

## **TAX REVIEW COMMISSION**

MINUTES OF THE SECOND MEETING OF THE  
TAX REVIEW COMMISSION  
HELD AT 830 PUNCHBOWL STREET, ROOM 221  
IN THE CITY AND COUNTY OF HONOLULU  
STATE OF HAWAII, ON TUESDAY, AUGUST 30, 2005

The Commissioners of the Tax Review Commission met at the Department of Taxation Director's Conference Room, in the City and County of Honolulu, State of Hawaii, on Tuesday, August 30, 2005.

**Members Present:** Chair Isaac Choy, Manoa Consulting Group, LLC CPA's  
Vice-Chair Ronald Heller, Torkildson Katz Fonseca Moore &  
Hetherington, AAL, ALC  
Carolyn Ching, Carolyn L. Ching CPA  
Christopher Grandy, UH Manoa, Public Administration Program  
Lon Okada, Hawaiian Electric Industries, Inc.  
John Roberts, Niwao & Roberts, CPA's

**Staff:** Tu Duc Pham, John Molay, Barney Wilson, Josephine Malama

**Other:** David Pendleton, GOV  
Tom Smyth, DBEDT  
Diane Erickson, AG  
Lowell Kalapa, Tax Foundation of Hawaii  
Ray Kamikawa, Chun Kerr Dodd Beaman & Wong  
Kurt Kawafuchi, DOTAX  
Sandra Yahiro, DOTAX  
Titin Liem, DOTAX  
James Masters, DOTAX  
Lynne Farm, DOTAX

### **I. CALL TO ORDER**

Chair Choy called the meeting to order at 10:00 a.m.

### **II. APPROVE MINUTES FROM PREVIOUS MEETING**

It was moved by Mr. Heller and seconded by Mr. Okada to approve the minutes of July 26, 2005. The motion was carried unanimously.

It was clarified that the Commission meetings will be held on the last Tuesday of the month at 10:00 a.m. in the Hawaii Department of Taxation Director's conference room. Ms. Farm was commended for the excellent detailed work of the July 26, 2005 minutes.

### **III. COMMUNICATION TO THE COMMISSION**

The Commission received the following correspondence/materials:

1. Two letters from Ray Kamikawa of Chun, Kerr, Dodd, Beaman & Wong dated August 10, 2005 and August 25, 2005.
2. Two memorandums from Ronald Heller responding to Mr. Kamikawa's letters. Mr. Heller noted that the date on the second response (Part 2) was a typo error.
3. Article from the Cambridge University Press on "Growing Public" Social Spending and Economic Growth Since the Eighteenth Century.
4. Article from the Michigan Ross School of Business on Professor Joel Slemrod, tax expert, addressing the US House of Representatives Committee on Ways and Means.

Chair Choy announced to the members of the public and Commission that we have a lot of correspondence and articles. He has asked Dr. Pham to set up an area in the Tax Research and Planning Office where the public can review materials received by the Commission. It is very difficult for us to give individual copies; therefore, the Tax Review Commission (TRC) hopes this method will help the public to have access to information of the TRC. The Chair also added that the Commission members would be more than happy to share with the public the correspondence/articles they have.

An inquiry was made if there was a section in the Tax Department website where TRC could post essential information. Mr. Wilson responded that he has looked into it and will try to get some space on the website. Someone recalled getting an opinion from the Attorney General's office that we could not do that. It was clarified that the opinion came from the Office of Information Practices on the message/bulletin board concept. It was pointed out that TRC cannot have ongoing discussion by putting the information on some kind of chat list. With this discussion, the Chair expressed concern if he has violated any rule because his intent is not to break any. At this time, Director Kawafuchi introduced Ms. Diane Erickson from the Department of Attorney General's (AG) office who has been assigned to advise the Commission.

The Chair commented that they are a lot of tax ideas floating around that are pretty complex which the Commission cannot digest within the hour/hour and a half meeting. These ideas have been put on e-mail and sent to the Commission by the secretary. This has been our conduit instead of having Commission members e-mail each other. He added that he has been responding, through short comments, directly to the individual. Everything has been recorded. Ms. Erickson indicated that she has to review the information being communicated before she determines whether that method of communication is legal.

#### **IV. ESTABLISH DEADLINES AND ADMINISTRATIVE PROCEDURES**

Chair Choy reported that he met with the administrative staff and Mr. Wilson who will be writing the report. As much as possible, he would like to keep the meeting time from 10:00 to 11:30 a.m., not to go over 12 o'clock. He would like to give everyone an opportunity to give input to the Tax Review Commission. If anyone has something to contribute, summarize it real short and submit. If it is highly technical, submit to the secretary so she can send to the Commission prior to the meeting for their comment.

The timetable is short. Chair Choy asked if there were any administrative or procedural items that TRC needs to take care of. There was none. The August, September and October meetings will be the time for getting input from everyone on tax policies and ideas, and organizing thoughts and ideas. November will be the last meeting to figure out what tax ideas and policies will need to be researched. Anything that does not require research, the members can continue talking about until the end of the Commission. Staff will help determine which project will require outside research and which will not. Internal research assignments can be done after the November deadline.

Around September next year, staff will start drafting the report. In October and November, TRC will refine the draft. Around December 2006, the Commission will finalize the report. There was no objection from the members regarding the deadlines established by the Chair.

In relation to the timetable, inquiry was made about communication with the Commission members aside from the formal monthly meetings. The informal opinion received is that basically the legislature will have to change the Sunshine Law in order for that to be permissible. A question was raised if the Commission wants to make a recommendation to the legislature to change the Sunshine Law and allow Boards like this to have those kinds of discussion. Should TRC wait until our final report to the 2007 legislature to make the recommendation or should TRC make it an interim recommendation to the 2006 legislature.

