

**MINUTES OF THE  
UTAH TAX REVIEW COMMISSION**

Thursday, April 28, 2016 – 2:00 p.m. – Room 445 State Capitol

**Members Present:**

Mr. Curtis Trader, Chair  
Rep. Joel K. Briscoe  
Rep. Steve Eliason  
Rep. Daniel McCay  
Mr. Kelly J. Applegate  
Ms. Emily D. Bagley  
Mr. Phil Dean  
Ms. Kathleen Howell  
Mr. K. Tim Larsen  
Mr. Troy K. Lewis  
Mr. Gregory G. Prawitt  
Comm. John L. Valentine  
Mr. Lawrence C. Walters

**Members Excused:**

Sen. Jim Dabakis  
Sen. Deidre M. Henderson  
Sen. Lyle W. Hillyard

**Staff Present:**

Mr. Leif G. Elder, Policy Analyst  
Mr. Bryant R. Howe, Deputy Director  
Ms. Andrea Valenti Arthur, Associate General Counsel  
Ms. Lucy W. Daynes, Legislative Assistant

**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. Commission Business**

Chair Trader called the meeting to order at 2:08 p.m.

**MOTION:** Rep. McCay moved to approve the minutes of the November 5, 2015, meeting. The motion passed unanimously. Mr. Applegate and Mr. Prawitt were absent for the vote.

Ms. Valenti Arthur presented "*Revised 2016 General Session Tax-Related Legislation*" and highlighted specific bills in the document.

Chair Trader addressed guiding principles for tax policy and specific legislation from the 2016 General Session.

The commission discussed legislation from the 2016 General Session.

Chair Trader suggested that the commission meet each month until October on the fourth Thursday with no meeting in July.

**2. Review of Issues Assigned by the Legislative Management Committee**

Mr. Howe reviewed letters to the commission from the Legislative Management Committee, which request that the commission study Utah's state and local taxes on businesses, including removing the three-year economic life component of the manufacturers' sales tax exemption and allowing all taxpayers to use a single sales factor apportionment formula under the state corporate income tax.

The commission discussed the scope and process of study on the issues as well as research needed from commission staff. Mr. Walters said that he favors a study that broadly considers the overall tax burden, including the level and structure of the tax burden and the extent to which the tax burden varies according to business types. Rep. McCay said that the commission should study fees on businesses. Mr. Dean suggested that the commission study how and where taxes are shifted from businesses to individuals and to what extent the state corporate income tax burden is shifted out of state.

### **3. State and Local Taxes on Businesses**

Mr. Howe presented "50 States Survey," which compares data on state corporate income taxes between states. He explained that the chart compares selected indicators of state manufacturing activity, selected tax burden rankings prepared by The Tax Foundation, and the structure of each state's corporate income tax or other state-level business tax. He summarized differences in corporate taxes and various economic indicators between the states.

### **4. Apportionment of Income Under the Utah Corporate Income Tax**

Mr. Elder and Ms. Valenti Arthur presented "Corporate Franchise and Income Taxes: Apportionment of Business Income in Utah" and answered questions from the commission. Mr. Elder and Ms. Valenti Arthur discussed changes in the apportionment formulas used by states in recent years and noted that many states have moved away from an equal weighting of all three apportionment factors (payroll, sales, and property) to formulas that more heavily weight the sales factor.

Commissioner Valentine said that the distinction between business and non-business income is important because of its implications for apportionment of income. He said that changes are being considered to the definition of these two different types of income, including changing the names to "apportionable" and "non-apportionable" income. Chair Trader recommended that these proposed changes be discussed at a future meeting.

Mr. Walters asked whether there are meaningful differences in the taxpayer compliance costs between the different apportionment formulas. Chair Trader said that there might be slightly higher compliance costs for a taxpayer to use a three-factor apportionment formula. Mr. Larsen said that while the compliance burden on the practitioner may be minimal, taxpayers likely bear a higher compliance and record keeping cost, including determining property values in each jurisdiction where the corporation conducts business. Commission members further discussed the scope and research needs of commission study on the topic.

Rep. McCay asked if the commission could consider making the apportionment decision non-electable. Chair Trader said that the electable option could make the tax system subject to manipulation and lacks consistency. Mr. Dean asked whether the apportionment formula should act as both an incentive and disincentive in investment and spending decisions by corporations. He suggested that the commission study the electability option and that there is also a tax equity issue because with many states adopting a single sales factor apportionment formula and others not adopting such a formula, more than 100% of business income may be subject to tax.

Mr. Lewis said that the commission should study the long-term economic effects of a change to the apportionment formula, not just the short-term revenue effects, and that the long-term economic benefits include more than just tax revenue. Mr. Prawitt asked to what extent apportionment formulas affect business investment and location decisions.

### **5. Sales and Use Tax Exemption for Certain Equipment Used in the Manufacturing Process**

Mr. Howe referenced "Manufacturing Sales and Use Tax Exemption" and summarized sections of the Utah Code that pertain to the exemption. He addressed sections of "Sales and Use Tax Exemption for Purchases or Leases by a Manufacturer: Historical Highlights" and outlined the legislative history of Utah Code Subsection 59-12-104(14).

Rep. McCay suggested that small, incremental changes that eventually lead to better tax policy in the long term are more likely to be adopted by the Legislature. Rep. Briscoe agreed that the commission should adopt recommendations that represent the best possible tax policy as a long-term goal.

Mr. Dean suggested that given revenue constraints, the commission should consider whether expanding the manufacturing sales tax exemption or expanding the availability of the single sales apportionment formula would have a greater economic impact. He also asked whether there are other changes to the state and local taxes on businesses that would have an even greater positive effect. He emphasized that there are limits and that the commission should prioritize recommendations that would have the greatest economic development value.

Chair Trader said that the commission will first review the apportionment formula issue and that future commission meetings should last two hours or less.

## **6. Other Items/Adjourn**

Chair Trader adjourned the meeting at 3:52 p.m.