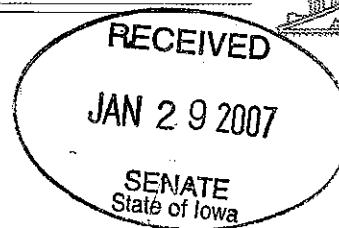


# STATE BOARD OF TAX REVIEW

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



January 23, 2007

Mr. Michael Marshall  
Secretary of the Senate  
State Capitol  
LOCAL

Dear Mr. Marshall:

Please find enclosed the 2006 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

## 2006 ANNUAL REPORT

### 2007 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 2006 activities and recommendations to legislators for the 2007 session.

The three current members of the board are Courtney Kay-Decker, Frank Stork and Michael Milligan. Courtney Kay-Decker was the chairperson during 2006.

Michael Milligan was appointed by the Governor for a three-year term, beginning March 10, 2006 and ending April 30, 2009. Michael Milligan replaced Steven Richardson on the Board, after Steven Richardson tendered his resignation on November 18, 2005, effective December 30, 2005.

### Annual Report of Board Activities

The Board met a total of three times in 2006. Those meetings are outlined below.

#### May 19, 2006 – Hoover State Office Building

- *Qwest Corporation* (Docket No. 890) – Hearing. This case involved a property tax assessment. Because of the extensive time needed to hear this case, the Board voted unanimously to forward this case to the Administrative Law Judge for hearing and a decision.
- *Chrysallis Ames LLC* (Docket No. 892) – Hearing. This case involved sales/use tax issues. Specifically, whether the services provided are “recreational” and taxable or “instructional” and not taxable.

At issue in this case is whether certain services provided by the taxpayer are taxable. The taxpayer contends that the definition of “recreation” contained in IAC 701-26.24 does not include the types of physical exercise performed by the taxpayer’s customers because the exercise is not an activity pursued for pleasure. Therefore, the taxpayer argues that they should not be taxed as “commercial recreation”. The Department, nevertheless, assessed the taxpayer sales and use tax, penalty and interest after it determined that the services provided by the taxpayer were subject to tax as “commercial recreation”.

The taxpayer then timely appealed the decision of the Administrative Law Judge (ALJ) to the Iowa State Board of Tax Review, where the Administrative Law Judge’s decision was affirmed by the Board. The taxpayer has appealed to District Court.

### **September 6, 2006 – Conference Call**

- *Qwest Corporation* (Docket No. 890) – Hearing on a Notice of Appeal of Consolidation Order from the Department. The Department requested that the Qwest cases not be consolidated as the Administrative Law Judge had ruled. The Board voted unanimously to deny the request.

### **December 1, 2006 – Hoover State Office Building**

- Discussion with Mark Schuling, Director; and Dave Casey, Interim Administrator regarding the Department's 2006 Legislative Summary and recommendations for the 2007 Legislative Session.
- Discussion on Annual Report to General Assembly

## **Recommendations for the 2007 Legislature**

In the 2005 State Board of Tax Review Annual Report to the Legislature, three items were recommended for legislation. One of those items was taken care of by a rule change by the Department of Revenue. Two legislative suggestions remain. They are:

- 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.

The State Board of Tax Review has reviewed the Department of Revenue's 2007 legislative proposals and supports the Department's proposed legislative package for 2007.