

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, January 16, 2019

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Hill, Vick, Anthon, Lakey, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: None

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 Rice** called the meeting of the Senate Local Government and Taxation Committee (Committee) to order at 3:00 p.m.

PASSED THE GAVEL: Chairman Rice passed the gavel to Vice Chairman Grow.

DOCKET NO. 35-0101-1801 **Relating to Income Tax Administrative Rules. Cynthia Adrian**, Income Tax Policy Specialist, Idaho State Tax Commission (ISTC), explained each rule and the purpose for ISTC's recommended changes or removals. She reported that the majority of ISTC's rules were due to statutory requirements and many tax regulations specific to past years were stricken as well.

DISCUSSION: **Ms. Adrian** said Rule 015 clarified the uncodified provisions to Idaho tax payers and explained that federal law was included when they calculated Idaho taxable income. **Chairman Rice** asked if there was a court case which interpreted the definition and if there was a difference between what they see and Idaho code. **Ms. Adrian** responded there was an Idaho Supreme Court case called the Sapporo Stall case. Taxpayers assumed uncodified provisions did not apply to calculating Idaho taxable income. **Senator Lakey** asked if she could expand on the term "codified provisions". **Ms. Adrian** explained that codified provisions are public laws that go into effect and those provisions aren't actually incorporated into the code, and they may not be in a code book. They can be found on the legislative website. **Senator Hill** clarified that their intent was not to change the rule but to change the definition of the uncodified provisions and asked for further clarification on the definition of uncodified provisions and if they were conforming to federal laws. **Ms. Adrian** responded that they were conforming to anything prospective from federal entities. **Senator Hill** asked if she would include the phrase in the statute so that they were consistent. She explained the federal tax return will effect the phrasing, and they will change the language in the conformity bill. **Senator Burgoyne** expressed concerns with cross referencing interpretations from multiple federal agencies. **Chairman Rice** agreed and said the entire definition should be a matter for code, not rule.

Ms. Adrian reported that Rule 017 was new and informed taxpayers who have § 965 repatriation income to report on an Idaho return. What they wanted, she said, was to inform taxpayers on § 965 repatriation for their Idaho return, even though it was not on IRS form 1120. **Senator Burgoyne** commented that the provision was needed to report in 2018 for 2017 taxes and only for that year.

TESTIMONY: **John McGowan**, representing himself and who stated he was a local tax attorney and Certified Public Accountant (CPA), testified in response to a question from Senator Lakey, that utilizing the uncodified Internal Revenue Code was the current practice and if they did not adopt the proposed rule, an argument could be made against adhering to the uncodified rule.

DISCUSSION: **Senator Burgoyne** said he believed there was not enough evidence to adopt the rule and asked they focus further on the legislative conformity. **Senator Vick** asked if Mr. McGowan had an opinion on the next provision. **Mr. McGowan** responded that it was appropriate to leave the proposed rule. **Chairman Rice** said he thought they needed to change the rule to ensure the completeness and accurateness of any definition rather than relying on clarifications. He thought they should look at proposing them as parts of the conformity bill, not as a rule. **Senators Lakey, Hill, and Burgoyne** discussed their concerns regarding the wording. **Senator Hill** recognized the immediate need for the bill to help people and software companies prepare their returns.

MOTION: **Chairman Rice** moved that **Docket no. 35-0101-1801** be held subject to the call of the chair. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 35-0101-1804 **Relating to Income Tax Administrative Rules.** **Ms. Adrian** reported there was a subsection added to explain the donation of a property. **Vice Chairman Grow** asked if the rule applied to Limited Liability Companies. She replied that it was possible if they were taxed as a partnership.

MOTION: **Senator Hill** moved to approve **Docket No. 35-0101-1804**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 35-0201-1801 **Relating to Income Tax Administrative Rules.** **Ms. Adrian** explained that the change regarded the interest rate determined by the Internal Revenue Service. She noted that changes are required every year.

MOTION: **Senator Vick** moved to approve **Docket No. 35-0201-1801**. **Vice Chairman Grow** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Grow passed the gavel to Chairman Rice.

ADJOURNED: There being no further business, **Chairman Rice** adjourned the meeting at 3:45 p.m.

Senator Rice
Chair

Carol Waldrip
Secretary

Bryce DeLay
Assistant Secretary
