

Nevada Tax Commission Meeting

MINUTES

GAMING CONTROL BOARD
1919 College Pkwy, Room 100
Carson City, Nevada

VIDEO CONFERENCE

GAMING CONTROL BOARD
Grant Sawyer State Office Building
555 E Washington Avenue, Room 2450
Las Vegas, Nevada

May 11, 2015
9:00 a.m.

Commission Members Present:

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

Department of Taxation Staff Present:

Deonne Contine, Executive Director
Paulina Oliver, Deputy Director - Compliance
Bruce Bartolowits, Supervisor - Local Assessed Properties
Debra Toombs, Tax Program Supervisor III
Dalia Andrade, Revenue Officer III
Ray Lummus, Tax Manager
Brenda Rubalcava, Revenue Officer III
Kathy Williams, Tax Program Supervisor II
Susan Lewis, Budget Analyst II
George Hritz, Management Analyst III
Cory Roberts, Administrative Assistant IV
Nicky Baily, Accountant Tech I
Lizette Arceo, Revenue Officer III
Emmy Keller, Auditor II
Mark Easley, Auditor II
Colleen Sawyer, Auditor II
Mary Patton, Tax Program Supervisor III
Rebecca Bruce, Revenue Officer II
Bruce Courtney, Tax Manager
Jorge Pupo, Tax Manager
Gerry Perry, Supervising Auditor II
Brian Deem, Tax Program Supervisor I
Leslee Ciercierski, Auditor II
Gregory Worms, Property Appraiser II

John Leuck, Property Appraiser II
Ashley Mager, Revenue Officer II
Marian Singleton, Revenue Officer III
Jason O'Brien, Revenue Officer II
Kevin Cole, Property Appraiser II
Franchesca Siepenkothen, Management Analyst II
Heidi Rose, Budget Analyst II
Terri Upton, Supervising Auditor II
Robert Cano, Revenue Officer II
Shannon Silva, Property Appraiser II
Jo Lynn Smith, Tax Program Supervisor II
Roberto Marin, Auditor II
David Winter, Auditor II
Christopher Carrello, Auditor III
Terry Rubald, Deputy Director – Local Government Services
Tina Padovano, Executive Assistant

Attorney General Staff Present:

Melissa Flatley, Deputy Attorney General
Vivienne Rakowsky, Deputy Attorney General
Alycia Hansen, Deputy Attorney General
Andrea Nichols, Senior Deputy Attorney General
Jennifer Crandell, Special Counsel
Gina Sessions, Chief Deputy Attorney General

Guests and Taxpayers Present:

Susan Laus
David Daviton, NVAD
Andrea Juilleras-Olivera, ASL
C. Cichowlaz, Mineral County
Ruth P. Lee, Esmeralda County
Maria Huynh, Western Nevada Supply
James M. Phalan II
Bill McKean, Fennemore Craig
Norman Azevedo, Rainbow Gardens
Jane Sedden, Storey County
Hugh Gallagher, Storey County
Mercedes Woster, Jazs Pizza
Patti Lamb, Storey County School District
Tina Paff, Clark County Assessor
Jessica Velazquez, The Cosmopolitan
Chelle, Adams, The Cosmopolitan
Michele Shafe, Clark County Assessor
Dave Scott, Clark County Assessor
Jeff Payson, Clark County Assessor
Mary Ann Weidne, Clark County Assessor
Sam E. Santacruz, Certified Systems Corporation
Darrell Whitaker, IMI Resort Sales, LLC
Michael N. Feder, IMI Resort Sales, LLC
Jenny Phillips, Caesars
Steven Scow, Just for Show
Val Gibson, Nevada Ready Mix and Service Rock

Jasdey Ram
Lincoln County
Jay Tindell, SLS Las Vegas
James Barasl, SLS Las Vegas
Maria Mijangos, Robertos Taco Shop
Rod Voris, ASL Communication
Kim Tyler, Tyler NV, LLC
Barbara Smith Campbell (via telephone)
Paul Jones, for Nevada Ready Mix and Service Rock

9:08 a.m. Chairman Barengo called the meeting to order at 9:08 a.m.

