

STATE BOARD OF TAX REVIEW

Hoover State Office Building, 4th Floor, Des Moines, Iowa 50319, (515) 281-3204



January 10, 2011

Mr. Michael Marshall
Secretary of the Senate
State Capitol
L O C A L

Dear Mr. Marshall:

Please find enclosed the 2010 Annual Report to the Legislature, as required by statute, from the State Board of Tax Review.

If you have any questions or require anything further, please contact me.

Sincerely,

A handwritten signature in blue ink that reads "Frank J. Stork".

Frank J. Stork
Chairperson
State Board of Tax Review

FJS/jm
Enclosure

cc: State Board Members
Mark Schuling



IOWA STATE BOARD OF TAX REVIEW

2010 ANNUAL REPORT

2011 LEGISLATIVE PRIORITIES

Iowa Code section 421.1(5) requires the Iowa State Board of Tax Review to submit a report to the General Assembly, at each regular session, on the status of affairs and give direction and recommendations to the Iowa Legislature. Accordingly, the board has assembled a brief overview of 2010 activities and recommendations to legislators for the 2011 session.

The three current members of the board are Frank Stork, Michael Milligan, and Kathleen Koenig. Frank Stork was the chairperson during 2010.

Annual Report of Board Activities

The Board met 3 times during 2010. The meetings were held on April 23, 2010, July 14, 2010 and November 30, 2010. Those meetings are outlined below.

April 23, 2010 – Hoover State Office Building

- **David V. and Julie K. Gorsche - Hearing** (Docket No. 900) – Hearing.
- At 1:15 p.m. the matter of David V. and Julie K. Gorsche (Docket No. 904) was heard. David Gorsche appeared at the hearing along with Ross Smith, Mr. Gorsche's CPA. Valencia McCown, Assistant Attorney General, appeared on behalf of the Department. This case involves a definition issue regarding the qualifications for a capital gains exclusion/deduction, as defined by Chapter 422.7 of the Iowa Code.
- Both sides presented oral arguments. At the conclusion of the hearing, the parties were granted the opportunity to file simultaneous briefs, regarding their perspective on the AOL case. The Board requested the briefs be submitted within three weeks (by May 14, 2010).
- A motion was made, seconded, and approved to go into closed session; pursuant to Iowa Code Section 21.5(f). The facts of the case and the testimony of the parties were discussed. Upon return to open session, it was determined that after the briefs are submitted, and the Board has an opportunity to review them, a conference call will be held to decide the case.

July 14, 2010 – via telephonic conference to the Hoover State Office Building

- **Julie K. Gorsche – Proposed Decision.** The Board reviewed the briefs concerning the AOL case that were filed by the parties as requested after the

April 23, 2010 meeting. They agreed with the Administrative Law Judge that the AOL case was not applicable. A motion was made by Mike Milligan to uphold the decision of the Administrative Law Judge as affirmed by the Director and to direct Bryan Witherwax, legal counsel to the Board, to prepare a decision for Board Chair Frank Stork's signature. The motion was seconded by Kathi Koenig.

- **Qwest Corporation – Discussion of Notice of Appeal.** The Board discussed the Qwest Corporation Decision, Docket No. 894 and the appeal filed by the Qwest Corporation. The Department's answer to Qwest's Notice of Appeal of Proposed Decision was also reviewed. The Board concluded that an order should be written to request the parties to convene and determine an appropriate timeline to file written brief and schedule a hearing before the Board. The Board requested the Roger Stirlor draft the order for Board Chair Stork's signature and confer with Bryan Witherwax on the content of the order prior to submitting it for signature.

November 30, 2010 – Hoover State Office Building

- Discussion with Mark Schuling, Director; and Victoria Daniels regarding the Department's 2010 Legislative Summary and recommendations for the 2011 Legislative Session.
- Discussion on Annual Report to General Assembly.

The following is an update on the Board's docketed cases.

- 5 new appeals were filed with the State Board of Tax Review in 2010. There was one consolidation request filed in 2010.
- There are currently eight open appeals on the State Board's docket not including the 2010 cases. Five cases have been sent to an Administrative Law Judge for hearing, two are being appealed to District Court, and one case is being appealed to the Supreme Court.

Recommendations for the 2011 Legislature

The Board continues to recommend legislative action on the following items.

- The Board recommends that the Governor and Legislature provide a statutory clarification of the Iowa use tax exemption for recycling machinery and equipment in order to promote the recycling/reprocessing of waste products in Iowa.
- The Board recognizes that the Governor and Legislature have considered several issues in recent years concerning Iowa's tax policy and, in particular, are asked to take action on the following items:

- (I) City local option sales tax issues should be considered in the overall picture when annexation takes place. In those cases the annexed areas did not vote for the local option sales tax, and yet they are burdened with that tax. This is an issue that the Board would like the Legislature to address more clearly. What can the Legislature do to protect citizens and businesses that get caught up in the process?

- (II) Rollback and assessments of residential property.
The Board encourages the Legislature and Governor to continue to make property tax reform a priority, especially the rollback and assessment of residential property, and to develop a more balanced system among different classes of property.

The State Board of Tax Review has reviewed the Department of Revenue's 2011 legislative proposals, has met with the Department Director and staff concerning the proposals, and supports the Department's proposed legislative package for 2011.