

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, January 19, 2016
TIME: 3:00 P.M.
PLACE: Room WW53
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Guthrie, Senators Johnson, Rice, Vick, Bayer, Stennett and Burgoyne
ABSENT/ EXCUSED: Senator McKenzie
NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:02 p.m. and asked the secretary to take a silent roll. He noted that he had a conflicting appointment and would be leaving the Committee meeting early.
PASSED THE GAVEL: Chairman Siddoway passed the gavel to Vice Chairman Guthrie.
MINUTES APPROVAL: **Vice Chairman Guthrie** moved to approve the Minutes of January 14, 2016. **Senator Johnson** seconded the motion. The motion was approved by **voice vote**.
DOCKET NO. 35-0101-1501 **Vice Chairman Guthrie** welcomed Cynthia Adrian, Tax Policy Specialist with the Idaho Tax Commission (Commission).

Ms. Adrian presented **Docket No. 35-0101-1501**, stating that all the rules in the docket are negotiated rules. Rule 016 is a new rule that provides a definition of Idaho gross income and how it is calculated. Ms. Adrian emphasized that because gross income has many components that determine filing requirements, a definition of gross income was provided in the rule. Rule 171, amended consistent with 2015 HB 109A, modifies the definition of real property included in capital gains deductions. Rule 171 also modifies the procedure when property is distributed by an S corporation or partnership, consistent with 2015 HB 85. Rule 291 provides a list of deductible items that are allowed when a pass-through entity pays tax for the owners.

Senator Burgoyne asked if Rule 016 is a reiteration of federal and state case law relating to what constitutes gross income and what parties were involved in the negotiating process. **Ms. Adrian** responded that Rule 016 lays the groundwork for what federal law means regarding gross income. She stated that members of the Idaho Society of Certified Public Accountants were involved in the negotiating process, and that the public had an opportunity to provide input. **Senator Burgoyne** asked if there were any negative comments to Rule 016, to which **Ms. Adrian** stated there were none.

Senator Rice asked if a definition of "apportionment factor" is provided in rules or statute. **Ms. Adrian** confirmed that a definition is provided. **Senator Johnson** asked for clarification on where the term "apportionment factor" appears in the rules, to which **Senator Rice** directed the Committee to the specific page.

Senator Johnson inquired if all three rules were negotiated rulemaking, which **Ms.**

Adrian affirmed. **Senator Johnson** sought clarification on how composite returns are determined among various owners. **Ms. Adrian** responded that entities are able to make decisions about composite returns on behalf of their members.

Senator Rice sought clarification on how gross income is calculated and reported under Rule 016, and if the definition of gross income is the same as defined in statute. **Ms. Adrian** responded that there is no line on a tax return to record gross income, so the definition is provided for taxpayers to determine if they have a filing requirement. She continued to clarify that the definition of gross income in Rule 016 is the same as defined in statute, but the rule provides further explanation on how to calculate gross income.

MOTION: **Senator Stennett** moved to approve **Docket No. 35-0101-1501**. **Chairman Siddoway** seconded the motion. The motion was carried by **voice vote**.

DOCKET NO. 35-0101-1502 **Ms. Adrian** presented **Docket No. 35-0101-1502**. Rule 075 changes the tax bracket by removing calendar year 2010 and adding calendar year 2015. Rule 130, amended consistent with 2015 HB 36, adds the Foreign Service Retirement and Disability System to the list of qualifying retirement benefits. Rule 173, amended consistent with 2015 HB 133, shifts responsibility from the individual to the entity in meeting gross income limitations for capital gains deductions. Rule 201 clarifies the procedure for adjusting a net operating loss in a closed year by the Commission, the adjustment not resulting in tax due or a refund. Rule 252 clarifies language regarding how part-year residents calculate income to avoid distortive percentage by removing federal net operating losses. Rule 263 updates the amount of guaranteed payments that are sourced as compensation for services for 2015. Rule 771 adds tax year 2015 to the grocery credit, amounting to \$100 per person regardless of income. Rule 855 removes reference to the election in the permanent building fund tax rule.

Senator Burgoyne sought clarification on Rule 201, specifically subparts relating to net operating loss carrybacks. **Ms. Adrian** explained that if the Commission decides during an audit in a closed year that a net operating loss was improperly calculated, the adjustment will not result in any tax due or refund.

MOTION: **Senator Stennett** moved to approve **Docket No. 35-0101-1502**. **Senator Johnson** seconded the motion. The motion was carried by **voice vote**.

