

NEVADA TAX COMMISSION MEETING

MEETING MINUTES

Nevada Legislative Building
401 S. Carson Street, Room 2135
Carson City, Nevada

Legislative Counsel Bureau
Grant Sawyer State Office Building
555 E. Washington Ave., Room 4412
Las Vegas, Nevada

April 11, 2016
9:00 a.m.

Commission Members Present:

Joan Lambert, Chairman
Ann Bersi, Commissioner
Thom Sheets, Commissioner
John E. Marvel, Commissioner
Craig Witt, Commissioner
James DeVold, Commissioner
George Kelesis, Commissioner

Commission Members Absent:

Robert R. Barengo, Commissioner

Chairman Lambert called the meeting to order at 9:04 a.m.

Director Contine administered an oath to all parties testifying at today's meeting.

I. Public Comment.

There was no public comment.

II. Consideration for Approval of the February 8, 2016 and March 10, 2016 Nevada Tax Commission Meeting Minutes.

A motion was made by Commissioner Sheets to approve the February 8, 2016 and March 10, 2016 Nevada Tax Commission Meeting Minutes. Commissioner Bersi seconded the motion. All in favor. Motion carries.

III. Consideration for Approval by the Administrative Law Judge Subcommittee of the December 1, 2015 and March 10, 2016 Administrative Law Judge Subcommittee Meeting Minutes.

A motion was made by Commissioner Sheets to approve the December 1, 2015 and March 10, 2016 Administrative Law Judge Subcommittee Meeting Minutes. Commissioner Bersi seconded the motion. All in favor. Motion carries.

IV. CONSENT CALENDAR:

A. Matters of General Concern:

1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):

- a) PR Supply LLC
- b) Rusk Investments LLC
- c) PHO Annie LLC
- d) Wood Connection of Las Vegas LLC
- e) Game Repair Inc.
- f) Ahmad Farid Arsalan
- g) Home Plate Grill & Bar Inc.
- h) Tasty Corporation
- i) Springhop LLC
- j) Ahmad Traders
- k) Zabas Management LLC
- l) Pizza Factory of Carson City
- m) Kamboi Izakaya
- n) TC & C Holdings Inc.
- o) Fine Beauty Cosmetics Inc.
- p) El Immanuel Management LLC
- q) China City LLC
- r) Health Express #6 LLC
- s) Evian Aziz Yousif
- t) TYTYCO Inc.
- u) Prospector Hotel & Gambling Hall
- v) Auto Specialists Boulder City Inc.
- w) G&G Ice LLC

B. Standard Direct Sales Organization Agreements:

- 1) LLR, Inc.

C. Consideration for Approval of Payment Plan Request: New Payment Plans (Sales/Use and/or Modified Business Tax):

- 1) Superior Pipe & Supply LLC

D. Consideration for Approval of Payment Plan Request: 12 Month Review (Sales/Use and/or Modified Business Tax):

- 1) K Dining Inc.

E. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000:

- 1) Arista Networks, Inc.
- 2) Cricket Communications
- 3) eBay Inc.
- 4) Target Corporation
- 5) Supermercado Del Pueblo
- 6) SNC – Lavalin America, Inc.
- 7) Morpheus Investment Inc. dba Tire Works Total Car Care
- 8) DWWNVJHF LLC
- 9) BCGM Company
- 10) Allan Baker Inc. dba Korreect Optical
- 11) Total Renal Care Inc.
- 12) FAA Las Vegas H Inc.
- 13) Xpert Exposition Services LLC

- 14) Wicks – Stephens, Inc. dba Brooks Rent a Car
- 15) Silver State Ford
- 16) Sysco Las Vegas, Inc.
- 17) Acoustic Audio Video Specialists
- 18) Hakkasan Las Vegas
- 19) J&R Catering

F. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure (Sales/Use Tax):

- 1) Networkfleet, Inc.
- 2) CFR Equipment Leasing, Inc.
- 3) Kinky Boots Tour LLC
- 4) Coolsystems, Inc.
- 5) In Fuga LLC
- 6) Pulse220 LLC

G. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (sales/use and/or modified business tax)

- 1) MJ Christensen Jewelers, LLC
- 2) The Act
- 3) Design Factory, LLC

Commissioner Kelesis requested to pull Items G. 1) MJ Christensen Jewelers, LLC, G. 2) The Act and G. 3) Design Factory, LLC from the Consent Calendar.

