

# STATE BOARD OF TAX REVIEW

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



December 22, 2005

Mr. Michael Marshall  
Secretary of the Senate  
State Capitol  
LOCAL

Dear Mr. Marshall:

Please find enclosed the 2005 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,

*Bonnie B. Mackin*

Bonnie B. Mackin  
Secretary  
State Board of Tax Review

Enclosure

# **IOWA STATE BOARD OF TAX REVIEW**

## **2005 ANNUAL REPORT**

### **2006 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 2005 activities and recommendations to legislators for the 2006 session.

The three current members of the board are Courtney Kay-Decker, Steven Richardson and Frank Stork. Courtney Kay-Decker is the chairperson.

Frank Stork was appointed by the Governor for a six-year term, beginning May 1, 2005 and ending April 30, 2011. Frank Stork replaced David Erickson on the board, after Mr. Erickson's term expired on April 30, 2005. Steven Richardson tendered his resignation on November 18, 2005, effective December 30, 2005. Mr. Richardson has been elected to a public position, effective January 3, 2006, and Iowa Code requires that members of the State Board of Tax Review hold no other public office.

### **Annual Report of Board Activities**

The Board met a total of three times in 2005. Those meetings are outlined below.

#### **December 20, 2005 - Conference Call**

- Met to discuss long range planning for the Board.

#### **November 18, 2005 - Hoover State Office Building**

- On September 26, 2005 Qwest Corporation (Docket No. 886) filed with the State Board of Tax Review a motion to set case for hearing and to consolidate its tax cases from 2003 and 2004. The extensive time needed to resolve this issue made it imperative to forward this case to the Administrative Law Judge for hearings and a decision.
- Discussion with Department's Tax Policy Manager, Dave Casey, regarding the Department's Legislative Recommendations for 2006.

#### **July 20, 2005 - Hoover State Office Building**

- *Fareway Stores, Inc.* (Docket No. 888) – Hearing. This case involved sales/use tax issues. Specifically, the recycling or repairing of equipment and the sales and use tax issue on the purchase of an information service. The Board would like to see the Legislature encourage more recycling with a broader interpretation of both recycling and repair when current tax breaks are involved.

- *Donna Blum* (Docket No. 887) – Hearing. The taxpayer was not present, but had submitted a letter defending her position. Ed Henderson, Tax Policy Officer, appeared on behalf of the Department. This case involved a property tax credit claim. The case is remanded to the Director and to be held in abeyance until rules are issued.
- *Qwest* (Docket No. 886) – Re: Qwest for Hearing. It was recommended to the Board that this case be put in a “pending status” due to the taxpayer and department working together to reach a settlement in both of this case and the other Qwest matter before the Board (Docket No. 883). The Board will hold this matter in abeyance until October 2005 meeting date, pending settlement.
- Discuss long-range Planning/Annual Report. Discussed feedback with Director, Michael Ralston and Tax Policy Manager, Dave Casey to discuss long-range planning. The Board asked the Department to look at Section 425.37 of the Code, which gives the Director statutory authority to adopt rules on hardship. The Board asked that the Director create rules addressing hardship in relation to Chapter 73 (Rent Reimbursement), to do them quickly and to make them retroactive. The Department was further asked to include pre-nuptial agreements and other criteria in defining hardships.

As a result of the Fareway case, a second issue discussed was the recycling issue. It was noted there is a fine line between recycling and repairing and a broader interpretation of both recycling and repair is needed.

## **Recommendations for the 2006 Legislature**

The Department outlined its legislative proposals for 2006, and asked that the Board do the same.

- The Board would like to see that pre-nuptial agreements and other criteria are used in defining hardships. Because there were no administrative rules on hardships, the Board requested the Director, who has the authority, to create such rules. A new rule was created (701-73.33). The Board requests the Legislature to further expand upon the hardship issue.
- The Board would like to see better bright-line rules inclusive of tax breaks for recycling, especially when recycling and repair are both needed.
- 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.