

NEVADA TAX COMMISSION MEETING
MINUTES

Nevada Legislative Building
401 S. Carson Street, Room 2134
Carson City, Nevada

Video Conference

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

March 5, 2018
9:00 a.m.

Commissioners Present:

James DeVold, Chairman
Ann Bersi, Commissioner
Randy Brown, Commissioner
George Kelesis, Commissioner
Francine Lipman, Commissioner
Sharon Rigby, Commissioner
Craig Witt, Commissioner (via telephone)
Tony Wren, Commissioner

Chairman DeVold called the meeting to order at 9:00 a.m.

Chairman DeVold introduced William Anderson, Executive Director of the Nevada Department of Taxation.

Director Anderson stated a Press Release was sent to the Commission yesterday. He looks forward to working with the Commission and keeping the lines of communication open. Director Anderson will be meeting individually with each commissioner in the coming weeks.

I. Public Comment.

There was no public comment.

Director Anderson administered an oath to all participants providing testimony.

II. Consideration for Approval of the January 16, 2018 Nevada Tax Commission Meeting Minutes.

Commissioner Kelesis moved to approve the minutes of the January 16, 2018 Nevada Tax Commission Meeting. Commissioner Wren seconds. All in favor. Motion carries.

III. **CONSENT CALENDAR:**

A. **Matters of General Concern:**

- 1) **Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):**
 - a) Di Nuovo LLC

- b) Las Vegas Locksmith LLC
 - c) Owens Clothing LLC
 - d) Rydcon Enterprises LLC
 - e) South Creek Clothing Co.
- B. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000:
- 1) Century National Insurance Company
 - 2) Christian Dior Inc.
 - 3) Paramount Nevada Asphalt Company LLC
- C. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure (Sales/Use Tax):
- 1) American Merchandising Specialists Inc.
 - 2) Bravado International Group Merchandising Services Inc.
 - 3) ImportLA LLC, dba TATSoul Tattoo Supply
 - 4) Iradimed Corp
 - 5) Laser Products Industries Inc.
 - 6) Litecure LLC
 - 7) Mercantile Trading LLC
 - 8) Rose Brand Wipers Inc.
 - 9) Tecan SP Inc.
 - 10) United Construction Products Inc. dba Bison Innovative Products
 - 11) Zija International Inc.
- D. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (sales/use and/or modified business tax)
- 1) Habibian Soccer Group, Inc. dba Soccer Zone
 - 2) Samzee Inc.
 - 3) Smokeys
 - 4) Room Resolutions
 - 5) Atlantis Casino Resort
 - 6) William Feather
- E. Consideration for Approval of Payment Plan Request (Sales/Use and/or Modified Business Tax):
- 1) Fine Art Photography Ltd. dba Mikels Fine Art Photography
 - 2) Balloonsupply.com LLC
 - 3) Silver State Fence & Stain LLC

Chairman DeVold pulled Items D. 2) Samzee Inc. and D. 3) Smokeys for further discussion.

Commissioner Lipman pulled Item E. 3) Silver State Fence & Stain LLC for further discussion.

Commissioner Kelesis made a motion to approve the consent calendar, excluding pulled items D. 2), D. 3) and E. 3). Commissioner Lipman seconds the motion. All in Favor. Motion Carries.

Item III. D. 2) Samzee Inc.

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

Abdul Malik Hoodbhoy was present on behalf of the Taxpayer.

Vivienne Rakowsky stated there is a typographical error on Recital 10. It should read October 14, 2016 not 2017, and the interest was through November 13, 2016. Ms. Rakowsky stated the numbers remain the same.

Commissioner Brown asked what the payment plan will be.

Ms. Rakowsky stated a payment plan will be entered into and brought before the Commission for approval.

Commissioner Kelesis made a motion to approve the Settlement Agreement of Samzee Inc. Commissioner Bersi seconds. All in favor. Motion carries.

Item III. D. 3) Smokeys

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

Ms. Rakowski stated there is a typographical error to Line Item 8. It should read March 15, 2017 instead of February 8, 2015. The numbers remain the same.

