

Nevada Tax Commission Meeting
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

October 5, 2015
9:00 a.m.

Commission Members Present:

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

The Chairman called the meeting to order at: 9:02 a.m.

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

I. **Public Comment.

Tom Clark of Tom Clark Solutions represents The Burning Man Project and commented that he would like to participate in upcoming workshops.

II. Consideration for Approval of the August 17, 2015 Nevada Tax Commission Meeting Minutes

Commissioner DeVold made a motion to approve the Minutes of the August 17, 2015 Nevada Tax Commission Meeting. Commissioner Lambert seconded the motion. All in favor. Motion carried unanimously.

III. CONSENT CALENDAR¹:

A. Matters of General Concern:

- 1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):
 - 1) Ahmad T Mahan
 - 2) Deep Enterprises Inc.
 - 3) Drais Afterhours LLC
 - 4) Eric A Leins & Molly Gaddy
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- 5) Jentar Ventures Inc.
- 6) Jewelry Discounters Inc.
- 7) Pannu Properties LLC
- 8) Tempo LLC
- 9) Winner Cycles LLC
- 10) Yearzero Hospitality Limited
- 11) Ace Banners Inc.
- 12) J & J Auto Repair & Body Shop Corporation
- 13) WFTLV01 LLC
- 14) Willden Family C Stores LLC
- 15) Gerald K Huff DVM LTD

B. Standard Direct Sales Organization Agreements

- 1) Doterra US LLC

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

- 1) Cortez Joint Venture
- 2) Johnson Brothers of NV Inc.
- 3) Nevada Dental Benefits
- 4) Sierra General Contractors Inc.
- 5) Gold Lock Corporation
- 6) Brahma Group Inc.
- 7) Loose Moose Saloon
- 8) Family Music Centers
- 9) Panda Express Inc.
- 10) Cabinets & Related Products, Inc.
- 11) C & M Garage Door Services, LLC
- 12) Southwest Energy, LLC
- 13) Cashman Equipment Company

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

- 1) Ace American Insurance Company
- 2) Cigna Health and Life Insurance Co.
- 3) Metropolitan Life Insurance Company
- 4) Pruco Life Insurance Co.
- 5) Prudential Insurance Company of America
- 6) Technology Insurance Company
- 7) Nevada Restaurant Venture 1 LLC

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

- 1) A10 Networks, Inc.
- 2) NVT Licenses, LLC
- 3) Sentage Corporation
- 4) Wenger Corp.
- 5) Tropitone Furniture Company, Inc.

F. Consideration of Recommended Proposed Findings of Fact, Conclusions of Law and Decision regarding Applicability of Property Tax Abatement

- 1) Level 3 Communications, LLC (Lincoln County, Account # CM000990, CM000962, Case No. NTC 14-1113)
- 2) Dimo Dichev (Washoe County, APN 232-210-18, Case No. NTC 15-100)

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

- 1) Vision Holidays Inc.
- 2) Atlas Contractors, Inc.

Item III. C. 8) Family Music Centers requested to be removed from the agenda.

Item III. G. 1) Vision Holidays was pulled from the Consent Calendar to discuss in further detail.

Item III. C. 4) Sierra General Contractors was pulled from the Consent Calendar to discuss in further detail.

Commissioner Bersi made a motion to approve the Consent Calendar as a whole, not including Family Music Centers, Vision Holidays and Sierra General Contractors. Commissioner DeVold moved to second the motion. All in favor. No opposed. Motion carried unanimously.

Commissioner DeVold abstained from Item III. C. 4) Sierra General Contractors. A motion was made by Commissioner Lambert to approve Item III. C. 4) Sierra General Contractors. Commissioner Witt seconded. Motion carried.

Melissa Flatley, Deputy Attorney General, reported for the Department of Taxation on Item III. G. 1) Vision Holidays. Ms. Flatley provided an overview of the recommended Settlement Agreement to the Commission. Commissioner Kelesis made a motion to approve the recommended Settlement Agreement. Commissioner Marvel seconded the motion. All in favor. No opposed. Motion carried.

IV. DIVISION OF LOCAL GOVERNMENT SERVICES

A. Locally Assessed Property Section:

- 1) Consideration of Amendment to Previously Adopted 2016-2017 Bulletin 205 – Assessment Instruction for Agricultural Land, to include Tables relating to the valuation of open-space golf course land and improvements.

