TAX TOPICS

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NEVADA LABOR COMMISSIONER RECEIVES CASHMAN GOOD GOVERNMENT AWARD

Terry Johnson, Nevada's Labor Commissioner, received the 2002 Cashman Good Government Award for the positive differences he has made in the state agency. Without spending any additional taxpayer dollars, Mr. Johnson improved the performance of the agency by streamlining administrative and regulatory processes. He invited businesses to participate in informal settlement conferences to resolve disputes and instituted a policy that financially penalizes willful violators of Nevada's labor laws. Mr. Johnson's efforts have reduced the time to resolve matters from years down to 60 days or less, allowing more time and resources to be allocated to other areas of enforcement. The Nevada Taxpayers Association congratulates Mr. Johnson for his achievements.The awards were presented to the winner and the finalists at the Nevada Taxpayers annual meeting and legislative dinner held February 27, 2003 in Carson City. The other finalists for the 2002 Cashman Good Government Award were:

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Evelyn Owens, Permit Services Supervisor, City of Reno who was instrumental in creating "The Permit Place", the City of Reno's new One Stop Shop for building permits. The Permit Place also provides a full spectrum of services including fire and health plan review and inspections. This is a savings to the Fire and Health Department budgets as well as customer time.

Thom Reilly, Clark County Manager, spearheaded numerous efficiency and performance-based initiatives. He structurally realigned services to provide better service to the public. An annual savings of $700,000 was realized through the realignment and streamlining of operations. Mr. Reilly also implemented a cost-neutral performance-based compensation system for all management including the elimination of automatic cost-of-living raises.

The Western Nevada Regional Youth Center, Silver Springs is a five-county consortium of government agencies and community members. It provides regional social services to a five-county area by pooling resources and talent while saving tax dollars at the same time.

ANNUAL MEETINGS

NTA's Annual Meeting and Legislative Dinner, Annual Board Meeting and Policy Advisory Committee meeting were all held in Carson City on February 27, 2003.

Annual Meeting and Legislative Dinner

Governor Kenny Guinn was the featured speaker and presented the audience with his views of the fiscal needs of Nevada. He outlined his tax plan and said he wasn't really concerned about which tax plans were passed by the legislature as long as the final tax package would deliver the necessary revenue to fund the needs of the State.

Prior to the presentation of the Cashman Good Government Award, the Nevada Taxpayers Association presented a special award and plaque to **Jeremy Aguero** for his contributions to the work of the Governor's Task Force on Tax Policy. Jeremy donated hundreds of hours of his and his staff's time gathering data for the Task Force.

The dinner was attended by a sellout crowd of 350 guests including many legislators and State and locally elected officials.

Board of Directors Meeting

The board approved NTA's budget for 2003 and approved amendments to the by-laws. The amended by-laws allow for the separation of the secretary and treasurer functions. The board also elected officers for 2003. **Fred D. Gibson, Jr.** was re-elected Chairman, as were **Tito Tiberti,** First Vice President and **Anne MacFarlane,** Second Vice President. Newly elected were **Mendy Elliott** as Secretary and **David Turner** as Treasurer. Also appointed to fill two unexpired terms on the board were **Sherry Colquitt** of BankWest and **Pat Shalmy** of Nevada Power Company.

During lunch, **Chuck Chinnock**, the new Executive Director of the Department of Taxation, spoke to members of both the Board of Directors and the Policy Advisory Committee about his background and his ideas for the future direction for the Department. He expressed his willingness to work with our Association.

Policy Advisory Committee Meeting

The Association's President, **Carole Vilardo,** gave the committee an update on the various tax packages being introduced in the legislature. She spoke about the problems inherent in some of the proposals and provided details on the differences between the packages.

The committee also received an update on the Streamlined Sales Tax Project.