Commissioner Kelesis made a motion to approve the Settlement Agreement for Smokeys. Commissioner Bersi seconds the motion. All in favor. Motion carries.

Item III. E. 3) Silver State Fence & Stain LLC.

Commissioner Lipman appreciates the Department of Taxation working with this Taxpayer. Commissioner Lipman wants to be sure the Department ensures the Taxpayer is compliant with this agreement. In the Taxpayer's letter requesting a Settlement Agreement, they indicate that at the end of 2016 they purchased a Winnebago, a timeshare and a boat, which they are financing. Commissioner Lipman encourages the Department to work with the Taxpayer to be sure they meet the deadlines, and if they do not, a lien should be filed.

Debra Toombs, Tax Program Supervisor III, stated the Department will monitor this matter closely and liens will be filed if they are not compliant.

Commissioner Lipman moved to approve the Payment Plan of Silver State Fence & Stain LLC. Commissioner Rigby seconds. All in favor. Motion carries.

IV. DIVISION OF LOCAL GOVERNMENT SERVICES:

A. Taxpayer's Appeal of the Assessor's Denial of Waiver of Penalty and Interest per NRS 361.4835 for Fiscal Year 2017- 2018 (Lyon County):

- 1) Brad H. and Sherry L. Lencioni; and Bridgewater Inv. Inc. (Various Parcel Numbers)

Jeffrey Mitchell, Deputy Director, was present on behalf of the Department of Taxation.

Sherry Lencioni, Taxpayer, was present on the telephone.

Commissioner Wren recused himself from voting on the matter of Brad H. and Sherry L. Lencioni.

Chairman DeVolld shared NRS 238.100 which states "postmarks are deemed the date of filing or payment".

Nikki Bryan was present on behalf of Lyon County. Ms. Bryan stated a huge amount of postmarks are illegible so we started not accepting postmarks.

Chairman DeVolld stated he believes we are stuck following the statutes. NRS 238.100 states we accept postage dates.

Commissioner Kelesis moved to deny the Taxpayer's appeal. Commissioner Witt seconds.

Roll Call Vote: Commissioner Kelesis - Aye. Commissioner Bersi - Nay. Commissioner Lipman - Nay. Commissioner Rigby - Nay. Commissioner Wren - Abstained. Commissioner Witt - Aye. Chairman DeVold - Nay. Motion dies.

Commissioner Rigby moved to uphold the Taxpayer's appeal. Commissioner Brown seconds the motion. Roll Call Vote: Commissioner Kelesis - Nay. Commissioner Bersi - Aye. Commissioner Lipman - Aye. Commissioner Rigby - Aye. Commissioner Brown - Aye. Commissioner Wren - Abstained. Commissioner Witt - Nay. Chairman DeVold - Aye. Motion carries by majority.

B. Discussion and Consideration for Granting the Waiver to remain on Guaranteed Status for City-County Relief Tax pursuant to NRS 377.057(2):

1) Lander County

Kevin Williams, Management Analyst I, was present on behalf of the Department of Taxation.

Rex Massey was present on behalf of Lander County.

Commissioner Brown made a motion to grant the waiver for Lander County to remain on guaranteed status. Commissioner Wren seconds the motion. All in favor. Motion carries.

2) White Pine County

Kevin Williams, Management Analyst I, was present on behalf of the Department of Taxation.

Elizabeth Francis, Finance Director for White Pine County, was present on the telephone.

Commissioner Wren moved to grant the waiver for White Pine County to remain on guaranteed status. Commissioner Rigby seconds the motion. All in favor. Motion carries.

3) Pershing County

Kevin Williams, Management Analyst I, was present on behalf of the Department of Taxation.

Rene Childs, Recorder-Auditor, was present on behalf of Pershing County.

Commissioner Rigby stated that these three counties are subject to mining and agrees that the guaranteed status should remain in place, but be monitored.

Kevin Williams stated the counties are monitored annually.