Commissioner Kelesis made a motion to approve the Consent Calendar as a whole, excluding items G. 1) MJ Christensen Jewelers, LLC, G. 2) The Act and G. 3) Design Factory, LLC. Commissioner DeVold seconded the motion. All in favor. Motion carries.

Item G. 1) MJ Christensen Jewelers, LLC.

Vivienne Rakowsky, Deputy Attorney General, was present on behalf of the Department of Taxation.

Commissioner Kelesis made a motion to renegotiate the Settlement Agreement with MJ Christensen to exclude a waiver of interest. Commissioner Sheets seconded the motion. All in favor. Motion carries.

Item G. 2) The Act.

Vivienne Rakowsky, Deputy Attorney General, was present on behalf of the Department of Taxation.

Commissioner Kelesis made a motion to approve the Settlement Agreement with The Act. Commissioner Bersi seconded the motion. All in favor. Motion carries.

Item G. 3) Design Factory, LLC.

David Pope, Senior Deputy Attorney General, was present on behalf of the Department of Taxation.

Commissioner Kelesis made a motion to approve the Settlement Agreement with Design Factory, LLC. Commissioner Sheets seconded the motion. Motion carries.

V. DIVISION OF LOCAL GOVERNMENT SERVICES:

Locally Assessed Properties Section:

- A. Taxpayer's Appeal of the Assessor's Denial of Waiver of Penalty and Interest per NRS 361.4835 for Fiscal Year 2015 - 2016 (Clark County):
1) SA Recycling

Terry Rubald, Deputy Director, was present on behalf of the Department of Taxation.

Tina Poff was present on behalf of the Clark County Assessor's Office.

The Taxpayer was not present.

Commissioner Kelesis made a motion to deny the Taxpayer's Appeal. Commissioner DeVold seconded the motion. All in favor. Motion carries.

- B. Review and Consideration for Adoption of 2017-2018 Bulletin 206 – Assessment Instruction of Agricultural Land and Open Space Property Procedures.

Terry Rubald, Deputy Director, was present on behalf of the Department of Taxation.

Commissioner Witt made a motion to approve the adoption of the 2017-2018 Bulletin 206 – Assessment Instruction of Agricultural Land and Open Space Property Procedures. Commissioner Marvel seconded the motion. All in favor. Motion carries.

- C. Discussion and Consideration for Approval of the 2017-2018 Improvement Factor Study.

Terry Rubald, Deputy Director, was present on behalf of the Department of Taxation.

Commissioner Witt made a motion to approve the 2017-2018 Improvement Factor Study. Commissioner Marvel seconded the motion. All in favor. Motion carries.

- VI. Consideration of Appointment to the Appraiser Certification Board.
1) Sorin Popa

Terry Rubald, Deputy Director, was present on behalf of the Department of Taxation.

Sorin Popa was present and introduced to the Commission by Terry Rubald, Deputy Director.

Commissioner Marvel made a motion to approve the appointment of Sorin Popa to the Appraiser Certification Board. Commissioner DeVold seconded the motion. All in favor. Motion carries.

VII. COMPLIANCE DIVISION:

- A. Department's Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:
1) John DeJesus

Derek Hatch was present on behalf of John DeJesus, Taxpayer.

Lizette Arceo, Tax Program Supervisor II, was present on behalf of the Department of Taxation.

Commissioner Witt moved to approve the Offer-In-Compromise of John DeJesus, Taxpayer. Commissioner Marvel seconded the motion. All in favor. Motion carries.

