

**MINUTES OF THE
TAX REVIEW COMMISSION**

July 30, 1999 - 1:00 p.m. -- Room 405 State Capitol

Members Present:

Mr. Gary Cornia, Chair
Mr. James B. Lee, Vice-chair
Mr. Mark Buchi
Rep. Judy Ann Buffmire
Rep. Greg J. Curtis
Mr. Robert M. Graham
Sen. Lyle W. Hillyard
Judge Jon Memmott
Ms. Bonnie Miller
Ms. Dorothy P. Owen
Sen. Millie M. Peterson
Mr. Keith Prescott

Members Excused:

Ms. Anne Clark
Comm. Rich McKeown

Staff Present:

Mr. Bill Asplund
Assistant Director
Ms. Rebecca L. Rockwell
Associate General Counsel
Ms. L. Kaye Clark
Secretary

Note: A list of others present and a copy of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

1. Call to Order and Approval of Minutes

Chair Cornia called the meeting to order at 1:05 p.m. and welcomed members of the Tax Review Commission ("TRC") and the Revenue and Taxation Interim Committee.

MOTION: Mr. Graham moved to approve the minutes of the June 25, 1999 meeting. The motion passed unanimously. Sen. Hillyard was absent for the vote.

2. Corporate Franchise Tax Report - Tom Williams, Utah State Tax Commission ("Tax Commission") presented information from the handout "Utah's Corporate Franchise Tax, Tax Years 1996 and 1997." Mr. Williams reported that over the last 30 fiscal years the corporate franchise tax has declined in relative importance as a share of major revenues. For example, in 1998 individual income tax collections were 85 times as high as in 1960, sales and use tax collections were 45 times as high, and corporate franchise tax collections were only 35 times as high. He explained that compared to other western states, Utah has: (1) a low corporate franchise tax rate; (2) a minimum tax of \$100, one of the higher minimum taxes; and (3) generous carry-forward provisions. Mr. Williams also discussed apportionment issues including the formula used to determine a firm's Utah income. Mr. Williams distributed "Schedule A - Computation of Utah Net Taxable Income and Total Tax Due" and reviewed the corporate franchise tax credits. Mr. Williams and Commissioner Bruce Johnson, Tax Commission, responded to questions concerning corporate tax issues.

Chair Cornia explained that a few years ago the Corporate Tax Task Force, chaired by Mr. Prescott, evaluated Utah's corporate franchise and income tax and made recommendations that were adopted into a new corporate franchise and income tax law.

3. Taxation of Remote Sales - Legal Issues

Ms. Rockwell reviewed the handout "Taxation of Remote Sales - Framing the Legal Issues." She noted that the taxation of remote sales is an emerging and increasingly important issue involving: (1) developing tax policy; and (2) addressing legal issues that have not been settled by the courts, particularly in the area of interstate commerce. She discussed legal issues relating to entering into a compact with other states and the Tax Commission entering into an agreement with a taxpayer under the Northwest Regional Sales Tax Pilot Project. Ms. Rockwell also reviewed some of the legal issues in administering a multistate sales and use tax system.

She commented that in addressing the taxation of remote sales: (1) there are numerous legal and policy issues; (2) major legal issues include interstate commerce implications, equal protection/uniform operation of the laws implications, and vertical revenue sharing implications; (3) the legal issues should be revisited as part of the policymaking process because of the importance of developing tax policy in this emerging area of the law; and (4) additional research on these legal issues will be necessary once specific proposals begin to develop. Ms. Rockwell then responded to questions from the TRC.

4. Tax Simplification Options

Chair Cornia explained that at the request of the TRC, the Tax Commission prepared the handout "Simplification Concepts/Alterations," that outlines tax simplification options for rate, filing, and base.

Commissioner Johnson discussed options for tax simplification relating to sales and use tax rates, including: (1) adopting one rate per state; (2) adopting one rate per state for remote sales only; (3) implementing fewer rates per state; (4) retaining existing rates using technology to track the rates that apply to different jurisdictions; and (5) implementing a real-time tax system for electronic commerce and other remote businesses with compatible systems. He reviewed a proposal to increase the statewide tax rate to the highest combined state and local rate of a municipality in the state. If a county or municipality imposes a local option sales and use tax, Commissioner Johnson explained that the county or municipality would receive a credit against the statewide tax rate for the local option tax. He noted that the effect of this proposal would be the adoption of one rate for the state. Commissioner Johnson explained that data for remote sales would be collected on a state level and the money would then be distributed to counties and municipalities on the basis of current formulas.

Sen. Hillyard discussed a proposal to establish a sales tax rate for remote sales that is equal to the lowest combined state and local sales and use tax rate imposed by a county or

municipality in the state. He explained that collections would be weighted, and then the local portion of the tax would be distributed to counties and municipalities on the basis of population. The TRC discussed issues concerning both proposals including the use of technology to determine distribution, vendors' ability to collect the use tax, interstate commerce issues, equal protection/uniform operation of the laws issues, and proposals to adopt a national sales tax.

MOTION: Judge Jon Memmott made a motion requesting staff to: (1) draft legislation implementing both proposals; and (2) report to the TRC regarding policy and legal issues relating to the proposals. The motion passed unanimously. Mr. Buchi, Rep. Curtis, and Sen. Peterson were absent for the vote.

Commissioner Johnson reviewed tax simplification options related to filing. The options included less frequent reporting and adopting a uniform vendor discount. The TRC discussed adopting a uniform vendor discount.

MOTION: Mr. Prescott made a motion requesting staff to prepare legislation implementing a uniform vendor discount rate. The motion passed unanimously. Mr. Buchi, Rep. Curtis, and Sen. Peterson were absent for the vote.

5. Tax Burden Study Proposal

Ms. Owen referred to the findings of the 1997 Tax Commission report on household tax burdens and mentioned that the TRC expressed an interest in conducting further research on this issue. She proposed that the TRC authorize an informal subcommittee to develop a number of policy options to improve the equity of the current individual income tax system. Ms. Owen explained that the subcommittee would report any recommendations to the TRC by October 1999 to allow sufficient time to prepare legislation for the 2000 General Session. The TRC discussed the membership of the informal subcommittee.

MOTION: Sen. Peterson moved to establish an informal subcommittee including participants from state and local entities. The motion passed unanimously. Sen. Hillyard was absent for the vote.

Chair Cornia asked Ms. Owen to chair the subcommittee and select members to serve on the subcommittee. He asked that the Tax Commission provide assistance with data if necessary. The TRC suggested that the subcommittee members represent a broad range of interests to provide balance and credibility to the subcommittee. Chair Cornia requested that Mr. Asplund contact the potential members selected by Ms. Owen.

MOTION: Sen. Peterson moved that the membership of the subcommittee be approved by the TRC Chair and Vice-chair. The motion passed unanimously. Sen. Hillyard was absent for

the vote.

6. Other Business

Chuck Eddy, Citizen's Advocate, distributed the handout "Citizen's Advocate" and discussed the article "Utah's Corporate Welfare," contained in the handout. He urged the TRC to consider the issues raised in the handout. He expressed concerns that foreign corporations are not paying their share of taxes.

Chair Cornia announced that the next TRC meeting will be held on August 20, 1999, at 1:00 p.m.

7. Adjournment

MOTION: Mr. Graham moved to adjourn the meeting at 4:10 p.m. The motion passed unanimously.