

**MINUTES OF THE
REVENUE AND TAXATION INTERIM COMMITTEE**
Wednesday, April 18, 2007 – 2:00 p.m. – Room W135 House Building

Members Present:

Sen. Wayne L. Niederhauser, Senate Chair
Rep. John Dougall, House Chair
Sen. Curtis S. Bramble
Sen. Mike Dmitrich
Sen. Brent H. Goodfellow
Sen. Howard A. Stephenson
Pres. John L. Valentine
Rep. Ralph Becker
Rep. Ron Bigelow
Rep. Tim M. Cosgrove
Rep. Craig A. Frank
Rep. Gage Froerer
Rep. Bradley G. Last
Rep. Rosalind J. McGee
Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold
Rep. Gordon E. Snow
Rep. Aaron Tilton

Members Absent:

Rep. Wayne A. Harper
Rep. Gregory H. Hughes
Rep. Stephen H. Urquhart

Staff Present:

Mr. Phillip V. Dean, Policy Analyst
Mr. Leif G. 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 Niederhauser called the meeting to order at 2:16 p.m.

MOTION: Rep. Dougall moved to approve the minutes of the November 15, 2006 meeting. The motion passed unanimously with Sen. Bramble, Pres. Valentine, Rep. Bigelow, and Rep. Cosgrove absent for the vote.

2. Electronic Filing and Remittance of Taxes and Fees Collected by the Utah State Tax Commission

Mr. Rod Marrelli, Executive Director, Tax Commission (Utah State Tax Commission), distributed and discussed "Calendar Year 2006 Electronic Filing & Payment." He explained that about 54 percent of individual income tax returns are filed electronically in some form. He said that motor vehicle online renewal and motor vehicle "on the spot" renewals are also increasing.

Sen. Niederhauser asked what could be done to encourage more taxpayers to file electronically. Mr. Marrelli replied that the number of motor vehicle renewal electronic filings increased when the processing fee was eliminated. Additional advertising and incentives could also increase the number of taxpayers who file electronically.

Rep. Becker said that he has received many positive comments from constituents regarding electronic filing.

3. Committee Business

Mr. Howe discussed "Items from the Master Study Resolution" and "Reports/Studies Required to be Presented to the Revenue and Taxation Interim Committee," which were mailed to committee members prior to the meeting. He explained that these items were assigned to the Committee by the Legislative Management Committee from the Master Study Resolution. He said the chairs of the Committee will select items from the list to study during the 2007 interim and that members are welcome to contact the chairs regarding items on future committee agendas.

4. Revenue Update and Recent Trends in the Utah Economy

Mr. Howe distributed and discussed "Utah Economic Update - April 2007." He discussed employment trends in Utah and explained that there has been an annual average increase of three percent in employment over the past 17 years.

Mr. Dean reviewed gross taxable sales in Utah and the change in the sales and use tax base from the "Utah Economic Update - April 2007" presentation. He also discussed increases in housing prices and explained that rising home values do not necessarily mean an increase in property tax liability, due to "truth in taxation" laws. He distributed and discussed "Monthly Revenue Summary - Nine Months."

5. Legislation to Implement 2007 General Session S.B. 223 "Tax Amendments"

Ms. Rockwell distributed and discussed "Implementation of S.B. 223, 'Tax Amendments' Draft Schedule for 2007 Interim Study," "Selected Highlights of 2007 General Session S.B. 223, 'Tax Amendments,'" and "Utah Tax Review Commission Trust and Estate Working Group 2005 Membership." She proposed dividing the study of implementing S.B. 223 into five areas: (1) trusts and estates, partnerships, limited liability companies, and income taxation of other business entities; (2) traditional system and single rate income tax; (3) tax credits; (4) withholding and procedure and administration; and (5) sales and use tax and miscellaneous issues.

Sen. Niederhauser commented that Representative Dougall and he are now ex-officio members of the TRC (Utah Tax Review Commission). He said that he would discuss whether to reconvene the Trust and Estate Working Group at the next TRC meeting.

6. Apportionment of Business Income to Utah -- Single Weighting of the Sales Factor

Mr. Dean distributed and discussed "Apportionment of Corporate Income." He discussed a hypothetical comparison of the amount of corporate franchise and income tax owed by two corporations: one with a low proportion of Utah sales and one with a high proportion of Utah sales. He explained what each corporation would owe under an apportionment formula using an equal weight of three factors, a double weighted sales factor, and a single weighted sales factor.

Sen. Stephenson spoke in support of changing the apportionment formula under Utah's corporate franchise and income taxes from the current double weighted sales factor to a single weighted sales factor. He said that adopting a single weighted sales factor apportionment formula could be phased in over several years and that adopting a single weighted sales factor would improve Utah's attractiveness as a state in which to establish and grow a business.

Mr. Clint Ensign, Senior Vice President, Sinclair Oil Corporation, spoke in support of adopting a single weighted sales factor apportionment formula. He said that Utah must stay current with other states to attract new and expanding businesses. He said that it is also important to allow a taxpayer to elect which apportionment formula to use.