BOARD ELECTIONS

Board members re-elected in 2003 for three-year terms are:

Barry W. Becker, Becker Realty Corp.
Randall Capurro, Brown & Brown Insurance
Fred D. Gibson, Jr., American Pacific Corporation (Retired)
Terry Graves, Graves Communications
C. Joseph Guild, III, Attorney at Law
M. Kent (Tim) Hafen, Hafen Ranches, Inc.
Wayne Horiuchi, Union Pacific Railroad
Michael O. Maffie, Southwest Gas Corporation
Charles McCrea, Jr., Mikohn Corporation
James L. Murphy, Grant Thornton (Retired)
A. Allan Stipe, Sunrise Hospital & Medical Center
Tim Treichelt, Georgia-Pacific Corporation
David Turner, Turner, Loy & Company, LLC

They join the following members who are mid-term:

Larry Bennett, Larry Bennett & Associates
Jan Biggerstaff, Graphics 2000
Mark Brown, Brown & Partners
Michael J. Brown, Barrick Goldstrike Mines, Inc.
Barbara Campbell, Mandalay Resort Group
Robert Campbell, The Campbell Company
Timothy Cashman, So. Nevada Harley Davidson
Margaret Cavin, J & J Mechanical Inc.
Donald Clark, Donald Clark Associates
Sherry Colquitt, BankWest
T. J. Day, Hale Day Gallagher Company
Mendy Elliott, Wells Fargo
Lou E. Emmert, Sprint
John R. Gibson, American Pacific Corporation
Amy Hill, Wal-Mart Stores Inc.
Steve Hill, Silver State Materials Corporation
Donald G. Karras, Newmont Mining Corporation
Michael Lee, Lee Bros. Leasing, Inc.
Robert List, The Robert List Company
Anne MacFarlane, ArcForm Group
Berlyn Miller, Berlyn Miller & Associates
Ann O'Connell, State Senator
Kevin Orrock, The Howard Hughes Corporation
Dean A. Rhoads, State Senator
Sylvia Samano, SBC
Pat Shalmy, Nevada Power Company
Michael Sheppard, Michael Clay Corporation
George W. Smith, Bank of America
Scott Swain, McDonald Carano Wilson McCune
Tito Tiberti, J. A. Tiberti Construction Co., Inc.
Howard Wells, Jr., Wells Cargo, Inc.

STREAMLINED SALES TAX PROJECT SUMMARY

Editor's Note: Special thanks to the Wyoming Taxpayers Association for permission to reprint their Streamlined Sales Tax Project Status Report. It follows in part.

Historical Background and Summary

The Streamlined Sales Tax Project (SSTP) is an effort by state governments, with input from local governments and private industry, to simplify and modernize sales and use tax collection and administration. The project's proposals include tax law simplifications, more efficient administrative procedures, and use of emerging technologies to substantially reduce the burden of tax collection. The project's proposals are focused on improving sales and use tax administration systems for both Main Street and remote sellers for all types of commerce. Thirty-nine states and the District of Columbia are involved in the project. Nevada, 34 other states and the District of Columbia are voting participants in the project because their legislators have enacted enabling legislation, or their governors have issued executive orders or similar authorizations. Four states are non-voting participants in the work of the project because they do not have a formal commitment of the state executive or legislative branches, but are still participating. Forty-five states and the District of Columbia impose a sales and use tax.

The project was organized in March of 2000 and is comprised of directors and administrators of the various states' departments of revenue. The State of Nevada has been a participant in this process from the beginning. The business community including national retailers, trade associations, manufacturers, direct marketers, technology companies, and others have actively participated in the project by offering expertise and input, reviewing proposals, suggesting language, and testifying at public hearings since the project's inception.

The goal of the Streamlined Sales Tax Project is to provide states with a Streamline Sales Tax System that includes the following key features:

Uniform definitions within tax laws. State legislatures will still choose what is taxable or exempt in their state. However, participating states will agree to use common definitions for key items in the tax base and will not deviate from these definitions. As states move from their current definitions to the project's definitions, a certain amount of impact on state revenues is inevitable. However, it is the intent of the project to provide states with the ability to closely mirror their existing tax bases through common definitions.

A simplified rate structure. The states will be allowed one state rate and a second state rate in limited circumstances. Local jurisdictions will be allowed to continue local option taxes, but their tax bases must be identical to the state tax base. A state or local government may not choose to tax telecommunications services, for example, at one rate and all other items of tangible personal property or taxable services at another rate. State and local governments will accept responsibility for notice of rate and boundary changes at restricted times.

