

## **TAX REVIEW COMMISSION**

MINUTES OF THE SIXTH 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, JANUARY 10, 2006

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, January 10, 2006.

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

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

**Staff:** Tu Duc Pham, Donald Rousslang, Josephine Malama

**Other:** Tom Smyth, DBEDT  
Karen Piltz, Chun Kerr Dodd Beaman & Wong  
Marilyn Niwao, Hawaii Association of Public Accountants

### **CALL TO ORDER**

Chair Isaac Choy called the meeting to order at 10:00 a.m. with a quorum present.

He reported that Lynn Farm, TRP secretary who took the first TRC meeting minutes, is in the hospital. The Commission members wish her well and their thoughts and prayers are with her. He apologized for canceling the tour of the Tax Department, but Dr. Pham was unable to be here. It will be rescheduled sometime after the tax season. He asked if everyone would speak slowly, clearly, and one at a time. This would help Jo in recording the minutes of the meeting. He thanked everyone for their hard work in getting out the external studies.

### **APPROVAL OF NOVEMBER 29, 2005 MEETING MINUTES**

It was moved by Mr. Roberts and seconded by Mr. Heller to approve the minutes of November 29, 2005. The motion was carried unanimously.

Mr. Smyth stated that in making corrections to the minutes, you need to go back to the original minutes, make the corrections in that set of minutes, and record the corrections in the minutes of

the meeting the corrections were made. He also added that corrections to the minutes could be made later, i.e. two months later.

### **DISCUSS STATUS OF RFP'S**

Dr. Rousslang reported that all four RFPs for external studies have gone out. They are posted on the State Procurement Office (SPO) and DOTAX/TRC websites, and were advertised on January 1, 2006 in the Sunday edition of the Star-Bulletin. A copy was sent to the National Tax Association who offered to print it in their newsletter. In addition, the American Economic Association was contacted but if we submit the proposals now, they would not get posted until six months later. Dr. Pham stated if anyone knows of people interested in submitting a bid, we could email the RFPs directly to them. Chair Choy thanked the Commission members for getting the RFPs out on a timely basis.

### **DISCUSS SELECTION PROCESS FOR RFP**

Chair Choy asked if there were any discussions or concerns on how the vendors will be selected? Getting people to bid is one concern and the other is if we get more than one proposal for a study, how do we choose? Mr. Heller stated that he assumed the same subcommittees that worked on the RFP would review the proposals and make their recommendations to the Commission. The Commission, as a whole, would then make the final decision. Discussion followed. The Chair asked if there was any objection to the process presented? There was none. He then declared it a policy for the selection process.

Mr. Roberts suggested that we develop some criteria for the selection process. It was reported that Dr. Rousslang included the criteria in the Request for Proposal.

Mr. Smyth commented that the procurement evaluation and decision process is not subject to the Sunshine Law. If the whole Commission discusses it, then it would be open to the public. The Commission could probably go into executive session if cost elements of the proposal were discussed. Dr. Pham would like to include an administrative staff in the subcommittee session of the selection process. Mr. Roberts did not feel it was necessary. The Chair stated that he would prefer to have everything done in a public meeting. Dr. Grandy added that he would like the final selections done in a public meeting. There was no objection from the floor. Mr. Smyth clarified that the selection and presentation of the bid cannot be done at the same time. It was agreed that the bid would be awarded one week after the selection.

Mr. Roberts lives on the outer island and is unable to be here for all the subcommittee meetings. He asked if preliminary dialogue during the selection process could be done by email and/or telephone. Mr. Smyth responded that was okay because it is still at the subcommittee level.

Dr. Grandy inquired about the timetable. Will the subcommittees meet with the vendors? The response was "yes" on February 15 and 16, 2006. The Chair asked staff to prepare a schedule of events for the Commission members.

### **CLASSIFY THREE INTERNAL STUDIES PROPOSED BY MARILYN NIWAO**

Mr. Rousslang reported that Ms. Niwao's proposed study on estate tax has been added to an internal study that the Commission already planned to do on the topic. The other two issues have been added to the list as Study 37 and Study 38 for the Commission to prioritize. Mr. Heller asked if these are proposals to do studies or just proposed changes to the tax law? He also asked what are we going to do with the list of 30-some proposed tax changes submitted by the public and what process we are going to take to review them? The Chair responded that they would be reviewed after the internal studies. Dr. Pham stated that the staff would be able to provide impact statements for all three proposals. Discussion followed. The members agreed to leave #2 under Study 9 and rated as C, and #1 and #3 as proposed tax law changes 37 and Study 38.