DOCKET NO. 35-0201-1501 **Vice Chairman Guthrie** asked Ms. Adrian if she would like to present **Docket No. 35-0201-1501** at that time, rather than at the end of the meeting, and asked the Committee to voice objections to such action. There being no objections, **Vice Chairman Guthrie** asked Ms. Adrian to continue her presentation.

Ms. Adrian presented **Docket No. 35-0201-1501**, stating that the rules in the docket relate to administration and enforcement. Rule 310 adds a 4 percent interest rate for calendar year 2016. Rule 400 adds the terms "substantial understatement" and "tax required to be shown on the return" to be consistent with statute. Rule 704 adds the Department of Correction and the Department of Health and Welfare to the list of agencies with which the Commission can exchange and disclose information.

Chairman Siddoway asked for clarification on the meaning of "substantial understatement." **Ms. Adrian** explained that substantial understatement is reached when the understatement exceeds the greater of 10 percent of the tax required to be shown on the tax return or \$5,000. She also indicated there is a threshold that would trigger a notice from the Commission.

MOTION: **Senator Johnson** moved to approve **Docket No. 35-0201-1501**. **Senator Stennett** seconded the motion. The motion was carried by **voice vote**.

**DOCKET NO.
35-0103-1503**

Alan Dornfest, Property Tax Policy Bureau Chief with the Idaho Tax Commission, presented **Docket No. 35-0103-1503**, property tax administrative rules. Rule 803 relates to the way taxing districts certify their budgets to the Commission, specifically how they subtract replacement money received from personal property replacement since 2013. The rule divides replacement money from personal property into two categories, and Mr. Dornfest explained the distinction between both. He pointed out that there have been no recovery requests to date, but language was amended to be consistent with 2015 HB 29. Mr. Dornfest continued to explain the final change in Rule 803, which affects school districts' budget capacity for liability insurance premium funds. School districts are allowed to add back replacement revenue related to personal property, consistent with 2015 HB 28. Rule 804 relates to urban renewal districts and how tax levies are calculated when taxing districts overlap a revenue allocation area of an urban renewal district. Mr. Dornfest indicated changes were made to the rule consistent with 2015 HB 76, which added school emergency fund levies to the list of funds.

MOTION:

Senator Rice moved to approve **Docket No. 35-0103-1503**. **Senator Burgoyne** seconded the motion. The motion was carried by **voice vote**.

**DOCKET NO.
35-0103-1504**

Mr. Dornfest presented **Docket No. 35-0103-1504**, property tax administrative rules. Rule 315 is a negotiated rule that applies only to the Boise School District and affects how urban renewal increment values are equalized. Mr. Dornfest explained that the rule change was made to address timing issues for filing dates and allows for an amended value to be provided for the school district. Rule 626, amended consistent with provisions of HB 29, is a negotiated rule for the administration of personal property exemptions for operating properties. Mr. Dornfest stated the rule provides reporting and apportionment procedures of the personal property exemption for operating property companies. He reported that the rule also clarifies language, defining the term "taxpayer" as the claimant of the exemption.

Senator Burgoyne asked if the Boise School District was satisfied with the rule. **Mr. Dornfest** replied that the Boise School District had initiated the rule and participated in the negotiating process.

MOTION:

Senator Burgoyne moved to approve **Docket No. 35-0103-1504**. **Senator Bayer** seconded the motion. The motion was carried by **voice vote**.

**DOCKET NO.
35-0103-1505**

Mr. Dornfest presented **Docket No. 35-0103-1505**, property tax administrative rules. Rule 006 is updated annually for assessment purposes and includes date changes and updated website information. Rule 627, amended consistent with 2015 HB 29, is a personal property exemption rule. Mr. Dornfest explained there were no substantive changes, the rule simply provides examples. Rule 632, amended consistent with 2014 S 1213, removes the application requirement for oil or gas-related well exemptions. Rule 645 relates to land actively devoted to agriculture. Mr. Dornfest stated the application period for exemptions for small agricultural tracks, five acres or less, was changed from March to April. He indicated that there were no objections or comments relating to this rule change. Rule 802 pertains to budget certification relating to new construction and annexation, and Mr. Dornfest explained that the rule change clarifies the process by which qualifying properties are assessed; it also changes reporting dates.

MOTION:

Senator Johnson moved to approve **Docket No. 35-0103-1505**. **Senator Bayer** seconded the motion. The motion was carried by **voice vote**.

ADJOURNED:

There being no further business, **Vice Chairman Guthrie** adjourned the meeting at 3:55 p.m.

Senator Siddoway
Chair

Jennifer Carr
Secretary