2) Marie Vitello

Derek Hatch was present on behalf of Marie Vitello, Taxpayer.

Lizette Arceo, Tax Program Supervisor II, was present on behalf of the Department of Taxation.

Commissioner DeVolld made a motion to approve the Offer-In-Compromise of Marie Vitello, Taxpayer. Commissioner Witt seconded the motion. All in favor. Motion carries.

3) Mark Johnson

Lizette Arceo, Tax Program Supervisor II, was present on behalf of the Department of Taxation.

Commissioner DeVolld made a motion to approve the Offer-In-Compromise of Mark Johnson, Taxpayer. Commissioner Witt seconded the motion. All in favor. Motion carries.

C. Petition for Reconsideration of Department's Denial of Exemption Status for Organization Created for Religious, Charitable or Educational Purposes pursuant to NRS 372.3261 (Sales/Use Tax):

1) Administrative Personnel Association

Andrea Nichols, Senior Deputy Attorney General, was present on behalf of the Department of Taxation.

Commissioner Kelesis made a motion to deny the Taxpayer's Petition for Reconsideration. Commissioner Marvel seconded the motion. All in favor. Motion carries.

D. Consideration and possible action of Decision and Order of the District Court that the Commission review the additional evidence specified in the Court Order and determine whether the Commission finds appropriate to clarify the original advisory opinions based on the subsequent bulletin issued by the Department of Taxation.

1) Nevada Ready Mix, Inc. vs. Nevada Tax Commission, State of Nevada; Case A-15-722297-J

2) Service Rock Products vs. Nevada Tax Commission, State of Nevada; Case A-15-722303-J

Items D. 1) and 2) were combined.

Vivienne Rakowsky, Deputy Attorney General, was present on behalf of the Department of Taxation. Ms. Rakowsky suggested that the Department of Taxation review and, if necessary, revise the advisory opinions.

Paul Jones was present on behalf of the Taxpayers. Mr. Jones asked that the Commission revise the advisory opinions due to additional evidence being presented.

Commissioner Sheets made a motion that the Commission send this matter to the Department of Taxation for consideration of the six (6) items that the Court has directed the Commission to consider. Commissioner Sheets requested that the Department review and, if necessary, revise the advisory opinions and bring the matter back to the Commission for consideration. The Commission will then respond to Judge Bell's Order. Commissioner Kelesis seconded the motion. All in favor. No opposed. Motion carries.

Vivienne Rakowsky suggested that the Department hold a regulatory workshop to develop a regulation on the movement of cement to determine what is processing and what is transportation.

Commissioner Witt agreed that an interpretation is necessary.

VIII. COMPLIANCE DIVISION:

A. Informational Items:

- 1) Penalty and Interest Waivers granted by the Department for Sales/Use Tax, Modified Business Tax and Excise Tax (dates as indicated).
- 2) Approval and Denial Status Report Log for Organizations Created for Religious, Charitable or Educational Purposes (dates as indicated) (Sales/Use Tax Exemption).

IX. BRIEFING:

A. Briefing to/from the Commission and the Executive Director.

Director Contine introduced Shellie Hughes as the new Chief Deputy Executive Director of the Department of Taxation.

Chairman Lambert announced that Gina Session, Chief Deputy Attorney General, has accepted a position with the Washoe County School District. Chairman Lambert thanked Gina Session for her work for the Department of Taxation and the Commission and read a note from Ms. Session to the Commission.

Director Contine announced that the Department's budget is currently being processed. It is requested that it is a flat budget with a 5% reduction.

The OLT is being updated. Kannaiah Vadlakunka, Deputy Director, will be doing a presentation on the updates to the OLT at the next Tax Commission meeting.

David Pope, Senior Deputy Attorney General, introduced Robert Werbicky, Deputy Attorney General, to the Commission.