Ms. Sarah Wilhelm, Voices for Utah Children, distributed and discussed "A Costly Giveaway." She spoke in opposition of a single weighted sales factor apportionment formula. She expressed support for giving businesses incentives for relocating to Utah, but said that a single weighted sales factor apportionment formula is not a proven method. She said that there is no correlation between growth in the number of manufacturing jobs in a state and whether that state has a single weighted sales factor apportionment formula.

Comm. Bruce Johnson, Tax Commission, explained that 10 or 15 years ago he would have strongly urged the Legislature to not change the apportionment formula for corporate franchise and income taxes. However, if Utah's apportionment formula is not the same as in the other states where a company conducts business, more than 100 percent of that company's taxable income will be apportioned, resulting in an unfair tax burden. He said that there is legislation pending in Congress to prohibit a state from imposing a corporate income tax on a business if the business' only presence in a state is an economic presence. Such legislation would preclude a state from adopting a single weighted sales factor apportionment formula. He said that the issues of weighting and whether a taxpayer may elect between apportionment formulas could be separately considered.

Mr. Mike Jerman, Vice President, Utah Taxpayers Association, distributed and discussed "Single Sales Factor (SFF) for Corporate Income Tax Apportionment." He spoke in support of changing to a single weighted sales factor.

Mr. Tom Bingham, President, Utah Manufacturers Association, spoke in support of adopting a single weighted sales factor apportionment formula. He said that such a formula would help with economic development, but acknowledged that adopting such a formula would not solve all economic development issues on its own.

Mr. Doug Macdonald, Utah Issues, expressed concern with moving to a single weighted sales factor apportionment formula and urged the Committee to proceed cautiously.

Sen. Stephenson encouraged the Committee to give a high priority to studying this issue.

7. Distribution of the Local Option Sales and Use Tax

Rep. Scott Wyatt discussed 2007 General Session H.B. 203, "Local Option Distribution Formula for the Distribution of the Local Option Sales and Use Tax," which was mailed to committee members prior to the meeting. He explained that some cities rely heavily on sales and use tax revenue and said that some cities provide location incentives to retail business. He supports reducing the dependency on sales and use tax revenues by cities and prohibiting location incentives.

Mr. Roger Tew, Utah League of Cities and Towns, spoke in opposition to the proposal and stated that changing the distribution formula for the local option sales and use tax would not solve the problem of overreliance on sales and use tax revenues nor would it reduce incentives for cities to lure retail business. He said that local governments may now enter into interlocal agreements to change how local option

sales and use tax revenue is distributed among themselves. He said that no city should be involuntarily subjected to an alternative distribution formula.

Mr. Jerman said that retail location decisions are based on a variety of factors and that cities should not be allowed to provide location incentives to retail businesses.

8. Taxes Related to Aviation

Rep. Dougall introduced this item. He said that 2007 General Session H.B. 414, "Aviation Amendments," proposed to change the taxes and fees imposed on certain aircraft and excise taxes on aviation fuel used by certain types of aircraft.

Mr. Leonard Wojcik, Utah General Aviation Association, explained that revenue from property taxes imposed on aircraft does not fund the state's aviation infrastructure but instead is used by local governments for general purposes. He said that airports around the state are in disrepair due to lack of sufficient revenue for maintenance and expansion. Mr. Wojcik also said that current aircraft registration fees are unfairly divided between propeller driven aircraft and jet engine aircraft. He said many aircraft used in the state are registered in other states because of the high and unequal fees. He recommended the following: (1) replace the current uniform fee based on value with a fee of \$.01 per pound of gross weight; (2) impose a single registration fee regardless of the type of aircraft; and (3) increase the state excise tax on aviation fuel sold for use in certain types of aircraft and deposit the revenue into the Aeronautics Restricted Account.

Mr. Tracy Conti, Utah Department of Transportation, distributed and discussed "Aeronautics Fund Budget Detail," "Aviation Fuel Tax: SLC International Airport," "Aviation Fuel Tax Distribution to Utah Airports," and "Airport Capital Improvement Program."

Mr. Dave Haymond, President, Utah General Aviation Association, said that aviation infrastructure is important for search and rescue operations as well as for business growth in small cities and towns. He also spoke in favor of an equitable registration fee system.

Mr. Jim Petersen and Mr. John Hafen, Utah Airport Operators Association, distributed and discussed "Representing the Utah Airport Operators Association (UAOA)." They spoke in opposition to the increase in aviation fuel taxes that would have been implemented in 2007 General Session H.B. 414, "Aviation Amendments." Mr. Peterson said that most airport improvement is funded by the federal government.

Rep. Newbold asked that staff prepare a comparison of the taxes and fees imposed on aircraft in Utah with those in surrounding states.

9. Other Items / Adjourn

MOTION: Rep. Moss moved to adjourn the meeting. The motion passed unanimously with Sen. Bramble, Sen. Dmitrich, Sen. Goodfellow, Pres. Valentine, Rep. Becker, Rep. Bigelow, Rep. Froerer, Rep. Last, Rep. Snow, and Rep. Tilton absent for the vote.

Chair Niederhauser adjourned the meeting at 5:02 p.m.