Commissioner Brown made a motion to grant the waiver for Pershing County to remain on guaranteed status. Commissioner Rigby seconds the motion. All in favor. Motion carries.

Locally Assessed Section:

C. Review and Consideration for Approval of Exemption(s) as authorized under NRS 361.068(2) where Administrative Costs Exceed Revenue from Tax on Personal Property for application in FY 2017-2018.

William Bailey, Supervisor - Locally Assessed Properties, was present on behalf of the Department of Taxation. Mr. Bailey stated the range of reports this year, the low cost for one county was \$2, and the high cost was reported as \$87. The average statewide costs are the weighted mean. We calculated at

\$11.05, with the median cost at \$11.03. The Division recommends the same \$12 be used as was used last year.

Commissioner Lipman made a motion to approve Item IV. C. Commissioner Brown seconds. All in favor. Motion carries.

D. Review and Consideration for Approval of the Manual of Rural Building Costs for 2019-2020

William Bailey, Supervisor - Locally Assessed Properties, was present on behalf of the Department of Taxation.

Commissioner Brown disclosed that AT&T more than likely owns some of these asset types, but is not impacted any differently than any other communication company.

Commissioner Witt moved to approve the Manual of Rural Building Costs for 2019-2020. Commissioner Lipman seconds the motion. All in favor. Motion carries.

V. COMPLIANCE DIVISION:

A. Taxpayer's Appeal of Administrative Law Judge Decision pursuant to NRS 372.145:

1) Tow Guys

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

Chris Carrello, Audit Supervisor, and Eric Steinmetz, Auditor II, were present on behalf of the Department of Taxation.

Dennis Milk, representative for the Taxpayer, was present on the telephone.

Commissioner Kelesis made a motion to stay these proceedings until the criminal case is complete. Commissioner Wren seconds the motion. All in favor. Motion carries.

2) Reliance Auto Repair LLC

Robert Werbicky, Deputy Attorney General, was present on behalf of the Department of Taxation.

Andrew Glendon was present on behalf of the Taxpayer.

Vinny Salsone and Judy Salsone were present.

Commissioner Kelesis made a motion to grant the Taxpayer their appeal to reverse the Administrative Law Judge's decision, in favor of the Taxpayer. Commissioner Rigby seconds. Commissioner Witt - Nay. Motion carries by majority.

B. Taxpayer's Appeal of the Department's Decision Denying Taxpayer's Late Filed Petition for Redetermination (Sales/Use Tax Deficiency)

1) Eagle Gas

George Hritz, Management Analyst III, was present on behalf of the Department.

Muhammad Ahmad was present on behalf of Eagle Gas.

Commissioner Rigby stated there is some extraordinary circumstances and miscommunication. Commissioner Rigby moved to allow the taxpayer to move forward.

Commissioner Kelesis suggested that the matter be sent back to the auditor and the Taxpayer be allowed to provide documents to the auditor.

Commissioner Rigby withdrew her first motion and moved to deny the late filed petition and remand the matter back to the Department to allow additional time for the Taxpayer to produce evidence and information. Commissioner Kelesis seconds the motion. Commissioner Brown - Nay. Motion carries by majority.

Samantha Turner, Audit Manager, was present on behalf of the Department. Ms. Turner stated the auditor will work with the Taxpayer and it will proceed as a normal audit. This matter will not be before Commission again unless it goes through the hearing process.

- C. Ninety (90) Day Review of the Commission's December 4, 2017 Decision to Stay the Administrative Law Judge's Order of Revocation pursuant to NRS 372.145:
 - 1) 4 Z's Enterprises LLC

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

Leslie Zeiler, Elaine Jardine, and a possible investor, Darian Gentz, were present on behalf of the Taxpayer.

Randy Brown moved to revoke the seller permit and apologized for delaying this action. Commissioner Kelesis seconds the motion. All in favor. Motion carries.

- D. Department's Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:
 - 1) Young Kim

Adriane Roberts-Larson, Revenue Officer II, was present on behalf of the Department.

