

NEVADA TAX COMMISSION MEETING

Meeting Minutes

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

Video Conference

Las Vegas:
Legislative Counsel Bureau
Grant Sawyer State Office Building
555 E. Washington Ave., Room 4401
Las Vegas, NV

August 17, 2015
9:00 a.m.

Commission Members Present:

Robert R. Barengo, Chairman
Joan Lambert, Commissioner
Ann Bersi, Commissioner (via telephone)
Thom Sheets, Commissioner (via telephone)
George Kelesis, Commissioner
John E. Marvel, Commissioner
Craig Witt, Commissioner

Commission Members Absent:

James DeVold, Commissioner

Chairman Barengo called the meeting to order at 9:05 a.m.

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

I. Public Comment

Mr. Ray Bacon, of the Nevada Manufacturers Association, commented there will be three (3) commissioners whose terms are up at the end of October. The Department of Taxation (the "Department") is currently processing the new Commerce Tax, changes to current taxes, and other new taxes. It takes a long time for new commissioners to understand the processes and details of the Tax Commission. We need a stable Tax Commission. Mr. Bacon submitted written comments to be added to the record.

II. Consideration for Approval of the June 25, 2015 and July 6, 2015 Nevada Tax Commission Meeting Minutes

Commissioner Kelesis made a motion to approve the Minutes of the June 25, 2015 and July 6, 2015 Nevada Tax Commission meetings. Commissioner Lambert seconded the motion. All in favor. Motion carried unanimously.

III. CONSENT CALENDAR:

A. Matters of General Concern:

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

- 1) Corbalight LLC
- 2) Hy Entertainment LLC
- 3) Vegas Vape LLC
- 4) Frutimex LLC
- 5) HPRW Inc.
- 6) Pruett Tire Inc.
- 7) Rap Sales Foods Inc.
- 8) Ultimate Motor Sports Inc.
- 9) Whispering Vine Wine Co.
- 10) Jannerd Inc.
- 11) Lansko Properties
- 12) C LLC
- 13) Century Graphics Printing of Nevada LLC
- 14) Group & S LLC
- 15) Galvan Corporation
- 16) Incline Liquor
- 17) Mitchland Tools
- 18) Mollys Tenaya LLC
- 19) Reno Auto Wrecking LLC
- 20) Shaks Smoke Shop LLC
- 21) Silver State Direct Furniture LLC
- 22) Tanglewood Productions
- 23) Pacific Coast Pump & Equipment Inc.

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

- 1) Santa Rosa Taco Shop

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

- 1) Round Mountain Gold
- 2) Downtown Sewing Machine Company
- 3) Henderson Hyundai Superstore Inc.
- 4) Knight Transportation Inc.
- 5) Nevada Restaurant Services Inc.

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

- 1) Jokers

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

- 1) BrightSign, LLC
- 2) Corning Optical Communications Wireless, Inc.
- 3) Innov8 GB LTD
- 4) Jones-Blair Co.
- 5) Prog Leasing, LLC
- 6) Spectro Scientific, Inc.

- 7) Spireon, Inc.
- 8) Team AVS, Inc.
- 9) Valassis Communications, Inc.

- F. Approval of Refund/Credit Request in Excess of \$250,000:
1) GSI Commerce Solutions Inc.

A motion was made by Commissioner Kelesis and Commissioner Marvel to approve the Consent Calendar as a whole. Commissioner Bersi seconded the motion. All in favor. No opposed. Motion carried unanimously.

IV. COMPLIANCE DIVISION:

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

Lizette Arceo was present and reported for the Department.

Commissioner Marvel asked if the Offer-In Compromise has been reviewed by Director Contine and Deputy Director Oliver. Director Contine stated she has reviewed the submitted material.

Commissioner Lambert made a motion to approve the Offer-In-Compromise. The motion was seconded by Commissioner Witt. All in favor. Motion carried unanimously.

- 2) Salvatore and Giuseppe Mauro

Commissioner Sheets recused himself from Item IV. A. 2) – Salvatore and Giuseppe Mauro.

Lizette Arceo was present and reported for the Department. Salvatore Mauro and Giuseppe Mauro, of Nora's Wine Bar, were present for the Taxpayer.

There were no questions by the Commission.

Commissioner Kelesis made a motion to approve the Offer-In-Compromise. Commissioner Lambert seconded the motion. All in favor. Motion carried unanimously.

- 3) Paul and Steve Yeghiayan

Lizette Arceo was present and reported for the Department. Paul Yeghiayan, Taxpayer, was present.

