

**MINUTES OF THE  
UTAH TAX REVIEW COMMISSION**

Thursday, August 13, 2009 – 1:30 p.m. – Room 445 State Capitol

**Members Present:**

Mr. M. Keith Prescott, Chair  
Mr. David Crapo, Vice Chair  
Mr. Larry Barusch  
Mr. Mark K. Buchi  
Rep. John Dougall  
Ms. Janis A. Dubno  
Sen. Brent Goodfellow  
Ms. Kathleen Howell  
Comm. Bruce Johnson  
Rep. Christine A. Johnson  
Mr. Bruce Jones  
Rep. Todd E. Kiser  
Mr. Dixie Leavitt  
Sen. Wayne L. Niederhauser

**Members Absent:**

Sen. Lyle W. Hillyard

**Staff Present:**

Mr. Phillip V. Dean, Policy Analyst  
Mr. Bryant R. Howe, Assistant Director  
Ms. Angela Oakes Stallings, Associate General Counsel  
Ms. Rebecca L. Rockwell, Associate General Counsel  
Mr. Jacob Wright, Research Assistant  
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](http://www.le.utah.gov).

**1. TRC Business**

Vice Chair Crapo called the meeting to order at 1:39 p.m.

**MOTION:** Mr. Buchi moved to approve the minutes of the June 11, 2009 meeting. The motion passed unanimously with Mr. Barusch, Rep. Dougall, Mr. Jones, Rep. Kiser, and Sen. Niederhauser absent for the vote.

**2. Cigarette and Tobacco Products Excise Taxes**

Vice Chair Crapo gave an update on the work of the cigarette and tobacco taxes working group, which includes Rep. Dougall, Rep. Johnson, Mr. Jones, and Vice Chair Crapo. He explained that the working group has drafted a letter in response to the questions posed by the chairs of the Revenue and Taxation Interim Committee. Vice Chair Crapo said that the working group will meet again to finalize the letter and will send it out to TRC members prior to the next meeting so that the TRC will be able to discuss the letter at the September meeting.

Sen. Goodfellow suggested that the working group also report on the use of tobacco settlement revenue and the use of earmarked revenue from the cigarette and tobacco products taxes.

TRC discussion followed.

**3. Sales and Use Tax Working Group**

Mr. Buchi discussed "Sales and Use Tax Study," which was included in the mailing packet. He reminded the TRC that the working group determined that a good modern sales tax: (1) would tax all consumption, (2) would not tax business inputs, and (3) would not tax investments. Mr. Buchi then explained Section IX of "Sales and Use Tax Study," which includes three issues that the working group believes needs further consideration: (1) taxation of sales of motor vehicles, (2) initial purchases by households of improvements to land, and (3) the taxation of health care expenditures by households.

Chair Prescott expressed appreciation to the working group for their work. He said that there is no political will at this time to conduct high level public hearings on this issue.

Mr. Buchi answered TRC questions about the working group study and TRC discussion followed.

Mr. Leavitt proposed that Item Number 3 of Section IX of the study be eliminated.

Mr. Barusch said that the working group has attempted to update a tax that was developed when the economy was much different than today. He said that the sales tax is burdened by complicated administrative rules. He also suggested that one reason to hold hearings would be to educate the public on the need for a modern sales tax.

Ms. Dubno suggested that the TRC does not need to resolve all of the issues identified in Section IX of the report. The document is still valuable as a framework for discussion.

Rep. Dougall said that the current sales tax promotes tax pyramiding.

**MOTION:** Comm. Johnson moved to direct the sales and use tax working group to work with the Chair and Vice Chair to revise the first page of "Sales and Use Tax Study," distribute the changes to members of the TRC before the next meeting, and discuss the revised report in detail at the September meeting. The motion passed unanimously.

Mr. Leavitt proposed that the Chair and Vice Chair meet with the governor, the Speaker of the House, and the President of the Senate to discuss the TRC's agenda and seek additional direction.

#### **4. State Corporate Income Tax - Apportionment of Business Income**

Mr. Howe explained that the purpose of this agenda item is to introduce the issue to the TRC, hear testimony, and get direction from the TRC on what other information is needed and how to proceed. He distributed and discussed a letter from the chairs of the Revenue and Taxation Interim Committee regarding this issue, "Examples of Recent Legislation Authorizing a More Heavily Weighted Sales Factor Apportionment Formula," and "State Corporate Income Tax Rates."

Mr. Dean distributed and discussed "Corporate Franchise and Income Tax and Gross Receipts Tax Revenues," "Utah Corporate Franchise and Income Tax and Gross Receipts Tax Revenues," "State Apportionment of Corporate Income - Tax Year 2000," "Corporate Franchise and Income Tax - Income Apportionment," "Apportionment of Corporate Income," "Apportionment of Corporate Income in the States - Tax Year 2000," and "Apportionment of Corporate Income in the States - Tax Year 2008."

Mr. Wright distributed and discussed "Literature Review of the State Corporate Income Tax Single-Sales-Factor Apportionment Formula."

TRC discussion followed.

Comm. Johnson said that under P.L. 86-272, a state may not impose a state corporate income tax on a corporation if the corporation's only economic presence in the state consists of the solicitation of sales. He said that because of this law, there are many corporations that are not subject to state corporate franchise or income taxes even though they make sales in Utah.

Minutes of the Utah Tax Review Commission

August 13, 2009

Page 3

Mr. Royce Van Tassell, Vice President, Utah Taxpayers Association, said his organization fully supports a mandatory single sales factor apportionment formula.

Ms. Allison Rowland, Voices for Utah Children, spoke in opposition to revenue loss that she says a single sales factor apportionment formula would create. She warned that this would affect funding for public education.

Mr. Ron Hilton, private citizen, spoke in favor of consumption tax reform.

Vice Chair Crapo said that, based on TRC discussion, more information is needed to fully answer the questions posed by the chairs of the Revenue and Taxation Interim Committee. He asked that staff gather that information and prepare a draft letter answering the chairs' questions for discussion at the September meeting.

**5. Other Items / Adjourn**

**MOTION:** Chair Prescott moved to adjourn the meeting. The motion passed unanimously with Rep. Dougall and Rep. Johnson absent for the vote.

Vice Chair Crapo adjourned the meeting at 4:57 p.m.