Terry Rubald, Deputy Director, reported on Item IV A. 1) for the Department of Taxation.

Commissioner Marvel asked Terry Rubald if there were any comments received. Ms. Rubald responded that no comments were received.

Commissioner Witt made a motion to approve the amendment to the previously adopted 2016-2017 Bulletin 205 – Assessment Instruction for Agricultural Land, to include tables relating to the valuation of open-space golf course land and improvements. Commissioner Sheets seconded the motion. All in favor. No opposed. Motion carried unanimously.

- 2) Taxpayer's Appeal of Treasurer's Denial of Relief from Penalty and Interest on Property Taxes Per NRS 361.4835 for Fiscal Year 2014-2015:
 - a) Balvant N. Tailor dba Econolodge / Hariom TV / Hariom Apartment (Churchill County Treasurer)

Bruce Bartolowits, Supervisor – Local Assessed Properties, reported for the Department of Taxation.

Balvant N. Tailor, Taxpayer, testified on his own behalf.

Churchill County was represented by Kelly Helton, Clerk Treasurer, and Linda Rothery, Chief Deputy Clerk/Treasurer.

There were no questions by the Commission.

Commissioner Marvel moved to uphold the assessment of penalties and interest. Commissioner Kelesis seconded the motion. All in favor. Motion carried. The appeal is denied.

B. Centrally Assessed Properties Section:

- 1) Determination and Allocation of Certification of Centrally Assessed 2016-2017 secured and 2015-2016 unsecured Unitary Property Valuations and Assessments pursuant to NRS 361.320 and 361.323.

Jeff Mitchell, Supervisor - Centrally Assessed Properties, presented on behalf of the Department of Taxation.

Commissioner Marvel asked if there were any formal appeals. Mr. Mitchell replied there were none.

Commissioner Marvel made a motion to approve the determination and allocation of Certification of Centrally Assessed 2016-2017 Secured and 2015-2016 Unsecured Unitary Property Valuations and Assessments pursuant to NRS 361.320 and 361.323. Commissioner Bersi seconded the motion. All in favor. No opposed. Motion carried.

V. COMPLIANCE DIVISION:

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

- 1) Mario Aloe

Lizette Arceo, Revenue Officer III, was present for the Department of Taxation.

Mario Aloe, Taxpayer, was present.

Commissioner Sheets made a motion to approve the Offer-In-Compromise. Commissioner Kelesis seconded the motion. All in favor. No opposed. Motion carried.

- 2) Veda and Steven Bristow

Marian Singleton, Revenue Officer III, reported on behalf of the Department of Taxation.

Veda and Steven Bristow, Taxpayers, were present.

Commissioner Lambert made a motion to approve the Offer-In-Compromise. Commissioner DeVold seconded the motion. All in favor. No opposed. Motion carried unanimously.

- 3) Robert and Amy Mercado

Lizette Arceo, Revenue Officer III, reported on behalf of the Department of Taxation.

Commissioner Kelesis made a motion to approve the Offer-In-Compromise. Commissioner DeVold seconded the motion. All in favor. No opposed. Motion carried unanimously.

- 4) Southwest Auto

Lizette Arceo, Revenue Officer III, reported on behalf of the Department of Taxation.

Commissioner DeVold requested that this matter is reported on annually to monitor the Taxpayer going forward.

Jorge Pupo, Tax Manager, will set this matter for a 12-month review.

Commissioner Sheets made a motion to approve the Offer-In-Compromise. Commissioner Lambert seconded the motion. All in favor. No opposed. Motion carried unanimously.

- B. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000; and Taxpayer's Appeal of Department's Denial to Grant Full Waiver of Interest
 - 1) Source One Events

Bruce Courtney, Tax Manager, reported for the Department of Taxation.

Richard Vallari, CPA, was present for the Taxpayer.

Commissioner Kelesis made a motion to deny the Taxpayer's Appeal. Commissioner Witt seconded the motion. All in favor. No opposed. Motion carried unanimously.

- C. Taxpayer's Appeal of Department's Denial of Exemption Status for Organization Created for Religious, Charitable or Educational Purposes (Sales/Use Tax):
 - 1) The Philantreneur Foundation

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

The Taxpayer was not present.

