

## **TAX REVIEW COMMISSION**

MINUTES OF THE THIRD 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, SEPTEMBER 27, 2005

The Commissioners of the Tax Review Commission met at the Department of Taxation, Director Conference Room, in the City and County of Honolulu, State of Hawaii, on Tuesday, September 27, 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  
John Roberts, Niwao & Roberts, CPA's

**Absent:** Lon Okada, Hawaiian Electric Industries, Inc.

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

**Other:** Tom Smyth, DBEDT  
Diane Erickson, AG  
Ray Kamikawa, Chun Kerr Dodd Beaman & Wong  
Carol Fukunaga, Senator, State Legislature  
Doreen Griffith, Grant Thornton, LLP  
Sandra Yahiro, DOTAX

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

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

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

The following corrections were made to the minutes:

Page 4, 2<sup>nd</sup> paragraph, last sentence: the word **air** corrected to read **err**  
Page 5, 2<sup>nd</sup> paragraph, last sentence: the word projected **revenue** corrected to read  
projected **surplus**.

It was moved by Mr. Roberts and seconded by Mr. Heller to approve the minutes of August 30, 2005 as corrected. The motion was carried unanimously.

### III. COMMUNICATION TO THE COMMISSION

The following guests were introduced - Senator Carol Fukunaga from the State Legislature and Doreen Griffin from Grant Thornton, LLP. Senator Fukunaga was asked if she would like to address the Commission. She responded that she was here to follow-up on correspondence sent to the Commission and to answer any questions the members may have.

1. Regarding the Tax Review Commission (TRC) being legally constituted if only six members have been appointed and confirmed when there should be seven. Mr. Wilson reported that the TRC received a response from Ms. Diane Erickson of the Attorney General's Office stating that as long as our meetings have a quorum of four members, we are legal with six members. Currently, there are two possible candidates being considered for the seventh position.
2. Electronic Bulletin Board. Response from Ms. Erickson of the Attorney General's office is that board members may receive information relating to board business from the public or each other at board meetings only. This may not mean that staff cannot compile a packet with letters from the public and distribute the packet to the board members before the meeting. Ms. Erickson mentioned that she is not aware if OIP has given an interpretation relating to committee reports. Mr. Smyth shared that he often sends materials to his board beforehand because he does not expect them to read a 30 page document a day or two before the meeting. According to the Sunshine Law, all meeting notices need to be posted at the Lt. Governor's Office six calendar days before the meeting. Minutes of the meeting should be available for public review thirty days after the meeting, whether the board has approved it or not.

If anyone in this room feels that the TRC is violating the law, please bring it to our attention and we will try our best to correct it. As Chair of the Commission, Mr. Choy's policy is to be open to the public and follow the spirit of the Sunshine Law.

It was moved by Mr. Heller and seconded by Ms. Ching to adopt a policy that for the life of this Tax Review Commission, the minutes of the meeting will be posted on the website after it has been approved. The motion was carried unanimously.

3. Letter from Representative Calvin Say and Senator Robert Bunda requesting the TRC assistance on the Streamlined Sales Tax Project (SSTP). Chair Choy met with Representative Say who suggested that he also meet with Senator Bunda. He did meet with Senator Bunda and Senator Fukunaga on this matter. He communicated to them that per the TRC, there is not enough time to do a study/research on SSTP for the 2006 Legislature. He assured them that he would coordinate any effort with Mr. Craig Hirai who is part of the SSTP task force. To date, Mr. Hirai has not contacted him for any assistance.

Senator Fukunaga added that the State Legislature has appropriated \$50,000 to do a technical study on the Streamlined Sales Tax Project. There is likelihood that the State will

be contracting out a fairly focused range of technical consultants who have done economic impact studies with other states. A lot will depend on what the legislative auditor wants to review. The task force hopes to dovetail the SSTP study with other studies, such as those conducted by TRC, so it can be looked at in a parallel direction. At this time, Chair Choy offered the assistance of Mr. Bernard Wilson for his expertise in the Streamlined Sales Tax. There is no specific request between the two initiatives at this point in time.

#### **IV. PROPOSED TOPICS FOR STUDY/RESEARCH**

Items IV, V and VI are ways of categorizing the suggestions received from the public. Mr. Heller felt the suggestions should be categorized according to the following areas.

- Proposed topics for study/research
- Proposed changes in substantive tax law
- Proposed changes in administrative or procedural rules

Because of the timeframe, the TRC needs to decide on the topics for study/research first. There is more time to do the other two. It was suggested that we wait for the results of the studies before decisions are made on changes to the substantive tax law and administrative/procedural rules.

With respect to the 1995-97 TRC principles, Mr. Grandy pointed out the following:

1. Consider efficiency first and equity second.
2. Focus on stability and predictability to avoid dramatically different tax rates as people's activities change.
3. Build adequacy and accountability into the tax system to ensure communication between citizens and public servants.
4. Remain silent as to which criteria should predominate when some of the criteria conflict with others.