### **INTRODUCE LETTER FORWARDED TO THE COMMISSION**

As a courtesy, the Chair asked if the Commission has to respond to the Governor's letter. The response was "no". Per Dr. Rousslang, the letter from the taxpayer was forwarded by the Governor to DOTAX for response.

While on this subject, the Chair reported that people who view the DOTAX website, sees his name as TRC Chair, and calls him for his views on tax issues. Since we do not have an interim report, it is difficult to respond. He prefers not to respond as TRC Chair, therefore, asked if he would be allowed to talk as an individual, making it clear to the people that he is not speaking as Chair. He went on to say that he is having a hard time dealing with this situation because he knows these people, they are his friends, and he does not want to brush them off. Discussion followed with no direct answer from the group. In conclusion, the Chair stated that he would be very careful when responding to the public on tax issues.

Regarding the General Excise Tax exemption for food in the legislature, Mr. Smyth shared information on the complexity of the House and Senate versions. He stated there are twenty other exempt/excluded things in defining food. When you look at GET on food, you have two major choices to make - (1) what is considered food, and (2) what other things that you wouldn't think of as being close to food are considered food? For TRC purposes, the Chair asked if we could just recommend a tax credit on food without having to get involved with the details? Discussion followed. Mr. Roberts and Mr. Heller felt that if the TRC is going to make a recommendation, we should seriously consider the practical difficulties. Mr. Heller suggested we add "exemption for food and medicine" as a proposed change to the tax law number 39, to be considered along with all of the other proposed changes. Dr. Pham added that the food bill did not pass because of the revenue impact. The tax on food consumed at home is about \$50 million and the tax on food away from home is \$50 million. If the State gave a \$100 food credit in Hawaii, it will cost the State about \$60 million.

## **ANNOUNCEMENT**

Chair Choy stated that the wording in our report is very important to him. He has asked Dr. Rousslang to prepare a preliminary draft report so the Commission members can review his writing style and critique it. This would be the start of the report process. He went on to say if you Google Dr. Rousslang's name, you would find a number of articles he has written. He suggested the members review some of them to get a taste of his writing style, philosophy, where he is going with taxes, and what credibility he brings to his writing.

Chair Choy encouraged the Commissioners to bring up questions they want addressed. An example of that is – while doing research on taxes, he came across a lot of economic concepts that he liked and suggested Dr. Rousslang use as part of the report. If the Commissioners have anything they want included in the report, email Dr. Rousslang, because he would like the report to be more academically oriented. Ms. Ching inquired what kind of preliminary draft we would be looking at. Response was introduction and tax philosophy, including the "Principles of Sound Tax Policy" that we've already approved. Overall, because Dr. Rousslang is responsible for writing the report, the Chair would like the Commission members to review his style of writing beforehand.

In addition, he suggested the members read the following studies: "Piggyback Income Tax for Hawaii" by Ray Kamikawa which relates to Study 4, "Tax History" which goes back to inception and includes all the tax changes, and Fox's study on "Should Hawaii General Excise Tax Look Like Other State Sales Taxes" which is on the website. Dr. Pham offered to make these studies available if anyone was interested.

Chair Choy apologized to the public if an agenda item is not covered because of time constraint. If it is important, let him know and he'll note it for the record.

## **OLD BUSINESS – REVIEW THE STATUS OF THE INTERNAL STUDIES, INCLUDING THE INFORMATION THAT THE TAX RESEARCH AND PLANNING OFFICE CURRENTLY PLANS ON PROVIDING TO THE COMMISSION, KEEPING IN MIND WHAT THE COMMISSION NEEDS TO COMPLETE ITS WORK, WHAT DECISIONS THE COMMISSION NEEDS TO MAKE, AND ANY OTHER INFORMATION THE INDIVIDUAL COMMISSION MEMBERS WOULD LIKE TO HAVE**

A status report on past TRC recommendations from 1984 to 2002 was distributed. The Chair asked if the Commission wants to reaffirm the recommendations or not. Mr. Roberts stated that he would like to see a summary of this included as an attachment for the public and future Tax Review Commissions. Dr. Grandy added that the purpose of this was to create a record of past recommendations that have been repeatedly recommended. The intention was not to vote on these recommendations or to revisit them but where they align with what we have, make a note in our report. He offered to revise the implementation section so it is more readable. Mr. Heller suggested the members review the list and decide what they would like to add to our list of

proposed changes. Ms. Niwao asked if corrections could be made to the recommendations. The Chair suggested she email Dr. Rousslang the corrections with explanation. This report will appear in the back of the report as an appendix.

