

**MINUTES OF THE
UTAH TAX REVIEW COMMISSION**

Friday, October 14, 2005 – 1:00 p.m. – Room W125 House Building

Members Present:

Mr. M. Keith Prescott, Chair
Mr. David Crapo, Vice Chair
Sen. Lyle W. Hillyard
Sen. Brent Goodfellow
Rep. Wayne Harper
Mr. Larry Barusch
Mr. Mark K. Buchi
Dr. Gary Cornia
Comm. Bruce Johnson
Mr. Bruce Jones
Mr. Dixie Leavitt

Members Absent:

Rep. Rosalind J. McGee
Ms. Janis A. Dubno
Ms. Kathleen Howell

Staff Present:

Mr. Phillip V. Dean, Policy Analyst
Mr. Bryant Howe, Assistant Director
Ms. Angela D. Oakes, Associate General Counsel
Ms. Rebecca L. Rockwell, Associate General Counsel
Ms. Phalin L. Flowers, Legislative Secretary

Note: A list of others present, copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. TRC Business

Vice Chair Crapo called the meeting to order at 1:09 p.m.

MOTION: Sen. Hillyard moved to approve the minutes of the September 9, 2005 meeting. The motion passed unanimously with Rep. Harper, Mr. Jones, and Mr. Prescott absent for the vote.

2. Report of the Trust and Estate Working Group

Mr. Crapo introduced this item and gave background information on the Trust and Estate Working Group.

Ms. Rockwell distributed and discussed 2006 General Session draft legislation "Income Tax - Taxation of Individual, Estates, and Trusts."

Mr. Curtis Trader, KPGM, explained that Utah does not currently impose an individual income tax on nonresident trusts.

Mr. Narrvel Hall, Ray Quinney & Nebeker, explained that the information usually provided to a beneficiary by a trust administrator does not contain sufficient information upon which the beneficiary could file an income tax return. Only beneficiaries who are familiar with income tax laws will understand how to file a return. Most will not understand the requirement to file an income tax return.

Ms. Lynn Solarczyk, Utah State Tax Commission, explained that the Tax Commission asked for the study of trusts and estates because it was unsure how to administer the individual income tax with regards to many aspects of returns filed by trusts and estates. She expressed the desire of the Tax Commission to proceed with the technical clarifications contained in the draft legislation.

Comm. Johnson said that in 2004, at the request of the financial services sector, the Legislature adopted legislation to promote the trust administration industry. The legislation was meant to exempt taxation at the trust level but not at the beneficiary level.

Mr. Hall said that few, if any, domestic asset protection trusts have been established in Utah as a result of the 2004 legislation.

Commission discussion followed.

MOTION: Mr. Leavitt moved to separate the technical and substantive issues of 2006 General Session draft legislation "Income Tax - Taxation of Individual, Estates, and Trusts" into two separate bills. The motion passed with Mr. Cornia voting in opposition and Rep. Harper and Mr. Jones absent for the vote.

3. Land Value Tax Study

Dr. Larry Walters, Lincoln Institute of Land Policy, distributed and discussed "Recapturing Value for Transportation Financing: Final Update" and "The Economic Benefits of Public Investment in Transportation." He explained that the highest impact of a land value tax would accrue to property owners with a high land value but a low total property value. He said that theoretically a land tax would not discourage economic development.

Mr. Crapo asked whether or not Utah should adopt a land value tax. Dr. Walters replied that he is more encouraged now regarding the feasibility of a land value tax in Utah than when this study began. The administrative infrastructure does exist at the state and local level to fairly and efficiently determine fair market value. He said that further study is needed to more fully understand the effects on different classes of taxpayers.

Mr. Cornia agreed with Dr. Walters saying that a more sophisticated analysis is needed and that it is premature to recommend that the Utah Constitution be amended to allow a land value tax.

Sen. Stephenson said that he appreciates the research and presentations that have been conducted regarding this issue and he encouraged that further study be undertaken. He said that further study is needed on what the economic benefits are to land owners from an improved transportation infrastructure. He said that with regards to mines that it is his intent that the land value tax be imposed only on the surface value.

Mr. Denny Lyttle, Director, Property Tax Division, Utah State Tax Commission, reviewed the administrative issues for his division associated with a land value tax. He said that his division would require additional resources to administer a land value tax with regards to centrally assessed businesses.

Mr. Marlo Edwards, Property Tax Division, Utah State Tax Commission, explained that his division appraises centrally assessed companies using the unitary method. The value of the company as a unit is determined and then that value is apportioned to the state and allocated to taxing entities.

Mr. Crapo asked if it is possible to impose a land value tax on centrally assessed businesses.

Mr. Edwards replied that his division does not have access to the legal descriptions of land owned by these businesses. If a land value tax is adopted, this would need to be identified.