Young Kim, Taxpayer, was present.

Commissioner Brown made a motion to approve the offer-in-compromise of Young Kim. Commissioner Kelesis seconds the motion. All in favor. Motion carries.

- 2) John T. Coleman

Adriane Roberts-Larson, Tax Program Supervisor, was present on behalf of the Department.

John T. Coleman, Taxpayer, was present.

Commissioner Kelesis motioned to approve the offer-in-compromise of John T. Coleman. Commissioner Brown seconds the motion. All in favor. Motion carries.

- 3) Benny Riccardo

Adriane Roberts-Larson, Tax Program Supervisor, was present on behalf of the Department.

Benny Riccardo, Taxpayer, was present.

Commissioner Kelesis made a motion to approve the offer-in-compromise of Benny Riccardo. Commissioner Brown seconds the motion. All in favor. Motion carries.

4) Isabel Godinez

Kathy Fey, Revenue Officer III, was present on behalf of the Department.

Isabel Godinez, Taxpayer, was present. Lucia Reyes was present on behalf of the Taxpayer.

Commissioner Kelesis made a motion to approve the offer-in-compromise of Isabel Godinez. Commissioner Wren seconds the motion. All in favor. Motion carries.

5) Richard Alan Anderson

The matter of Richard Alan Anderson was pulled from today's agenda.

E. 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) The National Exchange Club Foundation

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

Jackie Lewis, Finance Manager of The National Exchange Club Foundation, was present on the telephone.

Commissioner Kelesis made a motion to uphold the Department's denial. Commissioner Lipman seconds the motion. All in favor. Motion carries.

F. Consideration for approval of the Second Revised Advisory Opinion (15-001 and 15-002), per the Court's Order.

1) Service Rock Products, Inc. and Nevada Ready Mix, Inc.

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

Paul Jones was present on behalf of Service Rock Products, Inc. and Nevada Ready Mix, Inc.

Michael Brown, Esq. was present on the telephone.

Commissioner Kelesis moved to approve Second Revised Advisory Opinions 15-001 and 15-002. Commissioner Brown seconds the motion. All in favor. Motion carries.

G. Taxpayer's appeal of Second Revised Advisory Opinion (15-001 and 15-002):

1) Service Rock Products, Inc. and Nevada Ready Mix, Inc.

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

Paul Jones, Esq. was present on behalf of Service Rock Products, Inc. and Nevada Ready Mix, Inc.

Michael Brown, Esq. was present on the telephone.

Mr. Jones stated the appeal was filed upon the basis that the Commission had not acted to approve the work that the Department put forth on the Second Revised Advisory Opinion that was ordered by the Court. The Taxpayer's position is that it is not compliant with the Court's order. A letter was provided to the

Commission outlining the issues. Mr. Jones reviewed a few of the deficiencies that exist, specific to the Second Revised Advisory Opinion, for the Commission.

Ms. Rakowsky asked to add the Administrative Law Judge's Finding of Fact and Conclusion of Law and Final Decision to the record.

Paul Jones objected and stated it does not have relevance. The ALJ found in our favor and it is the same law. Mr. Jones then commented that he doesn't have any real problem.

Chairman DeVolld allowed the ALJ Decision to be added to the record.

Ms. Rakowsky stated that the word "pure" was taken out. In the decision, the ALJ discusses transportation, shipping and postage, and the difference between the term "delivery", which is an overall encompassing term; and transportation, shipping, and postage, are the small part. Nevada is a member of Streamline, and they have to adhere to the laws. Chapter 360B discusses sourcing rules, and regardless of when title passes, the tax is determined by the delivery of the items.

Commissioner Kelesis made a motion to deny the taxpayer's appeal. Commissioner Wren seconds the motion. All in favor. Motion carries.

VI. 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).

VII. BRIEFING:

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

There was no discussion.

VIII. Next Meeting Date: May 7, 2018

IX. Public Comment.

There was no public comment.

X. Items for Future Agendas.

No items were discussed.

XI. Meeting adjourned at: 12:14 p.m.