

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, February 08, 2022

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Nye, and Semmelroth

ABSENT/ EXCUSED: Senator Ricks

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Rice** called the meeting of the Senate Local Government and Taxation Committee to order at 3:00 pm.

MINUTES APPROVAL: **Senator Grow** made a motion to approve the minutes of the January 27, 2022 meeting of the Senate Local Government and Taxation Committee. **Senator Lakey** seconded the motion. The minutes of the January 27, 2022 meeting of the Senate Local Government and Taxation Committee were approved by **voice vote**.

MINUTES APPROVAL: **Senator Ricks** made a motion to approve the minutes of the February 1, 2022 meeting of the Senate Local Government and Taxation Committee. **Senator Semmelroth** seconded the motion. The minutes of the February 1, 2022 meeting of the Senate Local Government and Taxation Committee were approved by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Jared Zwygart to the Idaho State Tax Commission** for a term commencing August 20, 2021 and expiring March 8, 2027. **Jared Zwygart** presented. **Mr. Zwygart** discussed his education and experience. He graduated from Boise State University in 1983 with a bachelor's degree in accounting. He worked for several firms as a CPA since 1983 including Dille and Associates, Bailey and Company, CPAs where he was a partner, and Zwygart John and Associates where he is currently a partner. His most recent experience is in auditing. He expressed a desire to serve on the Idaho State Tax Commission as a way to give back to the community.

DISCUSSION: **Senator Lakey** asked Mr. Zwygart to share what he enjoyed about serving on the Tax Commission. **Mr. Zwygart** responded that he was used to fighting the Tax Commission on behalf of his clients. Now he fights to uphold the Tax Commission rules and laws.

Chairman Rice asked Mr Zwygart how he would handle a tax appeal involving one of his sons, who are also CPAs, or their firms. **Mr. Zwygart** responded that if another member of the firm, other than one of his sons, handled the appeal he would see no conflict. However, he would recuse himself if one of his sons were handling the appeal. He further noted that he has been up front about the potential conflict of interest with his sons' firms.

Chairman Rice then asked Mr. Zwygart to explain the difference between preparing income tax returns and auditing. **Mr Zwygart** responded that when preparing taxes it was difficult for him to tell his client that he or she couldn't take

a particular deduction. In auditing you make certain the individual or company is keeping the books properly. **Chairman Rice** thanked Mr. Zwygart for his willingness to serve and said the committee would consider his appointment to the Idaho State Tax Commission within the next week.

**PASS THE
GAVEL:**

Chairman Rice passed the gavel to Vice Chairman Grow.

**DOCKET NO.
35-0000-2100**

Income Tax Administration Rules. Tom Shaner, Tax Research Manager, Idaho State Commission, presented. He explained that these rules are in keeping with the governor's request for agencies to review 20 percent of their administrative rules on a five year cycle. The rules addressed in this docket include: income taxes; tax administration; sales and use taxes; property tax administration; motor fuel taxes; hotel, motel and campground taxes; mine license taxes; beer and wine taxes; and cigarette and tobacco taxes. **Mr. Shaner** explained that many of these rules were written prior to the internet. Everything was in the rules. As a result of the Red Tape Reduction Act, they realized that much of this did not need to be in the rules since it was in statute or on the website.

The changes to section 35.01.01.075 reflect that the tax rates applied to the Idaho taxable income of an individual, trust or estate are listed at <https://tax.idaho.gov/indrate>. What remains in this section is that the tax rates for individuals, trusts and estates are pursuant to Idaho Code §63-3024.

Section 35.01.01.263 states that the first \$264,000 in guaranteed payments from a S corporation and partnership to a non-resident individual are considered as income. Rather than include this in the rules, the rule now references the website and provides that the amounts of guaranteed payments that are sourced as compensation for services are listed at <https://tax.idaho.gov/guarpay>.

Section 35.01.01.300 addresses the corporate tax rates. Rather than include a table of the rates in the rules, the rule references the website where the rates are listed.