Ms. Ching felt that the TRC should not prioritize all the principles because one principle may conflict with another. It is important that we look at context at the time of the conflict. She suggested that TRC list the principles and let the legislature determine what the economic needs of the government are.

Chair Choy commented on the 1984 and 1989 Tax Review Commission reports. He felt the reports were excellent and had a lot of information that would be helpful to this Commission. He went on to review some of the information contained in the reports. For homework, he suggested the Commission members read the following 1989 reports:

- Is Hawaii's Tax System Adequate by James Mak and Shamsuddin Ahmad, Tax Review Commission Staff

- Budget Stabilization Fund by Marcia Y. Sakai, Lecturer, Division of Business and Economics, UH Hilo
- The Cost of Unemployment Insurance and Worker's Compensation Programs in Hawaii by James Mak and Alison Abe, Tax Review Commission Staff

An updated version of the Budget Stabilization Fund report would be beneficial to the Commission and to any reader. Mr. Pham stated that the Department of Budget and Finance may have the updated information.

The remainder of the meeting was spent in categorizing the suggestions received from the public.

**COMPLIATION OF STUDY BY INSIDE/OUTSIDE RESEARCH**

STUDY	INSIDE	OUTSIDE	CATEGORY
1. Effect of county surcharges on general excise Tax a. Economic impact b. Revenue impact c. Distribution impact		X	IV
2. Review of past TRC proposals and which have been adopted over time a. Prepare comprehensive chart	X		IV
3. Collect past TRC recommendations repeated from Commission to Commission a. Prepare comprehensive chart	X		IV
4. Benefit/cost studies for selected recent tax credits: high tech and research & development a. Economic benefit b. Economic liability/cost c. Transparency		X	IV
5. Effects of general excise tax exemptions a. Tax expenditure	X	X	IV
6. Effects of eliminating corporate and franchise taxes a. Domestic vs. Foreign	X	X	IV
7. Effects of eliminating personal income tax	X	X	IV

8. Review of overall taxes – progressive and regressive. Study of overall progressive or regressive impact of all State (or State and local) taxes combined	X		IV
9. Review of non-profit, charitable and estate/inheritance policies a. Be sure to distinguish charities from not-for profit	X		IV
10. Effects of earned income tax credit a. Senator Carol Funkunaga will give us testimony from 3 pt consulting.	X		IV
11. Effects of increasing standard deductions	X		IV
12. Effects of food/drug tax credits for taxpayers under \$40,000 adjusted gross income (federal)	X		IV
13. Expand income tax brackets by 25%	X		IV
14. General excise tax – Sales tax a. What is equivalent percentage for converting the 4% GET to a sales tax?		X	IV
15. Updating <u>Is Hawaii's Tax System Adequate</u> report by James Mak and Shamsuddin Ahmad		?	IV
16. Updating <u>Budget Stabilization Fund</u> report by Marcia Sakai		?	IV
17. Updating <u>The Cost of Unemployment Insurance/ Worker's Compensation Programs in Hawaii</u> report by James Mak and Alison Abe		?	IV
18. Imposition of a statute of limitation on the collection of assessed income, general excise, and trust fund (HRS 235-64) taxes...a ten year limitation would conform to federal law	NA		VI
19. Income tax compliance for HARPTA non-residence alien income tax return			VI

20. Compliance for out-of-state lessors	X		VI
21. Evaluate insurance commission tax			V
22. Could the S-Corp tax form be simplified?			VI
23. Reduce or eliminate the State gas tax for a given period of time			V
24. The three-year statute of limitations on assessment of the GET should not run from the filing of the annual reconciliation GET return (Form G-49)			VI
25. Re-opening expired statutes of limitations to assess income tax and GET should be prohibited			VI
26. Private rulings, advice, and settlements by the Department should be made public, the same as the IRS ruling			VI
27. Settlements of tax disputes should be made public			VI
28. Attorney General opinions and memos should be made public on a redacted basis			VI
29. Adopt IRC & 7430 on award of court costs and fees where taxpayer substantially prevails			VI
30. Establishment of Appeals Office trained to settle cases			VI
31. Mediation of audits			VI
32. Board of Review cases should be posted			VI
33. Burden of proof in court proceedings should conform to IRC & 7491			VI
34. Right of taxpayer or representative to participate in interview of witnesses			VI

**VI. ANNOUNCE NEXT MEETING**

The next meeting was scheduled for October 25, 2005, at 10:00 a.m. in the Tax Director Conference Room.

**VII. ADJOURNMENT**

It was moved by Mr. Grandy and seconded by Ms. Ching to adjourn the meeting at 11:36 a.m. The motion was carried unanimously.