

**MINUTES OF THE
REVENUE AND TAXATION INTERIM COMMITTEE**
Wednesday, October 19, 2011 – 2:00 p.m. – Room 445 State Capitol

Members Present:

Sen. Curtis S. Bramble, Senate Chair
Rep. Patrick Painter, House Chair
Sen. J. Stuart Adams
Sen. Benjamin M. McAdams
Sen. Howard A. Stephenson
Sen. John L. Valentine
Rep. David Clark
Rep. Tim M. Cosgrove
Rep. John Dougall
Rep. Susan Duckworth
Rep. Gage Froerer
Rep. Wayne A. Harper
Rep. Eric K. Hutchings

Rep. Michael T. Morley
Rep. Jim Nielson
Rep. Larry B. Wiley
Rep. Carl Wimmer

Members Absent:

Sen. Wayne L. Niederhauser
Rep. David G. Butterfield

Staff Present:

Mr. Phillip V. Dean, Policy Analyst
Mr. Bryant R. Howe, Assistant Director
Ms. Rebecca L. Rockwell, Associate General Counsel
Ms. Chelsea B. Lloyd, 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 Painter called the meeting to order at 2:34 p.m.

MOTION: Rep. Hutchings moved to approve the minutes of the September 21, 2011 meeting. The motion passed unanimously. Rep. Wimmer was absent for the vote.

Mr. Dean explained "State of Utah Low-income Housing State Tax Credit Summary," "Section 59-2-1308.5. Report," "County Assessor's Database," "Review of the Sales and Use Tax Exemption for Manufacturing Machinery and Equipment," and "Federal Tax Changes Impacting the State of Utah Tax System," which summarize reports required by statute to be submitted for Committee review.

Mr. Kris Poulsen, Utah County Assessor, provided an update of a working group related to local assessment.

Mr. Les Prall, Utah Governor's Office of Economic Development (GOED), distributed and reviewed "GOED -- 2011 Annual Report and Business Resource Guide."

Chair Painter turned the chair over to Sen. Bramble.

2. Taxation of Travel-Related Service Resellers

Mr. Steve Lundgren, Marriott Hotels, outlined "Getting Reform Right." He encouraged the Committee to implement legislation requiring online travel companies to pay tax on the full retail amount of a room charge.

Comm. Bruce Johnson, Commission Chair, Utah State Tax Commission, explained that the Tax Commission holds no official opinion on this matter.

Ms. Cindy Ohlenforst, Travelocity, and Mr. Joe Rubin and Mr. Paul Rogers, Interactive Travel Services Association, noted their support for the American Legislative Exchange Council (ALEC) model legislation.

The Committee discussed the taxation of hotel accommodations when the a purchaser uses an intermediary, such as a travel website, to make travel-related purchases.

MOTION: Rep. Painter moved to direct staff to draft legislation adopting the ALEC model and requiring certain disclosures of the amount of tax paid. The motion passed. Sen. McAdams and Sen. Valentine voted in opposition. Rep. Wimmer was absent for the vote.

3. *Ivory Homes v. Utah State Tax Commission*

Ms. Rockwell distributed 2012 General Session working drafts, "Assessment, Collections, and Refunds Amendments" and "Sales and Use Tax Transaction Amendments."

Sen. Stephenson distributed "The Utah Taxpayer," a publication of the Utah Taxpayers Association, and outlined the recent Utah Supreme Court decision in *Ivory Homes v. Utah State Tax Commission*. He stated that the case involves tax refunds on erroneously paid taxes.

Comm. Johnson explained that the Tax Commission has not solicited public comment on this issue and, at this point, has no position on the case. He encouraged the Legislature to clarify language related to delivery charges.

Mr. Doug Smith, Crapo Smith, explained his support for legislation to clarify the treatment of erroneously paid taxes on delivery charges and allow a refund for the taxpayer where appropriate.

Mr. Garrett Anderson, Profit Recovery Solutions, commented on the *Ivory Homes* decision.

Mr. Steve Young, Holland and Hart, encouraged clarifying this ambiguity in Utah's tax law.

Mr. Richard Van Komen, citizen, commented on his experiences dealing with the complications of delivery charges in his profession as a tax practitioner.