Mr. Lyttle noted that in previous TRC discussions of this issue that county assessors have expressed the desire to not allow a taxpayer to appeal the value of land separate from the total property value. He said that the state may not be able to limit a taxpayer's due process rights to separately appeal the value of land.

MOTION: Mr. Buchi moved to extend the discussion of land value taxation into next year and to alert any legislative committees that are studying transportation funding that the TRC is studying land value taxation. The motion passed with Sen. Hillyard voting in opposition and Mr. Prescott absent for the vote.

4. Sales and Use Taxation of Transportation

Mr. Cornia presented "General Retail Sales and Use Tax - Transportation." He explained that demand for certain transportation services is highly inelastic because there are no substitutes. He explained that people with higher incomes typically spend more on these types of transportation services than do people with lower incomes. He concluded by saying that transportation services should be subject to the sales and use tax for the following reasons: 1) demand is highly inelastic, 2) deadweight loss is small due to the imposition of a tax because the tax is shifted forward to consumers, 3) many consumers of these services are nonresidents, 4) exempting these services from the sales and use tax is poor policy, and 5) consumers spend more on these types of services as income increases.

Ms. Rockwell distributed and discussed 2006 General Session draft legislation "Sales and Use Tax Exemption for Transportation" and 2006 General Session draft legislation "Sales and Use Tax Exemption for Certain Transportation of Passengers."

Mr. Trent Woolstein, General Manager, Xpress Shuttle, explained to the TRC that because of the cost of fuel and other costs that his business does not enjoy a large profit margin and that collecting sales tax from customers would be very difficult.

MOTION: Mr. Barusch moved to recommend 2006 General Session draft legislation "Sales and Use Tax Exemption for Transportation" and asked staff to draft a comprehensive bill that would impose a sales tax on transportation with a provision that would tax interstate commerce and rental cars.

Mr. Buchi requested that the motion be divided.

SUBSTITUTE MOTION: Mr. Leavitt moved to postpone action on this item to a future meeting.

Mr. Leavitt withdrew his motion.

MOTION: Mr. Barusch moved to recommend 2006 General Session draft legislation "Sales and Use Tax Exemption for Transportation" to the Revenue and Taxation Interim Committee. The motion passed with Sen. Hillyard, Comm. Johnson, and Mr. Leavitt voting in opposition and Mr. Prescott absent for the vote.

MOTION: Mr. Barusch moved to ask staff to draft a comprehensive bill that would impose a sales tax on all transportation services. The motion passed with Sen. Hillyard, Comm. Johnson, and Mr. Leavitt voting in opposition and Mr. Prescott absent for the vote.

MOTION: Sen. Hillyard moved to continue the study of transportation sales and use tax exemptions during next year's meetings. The motion passed unanimously with Mr. Prescott absent for the vote.

MOTION: Comm. Johnson moved to recommend 2006 General Session draft legislation "Sales and Use Tax Exemption for Certain Transportation of Passengers" to the Revenue and Taxation Interim Committee in the event that 2006 General Session draft legislation "Sales and Use Tax Exemption for Transportation" does not pass. The motion passed with Sen. Hillyard voting in opposition and Mr. Prescott absent for the vote.

5. Tax Exempt Status of Hospitals Owned by Intermountain Health Care, Inc.

Mr. Cornia distributed and discussed "Hospitals Owned by Intermountain Health Care, Inc. - Estimated Fair Market Value of Real and Personal Property."

Mr. Howe distributed a letter from Sen. Waddoups requesting a study of hospitals owned by IHC (Intermountain Health Care, Inc.) that was distributed at prior meetings. He also distributed "Appendix 2D - Nonprofit Hospital and Nursing Home - Charitable Property Tax Exemption Standards" and "County Assessors Valuation of Hospitals Owned by IHC - 2005 Tax Year."

Mr. Doug Hammer, General Counsel, and Mr. Dee Gardner, Assistant Vice President of Finance, IHC, distributed and discussed "IHC Charity Care Summary 2004" and "IHC Health Services, Inc." They explained the difference between charity care and gift to the community. They explained that IHC policy is to admit and treat patients regardless of ability to pay. They said that if a patient's income level is below 200% of the federal poverty level, that the patient will receive treatment for free. They also reviewed IHC's charity care policy and amounts.

MOTION: Mr. Cornia moved to continue the study of this item at the next meeting. The motion passed unanimously with Mr. Prescott absent for the vote.

Mr. Leavitt asked the Commission to study what constitutes community service for nonprofit hospitals.

6. Other Items / Adjourn

Mr. Howe distributed "Working Group Recommendations and Task Force Action."

MOTION: Mr. Leavitt moved to adjourn the meeting. The motion passed unanimously with Rep. Harper and Mr. Prescott absent for the vote.

Vice Chair Crapo adjourned the meeting at 5:30 p.m.