DISCUSSION:

Senator Souza asked Mr. Shaner whether she was missing changes to beer and wine taxes, tobacco taxes and others that he mentioned in his presentation. **Mr. Shaner** explained that there were no changes to those sections of the rules.

MOTION:

Senator Lakey moved to approve **Docket No. 35-0000-2100**. **Senator Nye** seconded the motion. The motion to approve **Docket No. 35-0000-2100** carried by **voice vote**.

H 472

Income Taxes - Amends existing law to update references to the Internal Revenue Code regarding unemployment benefits and the recognition of marriage. **Tom Shaner**, Tax Research Manager, Idaho State Tax Commission, presented. **Mr Shaner** explained that **H 472** was the annual bill to conform the Idaho Income Tax Act to the Internal Revenue Code (IRC). By conforming to the IRC we avoid duplication. Furthermore, deviations from the IRC can create confusion and extra work for taxpayers, tax preparers and tax software developers. The effects of nonconformity that pose the biggest problems for the Tax Commission are the potential for an increase in audits, litigation, and general confusion among taxpayers. **Mr. Shaner** further explained that Idaho's income tax code uses the IRC definition of adjusted gross income. He noted that Idaho has typically conformed to the IRC annually, with the exception of the bonus depreciation expense and net operating loss provisions. **Mr. Shaner** cited the specific statutes, in part, that adopt conformity. First, Idaho Code § 63-3002 states the intent of the legislature to, insofar as possible, make the Idaho Income Tax Act conform to the IRC's measurement of taxable income. Idaho Code § 63-3011 defines "gross income" in accordance with the IRC. Idaho

Code § 63-3011A defines "adjusted gross income" as defined in the IRC. Idaho Code § 63-3011B defines "taxable income" in conformity with the IRC. Finally, Idaho Code § 63-3011C defines "Idaho taxable income" as, "taxable income as modified pursuant to the Idaho adjustments specifically provided in this chapter."

Mr. Shaner then discussed the fiscal impact of this bill. He stated that the fiscal impact of this conformity bill is estimated at \$8.6 million. He explained that there is a slight change in the process of calculating the interest expense for a combined group of companies, especially if there are foreign subsidiaries involved. This is estimated to increase the amount of corporate income tax collected by approximately \$238,500 in the first year.

In addition, the Idaho Child Tax Credit used the IRS definition of a qualifying child. **Mr. Shaner** explained that Congress temporarily increased the age of a qualifying child from under 17 years of age to under 18 years of age. This change is for one year only and is expected to have a fiscal impact of \$5.2 million.

Idaho also allows a deduction for any expenses paid to care for a child or other dependent. We use the federal limitations on the amount of expenses that can be paid. The fiscal impact of this is approximately \$3.2 million. The federal limits were raised from \$3,000 for one dependent or \$6,000 for more than one dependent to \$4,000 for one or \$8,000 for more than one dependent.

Finally, as part of the American Rescue Plan, Congress allowed taxpayers to claim a casualty loss which occurred during 2020 even if they used the standard deduction. To be claimed, losses have to be within a federally declared disaster area and all insurance reimbursements have to be exhausted first. The estimated fiscal impact of this is approximately \$447,300 in the first year and declining amounts in future years as taxpayers finish the insurance mitigation on their losses. Only losses incurred during the 2020 tax year are deductible. For future years, losses will have to be reported on federal schedule A and are limited.

DISCUSSION: **Senator Bayer** asked Mr. Shaner what was the significance of the elimination of Idaho Code § 63-3004(2) and Idaho Code § 63-3004(3). **Chairman Rice** responded to that question stating that because the United States Supreme Court changed Idaho's definition of marriage by judicial ruling, we no longer need these provisions.

MOTION: **Chairman Rice** moved to send **H 472** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion to send **H 472** to the floor with a **do pass** recommendation passed by **voice vote**.

ADJOURNMENT: There being no further business at this time, **Vice Chairman Grow** adjourned the meeting at 3:25 pm.

Senator Rice
Chair

Meg Lawless
Secretary