MOTION: Sen. Stephenson moved to direct staff to combine the working drafts, "Assessment, Collections, and Refunds Amendments" and "Sales and Use Tax Transaction Amendments," into a single bill to address issues raised by the recent Utah Supreme Court case *Ivory Homes v. Utah State Tax Commission*. The motion passed unanimously. Sen. McAdams, Sen. Valentine, Rep. Clark, Rep. Froerer, Rep. Harper, and Rep. Wiley were absent for the vote.

4. Municipal Finance

Rep. Gregory H. Hughes and Rep. Nielson distributed 2012 General Session working draft, "Local Sales and Use Tax Distribution Amendments" and a document titled "Local Sales Tax Distribution - Use Wages As a Distribution Factor."

Mr. Dean distributed "Estimated Impacts of Local Sales Distribution Proposal."

The Committee discussed the proposal and decided to consider draft legislation at a future meeting.

5. Sales and Use Tax

Ms. Rockwell reviewed 2012 General Session draft legislation, "Sales and Use Tax Act Revisions" (2012FL-0434/004), 2012 General Session draft legislation, "Sales and Use Tax - Computer Software and Other Tangible Personal Property Amendments" (2012FL-0436/003), and 2012 General Session draft legislation, "Extension of Recycling Market Development Zone Tax Credits" (2012FL-0435/003).

MOTION: Rep. Dougall moved to approve 2012 General Session draft legislation, "Sales and Use Tax Act Revisions" (2012FL-0434/004), as a committee bill. The motion passed unanimously. Rep. Clark, Rep. Froerer, Rep. Hutchings, and Rep. Wiley were absent for the vote.

MOTION: Rep. Wimmer moved to approve 2012 General Session draft legislation, "Sales and Use Tax - Computer Software and Other Tangible Personal Property Amendments" (2012FL-0436/003), as a committee bill. The motion passed unanimously. Rep. Clark, Rep. Froerer, Rep. Hutchings, and Rep. Wiley were absent for the vote.

6. Sunset Review - Recycling Market Development Zone Tax Credits

MOTION: Sen. Valentine moved to approve 2012 General Session draft legislation "Extension of Recycling Market Development Zone Tax Credits" (2012FL-0435/003), as a committee bill. The motion passed unanimously. Rep. Clark, Rep. Froerer, Rep. Hutchings, and Rep. Wiley were absent for the vote.

7. Community Impact Board Forgiveness of Bonded Indebtedness

MOTION: Sen. Valentine moved to direct staff to draft legislation providing authority for the Community Impact Board to use grants to address entities affected by the enactment of certain sales and use tax exemptions and changes in sales and use tax sourcing provisions. The motion passed unanimously. Rep. Froerer, Rep. Harper, Rep. Hutchings, and Rep. Wiley were absent for the vote.

8. Committee Reviews Required by Statute

Mr. Dean referred the Committee to "Revenue and Taxation Interim Committee 2011 Interim Reviews Required by Statute," which was distributed to the Committee prior to the meeting.

MOTION: Sen. Valentine moved to recommend the continuation of the sales and use tax exemption for accommodations and services taxed by the Navajo Nation. The motion passed unanimously. Rep. Cosgrove, Rep. Froerer, Rep. Harper, Rep. Hutchings, and Rep. Wiley were absent for the vote.

MOTION: Sen. Valentine moved to recommend the continuation of the life science technology tax credits. The motion passed unanimously. Rep. Cosgrove, Rep. Froerer, Rep. Harper, Rep. Hutchings, and Rep. Wiley were absent for the vote.

MOTION: Rep. Duckworth moved to recommend the continuation of the severance and sales and use tax exemptions for oil shale, tar sands, and coal-to-liquid technology. The motion passed unanimously. Rep. Cosgrove, Rep. Froerer, Rep. Harper, Rep. Hutchings, and Rep. Wiley were absent for the vote.

9. Other Items / Adjourn

MOTION: Rep. Duckworth moved to adjourn the meeting. The motion passed unanimously. Rep. Clark, Rep. Cosgrove, Rep. Froerer, Rep. Hutchings, and Rep. Wiley were absent for the vote.

Chair Bramble adjourned the meeting at 5:33 p.m.