UTAH STATE TAX COMMISSION
MEETING MINUTES
9:00 a.m., Thursday, December 8th, 2022
Via Zoom, Davis Conference Center
1651 N 700 W, Layton, UT 84041

Participating:
John L. Valentine – Commission Chair – Virtually
Michael J. Cragun – Commissioner – In person
Rebecca L. Rockwell – Commissioner – In person
Jennifer N. Fresques – Commissioner – In person

Commission Office:
Chantay Asper, Commission Executive Assistant

Note: A copy of related materials and an audio recording of the meeting can be found on the Tax Commission website: http://tax.utah.gov/commission-office/meetings.

I. Join Zoom Meeting
https://us02web.zoom.us/j/7437193782?pwd=K0pJRTVzTGJrWm14LzlTdjY0QzJDUT09

Meeting ID: 743 719 3782
Passcode: 8fN54hj!

Dial in by
+1 253 215 8782 or +1 346 248 7799
Meeting ID: 743 719 3782
Passcode: 07438057

II. Call to Order

Commission Chair Valentine called the meeting to order at 9:00 a.m.

Public Comment (individuals or groups wishing to address the Commissioners for up to three minutes on matters not related to a pending or reasonably imminent appeal to the Tax Commission)

No Comment

III. Consider approving Commission Meeting Minutes of November 3rd, 2022.

MOTION: Commissioner Cragun moved to approve the Commission Meeting Minutes of November 3rd, 2022. The motion passed unanimously.

IV. Consider Approving Settlement Agreement for *Whitaker Construction Co. Inc., v. Utah State Tax Commission*, Utah Third Judicial District Court, Case no. 140903144 *[action item]*

MOTION: Commissioner Cragun moved to accept the settlement offer presented in *Whitaker Construction Co. Inc., v. Utah State Tax Commission*, Utah Third Judicial District Court, Case no. 140903144 and authorize our counsel's signature on the related documents *[action item]*

Commission Chair John Valentine took a roll call vote and the motion passed unanimously

V. Consider amending Administrative Rule. *[action item]*

1. R884-24P-53. 2023 Guides for Valuation of Land Subject to the Farmland Assessment Act pursuant to Utah Code Ann. Section 59-2-515.
2. R865-19S-92. Computer Software and Other Related Transactions pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-211.
3. R861-1A-42. Waiver of Penalty and Interest for Reasonable Cause pursuant to Utah Code Ann. Section 59-1-401.
4. R861-1A-43. Electronic Meetings pursuant to Utah Code Ann. Section 52-4-207.
5. R877-23V-24. Advisory Board Procedures pursuant to Utah Code Ann. Section 41-3-106.
6. R884-24P-72. State Farmland Advisory Committee Procedures pursuant to Utah Code Ann. Section 59-2-514.

Commissioner Rockwell: The following rules were published in the Utah State Bulletin on October 15, 2022 and the public comment period ended on November 14, 2022. We did not receive any public comments on these rules.

1. R884-24P-53. 2023 Guides for Valuation of Land Subject to the Farmland Assessment Act. Utah Code Ann. Section 59-2-515 authorizes the State Tax Commission to make rules necessary to effectuate the Farmland Assessment Act. Section 59-2-514 creates the State Farmland Advisory Committee and requires a person appointed by the Commission to serve as chair. This committee reviews several classifications of land in agricultural use in the various areas of the state and recommends a range of values for each of the classifications based upon productive capabilities of the land when devoted to agricultural use. The recommendations are then submitted to the commission for approval and publication in rule. This proposed rule represents the committee's recommendations.

MOTION: Commissioner Rockwell moved to adopt the amendments to Rule R884-24P-53. 2023 Guides for Valuation of Land Subject to the Farmland Assessment Act pursuant to Utah Code Ann. Section 59-2-515.

Commission Chair John Valentine took a roll call vote and the motion passed unanimously

2. R865-19S-92. Computer Software and Other Related Transactions. This rule amendment clarifies that the sale, rental, or lease of custom computer software constitutes a sale of personal services that is not subject to sales and use tax.

MOTION: Commissioner Rockwell moved to adopt the amendments to Rule R865-19S-92. Computer Software and Other Related Transactions pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-211.

Commission Chair John Valentine took a roll call vote and the motion passed unanimously

3. R861-1A-42. Waiver of Penalty and Interest for Reasonable Cause. This rule amendment updates the timely mailing ground for reasonable cause to waive penalties to include timely electronic submission of returns or payments.

MOTION: Commissioner Rockwell moved to adopt the amendments to Rule R861-1A-42. Waiver of Penalty and Interest for Reasonable Cause pursuant to Utah Code Ann. Section 59-1-401.

Commission Chair John Valentine took a roll call vote and the motion passed unanimously

4. R861-1A-43. Electronic Meetings. This rule amendment establishes the conditions under which a commissioner who is participating electronically in a public meeting of the Utah State Tax Commission will be counted for purposes of calculating whether a quorum of commissioners is present. This change is being made to comply with the requirements of House Bill 22, Open and Public Meeting Act Modifications, which passed during the 2022 General Session of the Legislature.