State tax administration of all state and local taxes. Businesses will no longer file tax returns with local government entities. States will be responsible for the distribution of the local-option taxes to the local governments. A state and its local governments will use common tax bases.

Uniform rules for point of taxation. The states will have uniform and simple rules for assigning the appropriate tax rate and the taxing jurisdiction to receive credit for the taxes collected. The uniform rules will be destination - delivery based and uniform for tangible personal property, digital property and services.

Simplified exemption administration. Sellers are relieved of the "good faith" requirements that exist in current law and will not be held liable for uncollected taxes related to purchasers claiming incorrect exemptions. Purchasers will be responsible for paying the tax, interest and penalties for such claims. The states will accept a uniform exemption certificate in paper and electronic form.

Uniform audit procedures. Sellers who participate in one of the certified Streamlined Sales Tax System technology models will either not be audited or will have limited scope audits, depending on the technology model selected. The states may conduct joint audits of large multi-state businesses.

Reduction of financial burden on sellers. To reduce the financial burdens on sellers, states will assume responsibility for funding some of the technology models. The states are also participating in a joint business-government study of the costs of collection on sellers.

To accomplish these goals, the project proposes that states change their sales and use tax laws to conform to the simplifications as proposed by the Project. Participation in the Project is currently voluntary for sellers with no physical presence or “nexus” within a state.

The Streamlined Sales Tax System will provide sellers the opportunity to use one of three technology models. A seller may use Model 1` where a Certified Service Provider, compensated by the states, will perform all of the seller’s sales tax functions. A seller may use Model 2, a Certified Automated System, to perform only the tax calculation function. A large seller with nationwide sales that has developed its own proprietary sales tax software may use Model 3 and have its own system certified by the states collectively. However, some sellers may choose to continue to use their current systems and still enjoy the benefits of the Project’s simplification measures.

The Project envisions two components to the legislation necessary to accomplish its goals. First, states would adopt enabling legislation referred to as the Uniform Sales and Use Tax Administration Act. The Act allows the state to enter into an agreement with one or more states to simplify and modernize sales and use tax administration in order to reduce the burden of tax compliance for all sellers and all types of commerce. The Act does not require any amendments to a state’s sales and use tax laws.

Secondly, states would amend or modify their sales and use tax laws to achieve the simplifications and uniformity required by the participating states working together. The Project refers to this legislation as the Streamlined Sales and Use Tax Agreement. Other states with more complicated sales tax laws may require significant changes to current law to be in accord with the Agreement.

A certificate of compliance will document each state’s compliance with the provisions of the Agreement and cite applicable statutes, rules or regulations, or other authorities supporting such compliance. Public notice and comment will be provided before a state becomes part of the Interstate Agreement. A state is in compliance with the Agreement if the effect of the state’s laws, rules, regulations, and policies is substantially compliant with each of the requirements of the Agreement. If a state is found to be out of compliance with the Agreement, it will not be accepted into the Interstate Agreement, or will be sanctioned or expelled by the other participating states. In a voluntary system, sellers who are voluntarily collecting taxes for participating states may decide to no longer collect for the expelled state. Also, that state may not have a vote on changes in the Agreement.

A governing board will be comprised of representatives of each member state. Each member state is entitled to one vote on the governing board. The governing board is responsible for interpretations of the Agreement, amendments to the Agreement, and resolution of issues. A State and Local Government Advisory Council and Business and Taxpayer Advisory Council from the private sector will advise the governing board.

Current Status

As stated above, Nevada is one of 39 states involved in the Project, as is the District of Columbia.

In its two and one-half year history, the Project has developed a draft agreement that contains the basic structure for a streamlined sales tax system. The participating states voted on and adopted the draft agreement. A group comprised of legislators and administrators from the states that have adopted the agreement have been working to refine the agreement and to develop a governance structure for the states to operate under.

On November 12, 2002 representatives of 33 states and the District of Columbia voted to approve the multi-state agreement as amended by the implementing states. This represents a significant step forward for the Project. Lawmakers of the implementing states will be introducing legislation to their legislative body when they convene in 2003. The legislation was introduced in the Nevada Legislature on March 24, 2003 as AB 514. It passed the Assembly on April 22nd and is currently in the Senate awaiting passage.

