

**MINUTES OF THE
REVENUE AND TAXATION INTERIM COMMITTEE**

Wednesday, October 18, 2006 – 8:00 a.m. – Room W135 House Building

Members Present:

Sen. Curtis S. Bramble, Senate Chair
Rep. Wayne A. Harper, House Chair
Sen. Mike Dmitrich
Sen. Brent H. Goodfellow
Sen. Lyle W. Hillyard
Sen. Howard A. Stephenson
Rep. Sheryl L. Allen
Rep. Ralph Becker
Rep. Tim M. Cosgrove
Rep. Glenn A. Donnelson
Rep. Craig A. Frank
Rep. Fred R. Hunsaker
Rep. Bradley G. Last
Rep. Rebecca Lockhart
Rep. Rosalind J. McGee

Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold
Rep. Patrick L. Painter
Rep. Gordon E. Snow

Members Absent:

Pres. John L. Valentine
Rep. Gregory H. Hughes

Staff Present:

Mr. Phillip V. Dean, Policy Analyst
Mr. Leif Elder, Research Analyst
Mr. Bryant R. 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, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Bramble called the meeting to order at 8:17 a.m.

MOTION: Sen. Hillyard moved to approve the minutes of the September 5, September 19, and September 20, 2006 meetings. The motion passed unanimously with Sen. Dmitrich, Sen. Goodfellow, Sen. Stephenson, Rep. Becker, Rep. Cosgrove, Rep. Frank, Rep. Harper, Rep. Last, Rep. Lockhart, Rep. Moss, Rep. Painter, and Rep. Snow absent for the vote.

2. State Individual Income Tax Reform

Rep. Hunsaker discussed 2007 General Session draft legislation, "Income Tax Additions and Subtractions for Higher Education Savings," which was distributed prior to the meeting. He also discussed "Utah Educational Savings Plan Proposed Tax Changes Summary," which was distributed by Ms. Lynne Ward, Director, UESP (Utah Educational Savings Plan).

Ms. Rockwell explained that last year the Estates and Trusts Working Group of the Utah Tax Review Commission conducted an extensive review of all state individual income tax laws governing trusts and estates. The Working Group developed 2006 General Session S.B. 37, "Income Tax – Taxation of Individuals, Trusts, and Estates," which was enacted by the Legislature and is in effect for the 2006 taxable year. Ms. Rockwell explained that state law has never allowed a trust to deduct Utah Educational Savings Plan contributions. It was an administrative practice of the Utah State Tax Commission to allow such a practice. S.B. 37 did not permit a deduction from federal taxable income for UESP contributions.

Mr. Joe Luke, citizen, explained that he and his wife contribute to UESP each year through a trust. However, he explained that the trust may not claim a deduction for this year's contributions. He asked that the draft legislation allow a trust to claim a deduction for contributions made this year.

Ms. Ward spoke in favor of the draft legislation. She said that a trust should be able to deduct from federal taxable income UESP contributions. She said that the 190 trusts that have already made a contribution this year will not be able to claim a deduction unless the legislation before the Committee is amended to allow the deduction for the 2006 taxable year.

Comm. Bruce Johnson, Tax Commission (Utah State Tax Commission), spoke to the Committee regarding the deduction from federal taxable income for health insurance premiums. He explained that a taxpayer may not claim this deduction if the taxpayer is eligible for health insurance through his or her employer.

Mr. Syd Gilbert, CPA, Gilbert and Stewart, reviewed several problems that his clients have encountered regarding this deduction. He said that the Tax Commission recently sent letters to taxpayers who had claimed this deduction asking the taxpayers to produce evidence that they are not eligible for an employer-sponsored health insurance plan. He said that it is very difficult for some taxpayers to produce this evidence. Mr. Gilbert said that this audit will likely yield little in additional tax revenue.

Sen. Bramble said draft legislation addressing these issues will be considered by the Committee at its next meeting.

Rep. Allen gave the Committee a brief introduction and history of alternate power generation.

Sen. Stephenson distributed and discussed 2007 General Session draft legislation, "Tax Credits for Alternate Power Generation." He explained that the bill amends and extends the renewable energy tax credit and expands the eligibility for the tax credit to include some geothermal resources.

Committee staff distributed "Renewable Energy Systems Tax Credit."

Mr. Philip Powlick, Utah State Energy Program, gave an estimate of the number of geothermal energy facilities that operate in Utah.

Mr. Dennis Stowell, Iron County Commissioner, addressed the Committee regarding a geothermal energy site in Iron County.

Mr. Christopher Thomas, Healthy Environment Alliance of Utah, spoke in support of renewing the tax credit. He said the credit promotes economic development in rural areas.

Mr. Mike Peterson, Utah Rural Electric Association, spoke in support of renewing the tax credit. He said it is good policy to promote alternative sources of heating and power generation.

Mr. Chris Parker, Associate General Counsel, Office of Legislative Research and General Counsel, said the bill will allow a tax credit for geothermal heat pumps for residential projects, but not commercial projects.

Sen. Hillyard questioned whether it would be better to promote alternative energy projects through a direct expenditure rather than a tax expenditure. He said that tax credits and deductions complicate the administration of the income tax system. Sen. Stephenson said that a tax credit allows the market to develop alternative energy projects that might not be available through a government program.

