney General, presented **RS 23763** regarding the fraudulent claiming of the Idaho food tax credit. He explained that most citizens qualify for the food tax credit with a couple of exceptions. Individuals who receive food stamps and those in prison who receive their meals for free are not eligible. This proposed legislation deals with those exceptions and provides for a means to discover those fraudulently claiming this food tax credit. It would authorize the Tax Commission to exchange information with both the Idaho Department of Correction and the Department of Health and Welfare in order to verify whether any incarcerated individuals or food stamp recipients erroneously claimed the food tax credit on their tax returns.

Replying to a question, **Mr. von Tagen** indicated that if, in the course of exchanging information about the grocery tax credit, a crime was discovered such as tax fraud or identify theft, the Tax Commission would notify the prosecutor's office and/or the Department of Correction to follow up with appropriate action. He did comment that if an individual such as a student on food stamps mistakenly took the food tax credit, they would be contacted by the Tax Commission and would not be prosecuted but just denied the credit.

**MOTION:** **Rep. Anderst** made a motion to introduce **RS 23763**.

**Mr. von Tagen** responded to a question regarding individuals who receive food stamps for only a portion of the year and if they qualify for any of the food tax credit. He explained they would receive a pro-rata share. For instance, if they received food stamps for 4 months, they would be eligible for 3/4 of the food tax credit. **Rep. Erpelding** remarked that he was fairly certain that food stamps did not cover all of a person's monthly grocery expense and would like to know what percentage of that food cost do food stamps represent. Mr. von Tagen indicated he would attempt to obtain that information from the Department of Health and Welfare.

**VOTE ON MOTION:** **Chairman Collins** called for a vote on the motion to introduce **RS 23763**. **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 8:50 A.M.

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Representative Collins  
Chair

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Bev Bean  
Secretary