Commissioner Sheets asked the Taxpayer if he received poor advice from a California Certified Public Accountant ("CPA"), and asked if the CPA was the individual that prepared the tax returns for the Taxpayer.

Paul Yeghiayan, of Ace Brothers Collision Center, answered yes, and stated the Taxpayers have now switched to Nevada accountants.

Commissioner Sheets asked what the Taxpayers have done to attempt to recover the taxes from the California CPA.

Mr. Yeghiayan stated the Taxpayer will seek legal advice after the meeting.

Commissioner Marvel suggested revisiting this matter after the Taxpayers can take legal action against the California CPA.

Commissioner Kelesis suggested the statute of limitations may be expired in California.

Commissioner Kelesis made a motion to send this matter back to the Department for review, asked that the Taxpayer contact an attorney to take possible legal action and report back to the Commission. Commissioner Marvel seconded the motion. Motion carried unanimously.

B. Discussion and possible action regarding Technical Bulletin 15-0002
Shipping/Delivery Charge/Handling

Director Contine stated the Technical Bulletin number on the Agenda was incorrect. The correct number is Technical Bulletin 15-0002.

Deputy Director Oliver reported to the Commission regarding Technical Bulletin 15-0002. This matter relates to delivery, and the differences between transportation, shipping and postage, which is not taxable when separately stated; versus handling, packaging and crating, which is taxable, even when it's separately stated.

Commissioner Lambert stated this Technical Bulletin is very clear and understandable.

Commissioner Sheets made a motion to approve Technical Bulletin 15-0002. Commissioner Kelesis seconded the motion. The motion carried unanimously.

V. 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).

Material on the informational items was provided to the Commission.

VI. BRIEFING:

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

Director Contine reported to the Commission regarding the Department's new regulatory processes. The Director stated the Department is in the process of scheduling workshops on the new Commerce Tax and on the Live Entertainment Tax. Once the workshop dates are finalized, we will inform the Commissioners.

Director Contine reported that the Department is currently starting to post employment positions. The Department will be hiring a Tax Manager for Commerce Tax, a Public Information Officer and two Management Analysts.

Director Contine reported that Sumiko Maser has been appointed as the new Chief Deputy Director and Jay Kvam has been hired as the Deputy Director of Administration.

Director Contine mentioned that the Administrative Law Judge (“ALJ”) position has had a reduction in contested cases and the position may be going in a different direction.

Chairman Barengo stated the Commission would like to discuss the ALJ position. Chairman Barengo stated the ALJ is a Commission appointed position.

Commissioner Kelesis stated that the ALJ position description will need to be reviewed by the Commission.

Chairman Barengo stated that the Commission will need to review all of the information, including comments, with regard to the new taxes.

Commissioner Kelesis stated it is imperative that the Commission be informed regarding the process of the new taxes being imposed and asked that correspondence be provided to the Commission in a timely manner.

Commissioner Sheets and Commissioner Lambert agreed with Commissioner Kelesis.

Director Contine reported the Department is currently taking written comments regarding the new Commerce Tax from the public and has had multiple meetings with various industries. The written public comments will be provided to the Commissioners and also added to the Department’s website.

Commissioner Sheets stated that there needs to be some transparency with the comments that are received by the Department. Commissioner Sheets noted the short time frames. Commissioner Sheets would also like to discuss the ALJ situation. Commissioner Sheets would like to be involved “as things happen”.

Commissioner Lambert suggested holding additional workshops.

Commissioner Sheets interprets that the ALJ is independent of the Department. The Department is a party to all of the matters that go before the ALJ. The Commission, or some part of the Commission, should be involved in the hiring process.

Jennifer Crandell shared that she reviewed the statutes in relation to the ALJ position. Ms. Crandell recommends that any action in relation to the ALJ position would need to be on a Nevada Tax Commission agenda and an action must be taken.

Director Contine stated that she will work with Jennifer Crandell on the ALJ matter and assured the Commission it will be added to an upcoming Nevada Tax Commission agenda for review and approval.

Commissioner Sheets understands the Director’s need for an experienced ALJ; and he fully understands how complex the new tax laws are, and how important it is to have a qualified ALJ.

VII. Next Meeting Date. October 5, 2015

The Department and Commission will possibly incorporate an additional Nevada Tax Commission meeting date in November or possibly early December.

VIII. **Public Comment – In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than five (5) minutes.

There were no public comments.

IX. Items for Future Agendas.

No future agenda items were discussed.

X. The meeting adjourned at 10:15 a.m.