Mr. Smyth of the Hawaii Department of Business, Economic Development and Tourism (DBEDT), shared his experience with his Boards in creating sub-committees, without exceeding a quorum, for discussion purposes without violating the Sunshine Law. Sending e-mail to discuss Commission business was in violation, therefore, had it stopped. The next question was if it would be permissible to host messages on a publicly accessible internet website or bulletin board. He decided that this would be in the scope of the Department of Taxation to get the AG's opinion, and suggested Director Kawafuchi contact the AG for a Deputy Attorney to issue opinion on behalf of the Commission. Once again, Director Kawafuchi suggested that the Commission make the contact with the AG. The Department of Taxation should not be the one asking, we only provide support to the Commission.

Tax matters are so complex and time consuming. There is a need for some form of communication on the more technical areas. Chair Choy does not think a Board/Commission should meet outside the confines of the open public meeting. He believes the meeting should be open to the public. Therefore, he does not feel comfortable about approaching the legislature to change the Sunshine Law.

Ms. Ching asked how the past Tax Review Commissions communicated? Response was through extensive readings with communication between the members conducted within these walls.

Mr. Kalapa shared his experience with other Boards and saw potential for abuse of the chat room concept. Although it would add tremendous efficiency, he would rather air on inefficiency and stay with the more traditional means of communication, except for distribution of background readings.

Regarding broadcasting information, Ms. Erickson reiterated that might be worst. If the broadcast involves more than one member, it would be in violation of the Sunshine Law. Even if it was done through the secretary, it would still violate the spirit of the Sunshine Law. A suggestion was made to hold more meetings.

It was agreed that in the interim, the Commission would continue what it is doing until told otherwise, as long as we keep in mind the spirit of the Sunshine Law and make sure everyone is kept informed.

Chair Choy gave an update on what he has done since the last meeting. He wants to make sure that TRC has an inclusive process. He has contacted major accounting firms and EA's, Chairmen of the Ways and Means Committee and House Finance Committee, and industry leaders, and has invited them to participate in the process. The main goal is to include everyone. It was suggested that the Tax newsletter include an invitation to the public for their participation.

## **V. DISCUSSION OF POSSIBLE TAX STUDY TOPICS**

Mr. Heller acknowledged Dr. Grandy's submittal of ideas for the Tax Review Commission studies and commented that they both have similar ideas. A comparison was made with the 2001-2003 and 1995-1997 TRC reports. He prefers the 1995-97 report because it is short, simple and has one important concept and that is taxation should be reasonable. Taxation should not be an excessive burden on the State's economy and TRC should not accept the level of State's spending as a given. What the Commission needs to look at is if the amount of taxes are reasonable. If not, we should look at the spending side and see what TRC can do to adjust it. For these reasons, TRC can pretty much use the version in the 1995-97 report and adopt it. The members can tweak it but he thinks we can take it just the way it is written.

The Commission is the balancing act of the process. We need to know what the economic reality will be when our report hits the street. If we want any of our ideas to be implemented, the economic reality of those ideas will be our main characteristics to determine if the TRC report will be accepted or not. Chair Choy concluded that was his philosophy on tax policy. If agreed, TRC can take the 95-97 statement of principles of tax policies as a starting point and anyone that wants to clarify or tweak it can come back for further input. To make it practical, Director Kawafuchi suggested staff provide statistical data on individual income tax by income category. Deputy Director Yahiro suggested that any additional input be sent to Josephine Malama.

How does one raise revenue efficiently with equity and have the other characteristics considered? It is very important to have revenue adequacy. The projected revenue for year ending 2006 is about \$476 million.

Question was raised regarding the composition of the Commission. TRC needs the seventh member. Recommendation for the seventh member is in process. If anyone has a recommendation, send it to Director Kawafuchi or Deputy Director Yahiro.

It was moved by Mr. Heller and seconded by Mr. Okada that TRC agrees on the 1995-97 statement of principles of sound tax policies as the starting point and any member of the Commission who feels it needs further discussion or changes to the language will send their proposed issues to the secretary to be distributed for further discussion. The motion was carried unanimously.

The Commission members compiled the following list of ideas:

1. Effect of county surcharges on the General Excise Tax.
2. Review of past TRC proposals and which have been adopted over time.
3. Collection of past TRC recommendations repeated from Commission to Commission.
4. Benefit/cost studies for selected recent tax credits: high tech, hotel construction, and Koolina (considered as outside study).
5. General excise tax exemptions (expenditures).
6. Effects of eliminating state corporate, franchise and personal income taxes.
7. Review of overall taxes – progressive and regressive (considered as outside study).
8. Review of non-profit/charitable, estate/inheritance policies.
9. Effects of Earned Income Tax Credit.
10. Effects of increasing standard deductions.
11. Food/drug tax credits for taxpayers under \$40,000 adjusted gross income (federal).
12. Expanding income tax brackets by 25%.

A question was raised on how TRC can get more input from the public. Several suggestions were offered: press release, Commissioners meet with the media and legislators, Tax Department newsletter/annual report, and formation of a public input sub-committee.

It was moved by Mr. Heller and seconded by Mr. Okada to create a sub-committee consisting of the Chair, Vice-Chair and Carolyn Ching to make announcements and seek public input. The motion was carried unanimously.

## **VI. ANNOUNCE NEXT MEETING**

The next meeting was scheduled for September 27, at 10:00 a.m. in the Tax Director's Conference Room.

## **VII. ADJOURNMENT**

It was moved by Ms. Ching and seconded by Dr. Grandy to adjourn the meeting at 11:40 a.m. The motion was carried unanimously.