Commissioner Kelesis moved to uphold the denial. Commissioner Lambert seconded the motion. All in favor. Motion carried unanimously.

- D. Taxpayer's Appeal of the Department's Decision Denying Taxpayer's Late Filed Petition for Redetermination (Sales/Use Tax Deficiency)
 - 1) Riverton Elko Superstore, LLC

This item was removed from the agenda.

- E. Taxpayer's Appeal of Denial of Request for Late-Filed Appeal
 - 1) Steve Davidovici

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

Patrick Sheehan, of Fennemore Craig, reported on behalf of the Taxpayer.

Mary Patton was present for the Department of Taxation. Ms. Patton stated the Taxpayer has been paying on the settlement and there is a balance due to the Department of Taxation in the amount of \$104,000.00.

Jorge Pupo was present for the Department of Taxation.

This matter was continued until after the first of year. If the amount owed is paid, the item can be removed.

- F. Discussion and possible action regarding Technical Bulletin 15-0002 (Revised) Shipping/Delivery Charge/Handling

Paulina Oliver, Deputy Director for the Department of Taxation, reported for the Department of Taxation. Ms. Oliver stated that the original Bulletin was approved at the August 17, 2015 Nevada Tax Commission Meeting. Ms. Oliver reviewed the revision for the Commission.

Commissioner Sheets made a motion to approve Technical Bulletin 15-002 (Revised). Commissioner Kelesis seconded the motion. All in favor. No opposed. Motion carried.

VI. 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 for this item was provided to the Commission.

VII. EXECUTIVE DIVISION:

A. Administrative Law Judge:

- 1) Consideration and possible action to appoint Dena James Smith, Esq. as Chief Administrative Law Judge for the Department of Taxation, with authority to hold hearings and make investigations, pursuant to NRS 360.130((2)).

Commissioner Kelesis made a motion to approve the appointment of Dena James Smith, Esq. as the Chief Administrative Law Judge. Commissioner Bersi seconded the motion. All in favor. No opposed. Motion carried.

VII. BRIEFING:

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

Chairman Barengo stated that he has asked Commissioner Sheets, Commissioner Bersi and Commissioner Kelesis to set-up a criteria and review process for the Administrative Law Judge positions.

Commissioner Sheets gave a brief history of the Administrative Law Judge positions.

Jennifer Crandell stated that a Subcommittee will need to follow Nevada's Open Meeting Laws. The meetings can be done telephonically and agendas will need to be posted.

Executive Director Contine reported that the Department has been working with the Gaming Control Board regarding the changes to the Live Entertainment Tax which went into effect on October 1, 2015. Draft regulations have been submitted to the Legislative Counsel Bureau ("LCB"). There will be additional workshops scheduled.

Executive Director Contine reported that draft regulations for the Transportation Tax are also at LCB.

Executive Director Contine reported that there have been three Commerce Tax workshops. Some taxpayer concerns are relating to the provisions in the statutes that we cannot do much about. Draft regulations are currently being put into one document. The Department is currently taking comments and plans to submit a draft to LCB by October 15, 2015. A Tax Return is also being drafted.

Director Contine reported that the Department has a new Tax Manager and two additional Management Analysts. These three people all have CPAs. This will be a great resource for the Department as we move forward.

Paulina Oliver reported the Department does not anticipate requiring the taxpayer keep any additional documents that the IRS doesn't already require them to keep.

Commissioner Lambert has concerns that taxpayers that don't make \$4 Million may need to pay a tax preparer if the process to file a report is overly complicated.

Director Contine explained the potential process of filing a report with the Department.

Director Contine also mentioned that the Department cannot change the taxable year or the due date. For most taxpayers the taxable year will be different than a federal year. The regulation provides the ability to request a waiver of penalty and interest since the 45-day period between June 30th and mid-August is short.

Commissioner Lambert suggested that the forms be posted online. Director Contine stated the forms will be available online.

VIII. Next Meeting Date.

December 7, 2015.

IX. **Public Comment.

Tom Clark, for the Nevada Arts Education Alliance, commented regarding the Live Entertainment Tax. Non-profits and others are concerned about the regulations. One question is what is the definition of an event? A second question is would season passes be subject to the tax? Mr. Clark commended the Department of Taxation staff.

X. Items for Future Agendas.

No future agenda items were discussed.

XI. Adjourn.

The meeting adjourned at 11:04 a.m.