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

I. Public Comment

There was one (1) public comment. It was suggested the interpreter at today's meeting stand at the podium with the taxpayer during testimony.

II. Consideration for Approval of the March 9, 2015 Nevada Tax Commission Meeting Draft Minutes

Commissioner Kelesis made a motion to approve the March 9, 2015 Meeting Minutes. Commissioner DeVold seconded the motion. Motion passed unanimously.

III. CONSENT CALENDAR¹:

A. Matters of General Concern:

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

- 1) La Michoacana Mexican Restaurant LLC
- 2) Lilys China Bistro LLC
- 3) Hariom Gulati
- 4) Jagdev Ram
- 5) Bauer's Fashion Eyewear GB LLC
- 6) Bautista Contracting Services LLC
- 7) China Kitchen LV LLC
- 8) Healthy Tails LLC
- 9) Mr Pool And Mrs Patio LLC
- 10) SMBT LLC
- 11) Salomon Incorporated
- 12) Tyler Eastern LLC
- 13) Helianthus LLC
- 14) Mr W and D Inc.
- 15) Feneche Group LLC
- 16) Henriques McKen Enterprises Inc.
- 17) Kailey Corporation
- 18) Rant & Rave of Nevada Inc.
- 19) Sub America LLC
- 20) Paul Everts RV Country Inc.
- 21) Elite Wine and Spirits Inc.

- 22) Hodges Enterprises of Las Vegas #1 LLC
- 23) Maria Mijangos
- 24) Paw Prints LLC
- 25) China Tango Inc.
- 26) Plastic Process Equipment Inc.
- 27) Vegas Gifts LLC
- 28) Century Graphics Printing of Nevada LLC

2) Standard Direct Sales Organization Agreements (date as indicated):

- 1) Xcellent Choice Global Inc.
- 2) Orange Peel Inc.

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

- 1) Got Tools Inc.
- 2) JNJ Inc. dba Stash
- 3) Southern Comfort LLC
- 4) Don Calley Services Inc dba Image Sound and Control

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

- 1) Just for Show Inc.
- 2) Bridgestone Retail Operations LLC
- 3) Sams West Inc.
- 4) Nevada Property 1 LLC
- 5) Intuit Inc.
- 6) Walmart Stores Inc.
- 7) Western Nevada Supply Co.
- 8) CCI Corporate Services, Inc.
- 9) Tropicana Las Vegas, Inc.

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

- 1) Formglass Products LTD
- 2) One Source Virtual HR Inc
- 3) National Association of Tax Professionals, Inc.
- 4) Jusuru International Inc.
- 5) Alex & Ani LLC
- 6) SLS Las Vegas
- 7) Bungie Inc.
- 8) Fonality, Inc.

E. Consideration of Recommended Settlement Agreements and Stipulations (sales/use and/or modified business tax):

- 1) Your Wholesaler
- 2) Certified Systems Corporation dba Cross Country Motors
- 3) Estate of Bernice Clark
- 4) Ryan Stewart for the Debts of Framecon Incorporated

F. Approval of Refund/Credit Request in Excess of \$250,000:

- 1) Western United Insurance Company
- 2) CSAA Fire & Casualty Insurance Company
- 3) Prudential Insurance Company of America

4) Graymont Western US Inc.

Commissioner Witt asked to pull Item D. 6) SLS Las Vegas from the Agenda.

Chairman Barenco asked why this is the first time Items F. 1) Western United Insurance Company and F. 2) CSAA Fire & Casualty Insurance Company applied for a home office exemption. Director Contine suggested the companies recently qualified for the exemption.

Commissioner Kelesis made a motion to approve the consent items as a whole, not including Item D. 6) SLS Las Vegas. Commissioner Witt seconded the motion. Motion carried unanimously.

