

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

Wednesday, September 17, 2003 – 2:00 p.m. – Room 403 State Capitol

Members Present:

Sen. Curtis S. Bramble, Senate Chair
Rep. Wayne A. Harper, House Chair
Sen. Ron Allen
Sen. Leonard M. Blackham
Sen. Lyle W. Hillyard
Sen. Howard A. Stephenson
Rep. Sheryl L. Allen
Rep. Ralph Becker
Rep. Judy Ann Buffmire
Rep. Stephen D. Clark
Rep. Carl W. Duckworth
Rep. Craig Frank
Rep. Ann W. Hardy
Rep. Kory M. Holdaway

Rep. Bradley G. Last
Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold
Rep. Jack A. Seitz
Rep. Gordon E. Snow

Members Absent:

Sen. Mike Dmitrich
Rep. Greg J. Curtis

Staff Present:

Mr. Bryant R. Howe, Policy Analyst
Mr. Thad LeVar, Associate General Counsel
Ms. Sandra Wissa, Legislative Secretary

Note: A list of others present and a copy of materials can be found at <http://www.image.le.state.ut.us/imaging/history.asp> or by contacting the committee secretary at 538-1032.

1. Committee Business

Chair Harper called the meeting to order at 2:14 p.m. and excused Sen. Dmitrich.

MOTION: Sen. Hillyard moved to approve the minutes of the July 16, 2003 meeting. The motion passed unanimously with Sen. Stephenson and Rep. Clark absent for the vote.

Mr. Howe distributed and reviewed "TC-23 Monthly Revenue Summary Final Year-end FY2003-2003" and "TC-23 Monthly Revenue Summary First 2 Months FY2003-2004."

2. Linkage of the Utah Individual Income Tax with the Federal Individual Income Tax

Chair Harper introduced the issue.

Mr. Howe made the presentation "To Link or Not to Link" and distributed a copy of the presentation to the Committee. He also distributed "Tax Recodification Commission Income Tax Policy 1990 General Session H.J.R. No. 31" and "State Personal Income Taxes Federal Starting Points for 2003."

Mr. Tom Williams, Senior Economist, Utah State Tax Commission (Tax Commission), distributed and reviewed "Federal Tax System" and answered questions from the Committee.

3. Imposition of Liens by the Utah State Tax Commission

Sen. Bramble introduced and reviewed the issue.

Mr. Rod Marrelli, Executive Director, Tax Commission, spoke to this issue and answered questions from the Committee.

4. Utah Corporate Franchise and Income Tax: Determination of Utah Taxable Income

Mr. Howe distributed "State Apportionment of Corporate Income for 2003."

Mr. Clint Ensign, Vice President for Government Relations, Sinclair Oil Corp., spoke to the Committee on this issue. He also distributed "Percentage of States Using Different Corporate Income Tax Apportionment Formulas." He suggested to the Committee that the formula used to apportion income be changed to encourage businesses to invest in Utah operations.

5. Local Sales and Use Taxes on Direct to Home Satellite Television Services: Preemption by Federal Law

Mr. Howe distributed "Excerpts from S.B. 213 *Amendments to Sales and Use Tax*" and "Federal Law Dealing with Preemption of Local Taxation of Direct-to-Home Satellite Service."

Ms. Lynn Solarczyk, Tax Commission, explained the issue and answered questions from the Committee.

Mr. Roger Tew, Utah League of Cities and Towns, spoke on this issue.

Ms. Pam Hendrickson, Commission Chair, Tax Commission, answered questions from the Committee.

MOTION: Rep. Allen moved that this Committee request an interpretation of the federal and the state statute by the Utah Attorney General's Office.

Sen. Bramble asked to request an opinion from the Office of Legislative Research and General Counsel. Rep. Allen accepted the amendment.

Mr. David Goodframe, Director of Legal and Business Affairs, Ecostar Satellite Systems, spoke on this issue and addressed the federal preemptions.

Mr. Bryant Kearney, Direct TV, a subsidiary of Hughes Electronics, spoke on this issue.

Mr. Steve Proper, Comcast Cable Services and the Utah Cable TV Association, testified to the Committee.

Mr. Jerry Oldroyd, Ballard Spahr Andrews & Ingersoll, LLP, representing the cable industry and Comcast, provided comments for the Committee.

SUBSTITUTE MOTION: Sen. Stephenson moved to have legislation prepared to repeal the imposition of the sales and use tax on cable and satellite television services. Rep. Allen asked if a request for a legal opinion from the Office of Legislative Research and General Counsel could be included in the motion. Sen. Stephenson approved the amendment. Rep. Buffmire asked to include a request to place this issue

on a Special Session call. Sen. Stephenson approved the amendment. The motion failed with Chair Harper, Sen. Bramble, Sen. Allen, Sen. Stephenson, Rep. Buffmire, Rep. Duckworth, Rep. Frank, and Rep. Newbold voting in favor of the motion. Rep. Clark and Rep. Holdaway were absent for the vote.

SUBSTITUTE MOTION: Sen. Hillyard moved to create a working group that includes Sen. Bramble, Rep. Harper, Sen. Allen, Sen. Blackham, Rep. Snow, and Rep. Becker, to study the federal preemption and other tax issues and report back at the next interim meeting with a recommendation. Rep. Becker asked to amend the motion to allow the chairs to appoint someone if a member can not participate. Sen. Hillyard accepted the amendment. The motion passed with Chair Harper, Sen. Bramble, Sen. Stephenson, Rep. Frank and Rep. Last voting in opposition. Rep. Clark and Rep. Holdaway were absent for the vote.

6. Amendments to the Utah Individual Income Tax

Due to a lack of time this item will be postponed until the October meeting.

7. Other Items/Adjourn

MOTION: Rep. Frank moved to adjourn the meeting. The motion passed unanimously with Rep. Clark and Rep. Holdaway absent for the vote. Chair Harper adjourned the meeting at 4:51 p.m.