This agreement radically simplifies sales and use tax collection. It reduces the number of sales tax rates, brings uniformity to definitions of items in the sales tax base, significantly reduces the paperwork burden on retailers, and incorporates new technology to modernize many administrative procedures.

Another event of importance occurred during the Project meeting held November 13, 2002 in Chicago. A coalition of companies came forward and announced that they are going to license with the states to begin voluntarily collecting sales and use tax in all states under the provisions of the Agreement. These companies are coming forward as a show of support for the Streamlined Sales Tax Project. Their collective sales represent $435 million to states where they do not currently have a physical presence. States hope that this gesture will generate interest from other vendors and will eventually lead to more vendors voluntarily licensing under the Agreement.

What Needs to be Done

There is much more work to be done by the Project group and the states. The group will focus on administrative issues including the development of a uniform tax return, uniform audit procedures, new definitions, and taxability issues for specific industries.

Progress by the implementing states also needs to be monitored to determine if enough states will be able to certify compliance with the Agreement. Once ten states certify compliance, or enough states to represent 20 percent of the population of the United States, a governing board for the Project will be convened. Once the governing board is in place, the governance rules of the Agreement will become effective.

LEGISLATIVE TAX BILLS UPDATE

As of this writing, it is still crystal-ball time regarding what the final tax package will look like – and the crystal ball is too cloudy to read. Gaming and mining are still supporting some form of a Gross Receipts Tax (GRT), the business representatives group is still opposing the GRT and supporting a sales tax on services.

For all intents and purposes, all of the taxes proposed in the three major tax bills – the Governor's bills (SB 238 and AB 243), the Task Force bill (AB 281) and the Amodei/Care bill (SB 382) – are still alive.

The taxes that are expected to be in the final bill are: cigarette tax with an increase of 35 cents give or take five cents either way; a doubling of the alcoholic beverage tax; and an increase in the State Business Tax – ranging from $140 to $200 per FTE per year.

What will happen to the remaining tax proposals and concepts being discussed is a total unknown. The additional "get the state more revenue" proposals at this time include: GRT, either as proposed in the Governor's and Task Force's bills or a modified GRT; a net income tax now being discussed in some quarters as the business tax alternative if a 2/3's majority vote can't be found for the GRT; a room tax rate increase for state operating; the Business License Tax surcharge (Amodei/Care bill) considerably modified; a rate increase in the Real Property Transfer Tax to be directed to the state for operating, either as an add-on to the flat rate, or the imposition of a percentage; and an increase in the gaming tax. An increase or change in property tax, of which there are three versions, is still very much a part of the discussion. The versions include the imposition of a simple increase in the property tax rate for state operating; an increase in the rate with the new rate applied only to the property value above $150,000; or a version of SB 308 in which the state would take a portion of the revenue generated by any increase in the assessed value of a local government.

With approximately three weeks left until the end of session, one can only hope that there will be a tax bill sooner than 72 hours before the close of the session containing sufficient detail so the details can be "vetted" to correct any problems. After all, when it comes to tax bills, ***the devil is always in the details***.

The Position of the NTA regarding Taxes and Revenue/Expenditure Reforms can be found on the Association's web site at:

www.nevadataxpayers.org

You can also find a comparison of the various proposals (proposed through April 27th) on the web site under "What's New".

IN APPRECIATION

The Association expresses its appreciation to those members who sponsored the 81st Annual Meeting and Legislative Dinner:

Altria Corporate Services, Inc.,
Philip Morris USA Inc., and
Draft Foods, Inc.

American Pacific Corporation
Cashman Equipment Company
Cox Communications
Duke Energy
Fred D. Gibson, Jr.
Hale Day Gallagher Co.
J & J Mechanical Inc.
Las Vegas Chamber of Commerce
Mandalay Resort Group

Nevada Power Co. and
Sierra Pacific Power Co.

R. J. Reynolds Tobacco Company
SBC
Southwest Gas Corporation
Sprint
Tiberti Organization
Wells Fargo Bank