Commissioner Witt discussed Item D. 6) SLS Las Vegas with Bruce Courtney of the Department of Taxation. Commissioner Witt made a motion to approve Item D. 6) SLS Las Vegas. Commissioner Lambert seconded the motion. Motion carried unanimously.

IV. COMPLIANCE DIVISION:

A. Taxpayer's Appeal of Department's Denial of Exemption Status for Organization Created for Religious, Charitable or Educational Purposes (Sales/Use Tax):

1) Nevada Association of the Deaf

Andrea Nichols, Senior Deputy Attorney General, appeared for the Department of Taxation.

David Daviton appeared for the Nevada Association of the Deaf.

Commissioner Kelesis removed this item from the calendar and asked that the Department work with the Taxpayer.

2) CHR, Inc.

Andrea Nichols appeared for the Department of Taxation.

Mary House withdrew the appeal for CHR, Inc.

B. Department's Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:

1) Darrell Whitaker

Marian Singleton, Revenue Officer III, appeared before the Commission for the Nevada Department of Taxation.

Michael Feder appeared before the Commission for the Taxpayer.

Marian Singleton recommended the Department accept the Offer-In-Compromise.

Mr. Feder agreed with Ms. Singleton and with the Offer-In-Compromise.

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

2) James Phalan II

Barbara Smith Cambell appeared before the Commission, for the Taxpayer, by telephone.

Brenda Rubakalva, Revenue Officer III, appeared for the Department of Taxation.

James Michael Phalan II, the Taxpayer, was present before the Commission.

Brenda Rubakalva stated that the Department recommends the Offer-In-Compromise be accepted.

Mr. Phalan agrees with the Offer-In-Compromise.

Commissioner Kelesis made a motion to approve the Offer-In-Compromise. Commissioner Lambert seconded the motion. Chairman Barengo voted no. Motion carried by majority.

- C. Department's Recommendation to the Commission for Denial of an Offer-In-Compromise pursuant to NRS 360.263:
1) JAZS Pizza Inc.

Melissa Flatley, Deputy Attorney General, appeared for the Department of Taxation.

Mercedes Wooster, the Taxpayer, appeared before the Commission.

Dalia Andrade, Revenue Officer III, appeared for the Department of Taxation.

Commissioner Kelesis made a motion to approve payments of \$750.00 a month for a term of sixty (60) months. Commissioner Bersi seconded the motion. Commissioner DeVold and Chairman Barengo voted no. Motion carried by majority.

- D. Taxpayer's Appeal of Hearing Officer's Decision (Sales/Use Tax):
1) Rainbow Gardens

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

Norman Azevedo, Esq. appeared on behalf of Rainbow Gardens.

Commissioner Kelesis made a motion to uphold the Hearing Officer's Decision. Commissioner Bersi seconded the motion. Commissioner Marvel voted no. Motion carried by majority.

- E. Taxpayer's Appeal of Advisory Opinion 14-024 (sales/use tax):
1) Pricewaterhouse Coopers, LLP dba Novocure Inc.

This matter has been withdrawn.

- F. Taxpayer's Appeal of Advisory Opinion 15-002 (sales/use tax):
1) Nevada Ready Mix, Inc.

- G. Taxpayer's Appeal of Advisory Opinion 15-001 (sales/use tax):
1) Service Rock Products, Inc.

Items F. 1) Nevada Ready Mix, Inc. and G. 1) Service Rock Products, Inc. were heard by the Commission together.

Vivienne Rakowsky, Deputy Attorney General, appeared for the Department of Taxation.

Paul Jones appeared for Nevada Ready Mix and Service Rock Products, Inc.

Commissioner Kelesis made a motion to uphold Advisory Opinions 15-001 and 15-002. The motion was seconded by Commissioner Lambert. Commissioner DeVold voted no. Motion carried by majority.

H. On remand from the First Judicial District Court for further action in accordance with the Order Granting Petition for Judicial Review entered February 12, 2015 and consideration of Proposed Decision in accordance with the Order:

- 1) Matthew Sheets v. the Nevada Department of Taxation

Commissioner Bersi made a motion to approve the proposed Order. Commissioner Kelesis seconded the motion. All in favor. Motion carried.