X. Administrative Law Judge:

- 1) At the request of the Administrative Law Judge Subcommittee, consideration and possible action to appoint Alycia Hansen, Esq. as Administrative Law Judge for the Department of Taxation, with authority to hold hearings and make investigations, pursuant to NRS 360.130((2)).

Chairman Lambert thanked the Administrative Law Judge Subcommittee, Director Contine and Dena Smith, Chief Administrative Law Judge, for their work in interviewing and choosing a new Administrative Law Judge.

At the request of the Administrative Law Judge Subcommittee, Commissioner Sheets made a motion to select Alycia Hansen as the new Administrative Law Judge. Commissioner Kelesis seconded the motion. All in favor. Motion carries.

XI. Discussion and Consideration to Appoint Assemblywoman Irene Bustamante-Adams as a Delegate to Streamline pursuant to NRS 360B.110(5).

Director Contine explained that it is the authority of the Commission to appoint Streamline delegates.

Commissioner Kelesis made a motion to appoint Assemblywoman Irene Bustamante-Adams as a Delegate to Streamline. Commissioner Sheets seconded the motion. All in favor. Motion carries.

XII. Consideration for Approval of Adoption of Permanent Regulations:

- 1) Adoption of the proposed regulation to implement the Commerce Tax enacted as part of Senate Bill 483 (2015) which provides for the imposition, administration and payment of a commerce tax on the Nevada gross revenue of certain business entities engaged in business in this State and other matters related thereto. LCB File No. R123-15.

Chairman Lambert commended the work of the Department of Taxation.

Director Contine reviewed key provisions and highlighted any changes to proposed Regulation LCB File No. R123-15.

Public comments and questions were presented and discussed.

Chairman Lambert asked if the amendments in red have been submitted to LCB legal for review.

Brenda Erdoes, Legislative Counsel, was present.

Director Contine reviewed the changes made to Section 73 and the deletion of Section 18.

Brenda Erdoes stated that in her opinion, the changes made are not outside what the Legislature intended. Ms. Erdoes does not believe the proposed changes are outside the guidelines.

Commissioner Sheets made a motion to approve Regulation LCB File No. R123-15, including the changes provided by the Department. Commissioner Kelesis seconded the motion. Chairman Lambert asked for individual votes: Commissioner Bersi - Aye. Commissioner Kelesis - Aye. Commissioner Sheets - Aye. Commissioner Marvel - Aye. Commissioner Witt - Aye. Commissioner DeVold - Aye. Chairman Lambert - Aye. All in favor. Motion carries.

XIII. Discussion and Presentation of Commerce Tax training.

Nadia Vasheko, Tax Manager, presented educational information on the Commerce Tax.

Public comments and questions were presented and discussed.

- XIV. Presentation and discussion of forms and tools for administration of the Commerce Tax, including the Welcome Letter, Information Form, Nexus Questionnaire and an Exempt Status Entity Form.

Paulina Oliver, Deputy Director, was present for the Department of Taxation. Ms. Oliver reviewed the Commerce Tax forms for the Commission.

Public comments and questions were presented and discussed.

- XV. Next meeting date is May 16, 2016.

- XVI. Public Comment.

Josh Hicks of McDonald Carano Wilson made a request that the Department hold a workshop with regard to the Commerce Tax forms.

Anna Thornley of the Nevada Taxpayer's Association would like to offer the Department the Association's assistance with working on the Commerce Tax forms.

Paul Enos of the Nevada Trucking Association shared his concern with regard to the procedure of the adoption of Regulation LCB File No. R123-15.

It was discussed and determined by the Commission and the Commission's legal counsel that the adoption proceeding was proper.

- XVII. Items for Future Agendas.

Commissioner Bersi requested that an action agenda item be added to direct the Department to conduct a workshop on all forms and instructions related to administration of the Commerce Tax and to bring back any amended forms or instructions to the Commission for approval.

Commissioner Sheets and Commissioner Marvel also requested that the Department hold a workshop on the Commerce Tax forms.

- XVIII. Meeting adjourned at 2:18 p.m.