The Commission members reviewed, discussed and commented on the internal study proposals.

**Review progressive or regressive nature of overall taxes.** Ms. Ching suggested a comparison of the past and present be made. Dr. Pham will outline a model and email to the Commission to review. Ms. Niwao commented we should consider the fact that the poor are getting back benefits and that the poor is really the middle class.

**Policies toward non-profit organization, charitable giving, and the estate and inheritance tax.** Part of the non-profit organization and charitable giving will be covered in the external studies. Staff will provide the vendor with information on tax expenditures. For the estate and inheritance tax, staff will provide the revenue estimates.

At this time, the Chair questioned what if some of the issues we are covering appear in this year's legislation, how do we handle this? Response was, "we can mention that the Tax Review Commission is currently studying the issue and do not have any recommendation at this time". Dr. Grandy added that he did not feel TRC was in the business of drafting or proposing specific legislative items for a particular session or being concerned if they could be afforded or not. He felt our task was to provide a review of the tax system as it is and make recommendation. We are more of a review and advisory body.

**Effects of the earned income tax credit.** This proposal is to study the adoption of an earned income tax credit. The low-income tax credit will also be factored in the study. Staff will provide information on revenue effect, impact on a typical family in Hawaii, administrative cost for enforcement, and pros and cons.

**Effects of increasing the standard deduction.** Staff will provide information on revenue effect, impact on a typical family in Hawaii, administrative cost for enforcement, and pros and cons. The standard deduction has historically been revisited roughly every three to five years due to inflation. Dr. Pham stated that inflation is a by-product of the federal government, not the state. He also stated Hawaii is the only state that uses state tax withheld as a deduction.

**Effects of food and drug tax credits for taxpayers with federal adjusted gross income under \$40,000.** Dr. Grandy would like an estimate of how much of the GE base will change as a result of this credit. Mr. Smyth responded that this would not affect the GE tax, because it is an income tax credit.

**Expand income tax brackets by 25 percent.** This will involve the same set of information as increasing the standard deduction...revenue, impact, administrative costs, pros and cons. Dr. Pham stated that the expansion would affect all taxpayers.

**Compare the general excise tax with a sales tax.** This will be done as part of the external study and can be eliminated from the internal studies. Dr. Pham stated that staff would provide input.

**Update the report "Is Hawaii's Tax System Adequate" by James Mak and Shamsuddin Ahmad.** Staff will do the update.

**Update the report "Budget Stabilization Fund" by Marcia Sakai.** Dr. Pham suggested that the Commission write to the Department of Budget and Finance for an updated report.

Mr. Roberts was concerned if our budget could afford all these studies, especially the cost for external studies. Dr. Pham stated we were okay.

**Update the report "Cost of Unemployment Insurance/Workers Compensation Program In Hawaii" by James Mak and Alison Abe.** Dr. Pham suggested that TRC request assistance from DBEDT because he does not have the staff to do the work. DBEDT already did a study on this.

## **NEW BUSINESS**

Due to the amount of work involved in the process and timing for evaluating suggestions made by the Commission regarding specific proposed changes to the tax law or administrative procedures, it was unanimously agreed that it be taken up at the next meeting. It was suggested that the members come prepared to give input on this at the next meeting.

## **LIST AGENDA ITEMS FOR NEXT MEETING**

The following items were suggested for the next meeting:

- (1) Update of RFPs
- (2) Update of external and internal studies
- (3) Legislative issues
- (4) Categorize proposed tax law changes number 18-39

## **ANNOUNCEMENT OF NEXT MEETING**

The next Tax Review Commission will be held on January 31, 2006 at 10:00 a.m.

## **ADJOURNMENT**

It was moved by Ms. Ching and seconded by Dr. Grandy to adjourn the meeting at 11:50 a.m. The motion was carried unanimously.