I. Consideration for Approval of Adoption of Additions and Amendments to Permanent Regulations:

- 1) Adding to and amending Chapter 360 of the Administrative Code revising provisions governing agreements between the Department of Taxation and Taxpayers for the payment of taxes, interest and penalties in installments. LCB File No. R089-14 (for possible action)

George Hritz, Management Analyst III, appeared for the Department of Taxation.

There was no public comment on this matter.

Commissioner DeVold made a motion to approve the additions and amendments to LCB File No. R089-14. Commissioner Witt seconded the motion. 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).

VI. DIVISION OF LOCAL GOVERNMENT SERVICES:

Locally Assessed Properties Section:

A. Review and Consideration of Approval on the Renewal of the Residential Construction Tax:

- 1) Storey County School District

Terry Rubald, Deputy Director of Local Government Services, appeared for the Department of Taxation.

Patti Lamb appeared for the Storey County School District. Ms. Lamb stated the Storey County School District supports the request.

Commissioner Sheets made a motion to approve the renewal of the residential construction tax for the Storey County School District. Commissioner Bersi seconded the motion. All in favor. Motion carried unanimously.

2) Lincoln County School District

Terry Rubald, Deputy Director of Local Government Services, appeared for the Department of Taxation.

Mr. Hansen appeared by telephone for the Lincoln County School District. Mr. Hansen stated the Lincoln County School District supports the request.

Commissioner DeVold made a motion to approve the renewal of the residential construction tax for the Lincoln County School District. Commissioner Witt seconded the motion. Motion passed unanimously.

B. Consideration for Approval and Adoption of the 2015 – 2016 Ratio Study (Pursuant to NRS 361.333).

Bruce Bartolowitz, Supervisor - Local Assessed Properties, appeared for the Department of Taxation.

Chris Pepper appeared for Mineral County. Mr. Pepper stated Mineral County agreed with the Department of Taxation's suggestion that they use the Rural Manual.

Commissioner Witt made a motion to approve the 2015-2016 Ratio Study and that Mineral County use the Rural Manual. Commissioner DeVold seconded the motion. Motion carried unanimously.

C. Taxpayer's Appeal of the Assessor's Denial of Waiver of Penalty and Interest per NRS 361.4835 for Fiscal Year 2014 - 2015 (Clark County):

1) Caesars Entertainment Corporation

Tina Paff appeared for the Clark County Assessor's Office.

Jenny Phillips appeared for Caesars Entertainment Corporation.

Commissioner Kelesis made a motion to deny the request. Commissioner Sheets seconded the motion. All in favor. Motion passed unanimously.

D. Discussion and Consideration of Request for Adoption of Regulations to Address the Proper Classification of Telecommunications Properties and to Determine whether any Further Clarification is Necessary with Respect to Valuation Methodology for Real and Personal Property.

William McKean of Fennemore Craig appeared before the Commission.

Director Contine spoke for the Department of Taxation.

No action was taken.

E. Discussion and Consideration for Approval for the 2016-2017 Personal Property Manual as authorized under NRS 361.227 and NAC 361.1365.

Terry Rubald, Deputy Director of Local Government Services, appeared for the Department of Taxation.

A motion was made by Commissioner DeVold to approve the 2016-2017 Personal Property Manual. Commissioner Marvel seconded the motion. Motion carried unanimously.

VII. BRIEFING:

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

Director Contine appeared for the Nevada Department of Taxation.

Director Contine reported that the Department of Taxation had their budget closing hearing. The Department had asked for a Management Analyst and was approved for an Economist.

Director Contine stated the Department employs the State Demographer. We requested that the position move from a contract to a Department employee. This was also approved.

VIII. Next Meeting Date: June 25, 2015

IX. Public Comment

There was no public comment.

X. Items for Future Agendas.

There were no future agenda items discussed.

XI. Adjournment.