MOTION: Commissioner Rockwell moved to adopt the amendments to Rule R861-1A-43. Electronic Meetings pursuant to Utah Code Ann. Section 52-4-207.

Commission Chair John Valentine took a roll call vote and the motion passed unanimously

5. R877-23V-24. Advisory Board Procedures. This rule amendment establishes the conditions under which a board member who is participating electronically in a public meeting of the Motor Vehicle Business Advisory Board will be counted for purposes of calculating whether a quorum of board members is present. This change is being made to comply with the requirements of House Bill 22, Open and Public Meeting Act Modifications, which passed during the 2022 General Session of the Legislature.

MOTION: Commissioner Rockwell moved to adopt the amendments to Rule R877-23V-24. Advisory Board Procedures pursuant to Utah Code Ann. Section 41-3-106.

Commission Chair John Valentine took a roll call vote and the motion passed unanimously

6. R884-24P-72. State Farmland Advisory Committee Procedures. This rule amendment establishes the conditions under which a committee member who is participating electronically in a public meeting of the State Farmland Advisory Committee will be counted for purposes of calculating whether a quorum of committee members is present. This change is being made to comply with the

requirements of House Bill 22, Open and Public Meeting Act Modifications, which passed during the 2022 General Session of the Legislature.

MOTION: Commissioner Rockwell moved to adopt the amendments to Rule R884-24P-72. State Farmland Advisory Committee Procedures pursuant to Utah Code Ann. Section 59-2-514.

Commission Chair John Valentine took a roll call vote and the motion passed unanimously

VI. Approve submission of proposed rule amendments to the Office of Administrative Rules for publication in Utah State Bulletin *[action item]*

1. R877-23V-7. Misleading Advertising Pursuant to Utah Code Ann. Section 41-3-210.
2. R884-24P-66. County Board of Equalization Procedures and Appeals Pursuant to Utah Code Ann. Sections 59-2-1001 and 59-2-1004.

Commissioner Rockwell: The following proposed rule amendments are for the Commission to consider and submit for publication to the Office of Administrative Rules. The amended rules will be published in the Utah State Bulletin on January 1, 2023 and the mandatory public comment period will end on January 31, 2023.

1. R877-23V-7. Misleading Advertising Pursuant to Utah Code Ann. Section 41-3-210. This proposed rule amendment modifies what constitutes a new or used motor vehicle in the possession of a motor vehicle dealer to include a vehicle in transit to a dealer's location under certain circumstances. This rule amendment eliminates the requirement that an advertisement for a vehicle that has been used as taxi-cab, police, sheriff, or highway patrol vehicle be identified as having been used for these purposes. The rule amendment clarifies the requirements that apply to an offer of a driving trial and specifies the process that must be followed at the conclusion of the trial period. The rule amendment also cleans up antiquated language and makes other technical and conforming changes.

   MOTION: Commissioner Rockwell moved to submit the proposed amendments to Rule R877-23V-7. Misleading Advertising Pursuant to Utah Code Ann. Section 41-3-210 to the Office of Administrative Rules for publication in the Utah State Bulletin.

   Commission Chair John Valentine took a roll call vote and the motion passed unanimously

2. R884-24P-66. County Board of Equalization Procedures and Appeals Pursuant to Utah Code Ann. Sections 59-2-1001 and 59-2-1004. This proposed rule amendment modifies he definition of "factual error" for purposes of reconvening a county board of equalization, to exclude an assertion of an error in the classification of property as residential property eligible to receive the primary residential exemption if an application for the exemption was required and the application was not timely filed. This proposed rule amendment also clarifies that a county board of equalization may not consider a

party's failure to sign or return a stipulation to be acceptance of the stipulation or grounds to dismiss the party's appeal.

MOTION: Commissioner Rockwell moved to submit the proposed amendments to Rule R884-24P-66. County Board of Equalization Procedures and Appeals Pursuant to Utah Code Ann. Sections 59-2-1001 and 59-2-1004 to the Office of Administrative Rules for publication in the Utah State Bulletin.

Commission Chair John Valentine took a roll call vote and the motion passed unanimously

VII. Consider approving 2023 Notice of Scheduled Meetings (attached) *[action item]*

MOTION: Commissioner Cragun moved to approve the 2023 Notice of Scheduled Meetings. This motion passed unanimously.

VIII. Discussion with Assessors

The Commissioners visited with County Assessors and Property Tax Division Representatives on various issues and answered questions.

IX. Commissioners' Reports

Commissioner Cragun thanked Chantay Asper for being there and setting up the meeting.

X. Executive Director's Report

No Report

XI. Adjourn

Commission Chair Valentine adjourned the meeting at 10:25 a.m.

Approved on: 12-22-22
Attested: Chantay Asper
Executive Assistant
Utah State Tax Commission