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**What On Earth Is Going On at the Idaho State Tax Commission -
An Outsider's View**
By John McGown, Jr.

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I. Uproar created by former (and some current) auditors at the Idaho State Tax Commission

- A. Mini revolt by auditors with very serious allegations of the Commissioners using “secret agreements” to give away solid cases asserting more tax
 - 1. Newspaper articles
 - 2. Lawsuit brought by Shirley Ringo, represented by Robert C. Huntley
 - 3. Blog at sutinidaho.org (the first sentence says “Have you heard about the special deals the Idaho State Tax Commission has given to well-connected taxpayers?”)
- B. Changes have tempered the uproar

II. Recent changes

- A. Reports/studies
 - 1. Senator Brent Hill
 - 2. LaVern Gentry, CPA
- B. Legislative changes
- C. Personnel changes
 - 1. Resignation of Chair Royce Chigbrow on January 7, 2011
 - 2. Appointment of new Chair Robert Geddes on January 18, 2011
 - 3. Retirement of Ted Spangler, but his return as a consultant
 - 4. Bill von Tagen now in charge of Legal Section, taking Ted Spangler's position
- D. Leadership provided by Chairman Geddes
 - 1. Avoid conflicts of interest

2. Rely on Ted Spangler
 3. Employees should be proud to work for ISTC
 4. Update strategic plan with significant employee input to generate new ideas
 5. Simplify compliance
 6. Refine state statutes
 7. Avoid 7:1 return concept
 8. Preference for statutory changes over detailed rules
 9. Overall, Chairman Geddes appears to be well-received
- E. Increased compliance
1. Goal of closing “tax gap,” headed by Commissioner David Langhorst
 2. Possible 40% audit staff increase as temporary positions become permanent
- F. Publication 230 (revised 12-14-2010)
1. Titled “Audits – Your Rights and Responsibilities”
 2. Mindset is that auditors find taxpayer errors, resulting in more tax and that IRS audits always result in changes favorable to the government

III. Article titled “Settling Disputes with the Idaho State Tax Commission” (Nineteen pages and you can e-mail me at jmcgown@hawleytroxell.com for a copy)

- A. Previously provided to key players at Legislature and Idaho State Tax Commission (and I know the topic very well)
- B. Highlights
1. Audit process
 - a. Premises of compliance and confidentiality
 - b. Tax audits are accepted around 98% of the time (although not always happily accepted)

- c. Personal experience is that while experience and credibility help achieve favorable settlements, there are no “sweetheart deals”
- 2. Tax cases are commonly settled
 - a. State statistics show about 10% of protested cases are settled
 - b. Federal statistics show that what is actually upheld by the U.S. Tax Court is less than 20% of what was originally asserted by the IRS as owing
 - c. Many cases are amenable to settlement
- 3. Flaws in the audit process
 - a. Audit selection process tends to create tax auditor bias
 - b. Internal appeal process is flawed by multiple roles by Commissioners
 - (1) Oversee audit staff that issued the deficiency notice
 - (2) Hearing officer at informal conference
 - (3) Settlement negotiations
 - c. Impact of flawed system on tax auditors
- 4. Improving how disputed cases are handled at the Idaho State Tax Commission
 - a. Tax law is complex
 - b. Barriers to settlement in tax cases
 - c. Options for fixing the existing flawed system
 - (1) Independent group within Idaho State Tax Commission to handle disputed cases (similar to IRS Appeals Office)
 - (2) State Tax Court (similar to U.S. Tax Court)
- 5. Political issues
 - a. Is there the political will to close tax gap

- b. If have the political will, need a better system to handle the increased number of disputed cases

6. Summary

IV. New provisions on withholding Idaho income taxes on payments to nonresident members of flow-through entities

- A. Idaho Code Sections 63-3022L and 63-3026A, changes retroactively effective to January 1, 2011
- B. Idaho Income Tax Rules 290 and 291, (4-11-2011)
- C. Lots of issues/traps for entities making distributions to out-of-state owners/members/beneficiaries

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The views in this outline are those of the author only.