Ms. Lynn Solarczyk, Tax Commission, discussed 2007 General Session draft legislation, "Tax Penalty Amendments," which was distributed prior to the meeting. She explained that a \$20 penalty is now imposed on late filings, even if there is no tax liability or a tax refund. She said the Tax Commission would like to change the statute to remove the \$20 fee on these types of filings.

3. Deferral of Certain Property Tax Owed by Elderly Taxpayers

Mr. Howe distributed and discussed "Who Imposes Property Taxes in the U.S.?" and "Summary Program Descriptions of State Property Tax Deferral Programs." He explained other state programs that defer all or part of property taxes owed by elderly taxpayers.

Ms. Oakes distributed and discussed 2007 General Session draft legislation, "Property Tax Deferral." She explained that the bill allows the deferral of property taxes for individuals who are 65 years of age and older, regardless of income.

Ms. Lorna Koci, Utah Commission on Aging, spoke to the Committee about property tax deferral programs available for elderly taxpayers in other states. She also reviewed research regarding the extent to which elderly taxpayers are aware of property tax deferral programs.

Rep. McGee asked if the draft legislation would result in additional administrative costs for county governments. Sen. Bramble replied that counties now keep records of delinquent property tax accounts.

Mr. Larry Richardson, Salt Lake County Treasurer, asked several questions regarding the draft legislation. He said that a new occupant may occupy a home that has received a deferral. However, if there is no transfer of title or sales contract recorded, the county would not know that the home is no longer occupied by an elderly taxpayer.

Sen. Stephenson said that another alternative to a property tax deferral program would be to establish a revolving loan pool in each county. An elderly taxpayer could then obtain a loan to pay property taxes. This option allows taxing entities to collect all property taxes that are due. Sen. Stephenson said that a typical residential taxpayer pays less than one percent of the home's fair market value in property taxes each year. He said that it is unlikely that the loan amounts would ever exceed the fair market value of the home. He said that this loan could also be available to pay property taxes on a second home.

4. Demonstration of Sales and Use Tax Software

Rep. Harper introduced this issue.

Mr. Rory Rawlings, Avalara, gave a presentation on Avalara's software product to assist businesses in collecting the correct sales and use tax amounts from customers. He said that the product, AVATAX, accurately calculates the correct tax on the basis of the location where the product is being shipped or delivered. He noted that AVATAX may be used in conjunction with most commercial accounting programs for small businesses, including Quickbooks. He said that Avalara also provides training and support.

Mr. Charles Collins, Taxware, spoke about Taxware's software that assists businesses in collecting sales and use taxes from customers. He said that Taxware focuses primarily on medium-sized to large-sized companies.

Sen. Bramble asked about the cost of the AVATAX service. Mr. Rawlings replied that the cost depends on the number of transactions that the company processes. Sen. Bramble noted that for some companies, transaction fees could be quite high. Mr. Collins noted that all companies that file and remit sales and use taxes now face certain compliance costs, even without a destination-based sourcing rule.

Comm. Johnson said the Agreement (Streamlined Sales and Use Tax Agreement) requires states to compensate certified service providers for collections if a seller voluntarily remits sales and use taxes to that state.

Sen. Stephenson asked if the Agreement requires states to reimburse sellers for the cost of filing a return and remitting tax receipts. Comm. Johnson replied that the Agreement does not impose such a requirement on participating states. Sen. Stephenson asked what the revenue effect would be if the state were to reimburse all sellers for the cost of collecting and remitting sales and use taxes. He said that the state might want to reimburse all sellers for the additional costs of complying with the Agreement.

Chair Bramble redirected the Committee to agenda item # 1, Committee Business.

Mr. Howe briefly discussed the report that was distributed prior to the meeting. The report is by the Tax Commission on changes to federal income tax law.

Mr. Dean distributed and discussed "Monthly Revenue Summary - Three Months FY2006-07."

Comm. Marc Johnson, Tax Commission, explained what the excess state revenue could be if current revenue growth rates were to continue through the end of this fiscal year.

5. Tourism, Recreation, Cultural, and Convention Facilities Tax Amendments

Comm. D'Arcy Dixon Pignanelli and Ms. Lynn Solarczyk, Tax Commission, discussed 2007 General Session draft legislation, "Tourism, Recreation, Cultural, and Convention Facilities Tax Amendments," which was distributed prior to the meeting. They explained that the draft legislation clarifies that only a county of the first class may impose the portion of the tax applicable to certain room rental accommodations and services.

6. Overview of the Calculation of the Certified Property Tax Rate

Mr. Howe distributed and discussed "Understanding 'Truth in Taxation' and Calculating the Certified Property Tax Rate," "Calculating the Certified Rate in a Hypothetical Taxing Entity," "Sample Property Tax Areas," and "Number of Taxing Entities Proposing Property Tax Increases from 1988 to 2006." He explained how the certified tax rate is calculated and the truth in taxation process. He noted that the number of taxing entities seeking to impose a property tax rate that exceeds the certified tax rate is higher this year than in any recent year.

7. Other Items / Adjourn

MOTION: Rep. Donnelson moved to adjourn the meeting. The motion passed unanimously with Sen. Dmitrich, Sen. Hillyard, Sen. Stephenson, Rep. Becker, and Rep. Newbold absent for the vote.

Chair Bramble adjourned the meeting at 11:29 a.m.