

# **IOWA STATE BOARD OF TAX REVIEW**

## **2012 ANNUAL REPORT**

### **2013 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 2012 activities and recommendations to legislators for the 2013 session.

The three current members of the Board are Mike Milligan, Kathi Koenig, and Jeff Elgin. Mike Milligan is the current chairperson.

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

The Board met three times during 2012. The meetings were held on February 7, June 5, and November 28, 2012. The meetings are outlined below.

##### **February 7, 2012 – Hoover State Office Building**

###### **I. Hearing: In the Matter of Cable One, Inc. v. Iowa Department of Revenue**

This is an attorney law judge decision brought before the State Board of Tax Review on appeal by the Iowa Department of Revenue (IDR).

This hearing is regarding the 2008 and 2009 Cable One appeals of property tax assessments. The issue had to do with the interpretation of the current law set forth by the legislature and whether the tax sought by the Iowa Department of Revenue fit within the definition of that current law. Each side presented its case and the Board ruled in favor of Cable One, Inc.

##### **June 5, 2012 – Hoover State Office Building**

###### **I. Discussion: In the Matter of Cable One, Inc. v. Iowa Department of Revenue,**

Mr. Elgin made a motion to affirm the ALJ's decision in the Cable One case; Ms. Koenig seconded the motion; the motion was passed unanimously.

###### **II. Discussion: In the Matter of Ringgold County v. Iowa Department of Revenue**

The Board's intention was to set the hearing date for Friday, September 7<sup>th</sup> at 9:00 a.m. (It was later determined that it would be sent to an Administrative Law Judge for a Decision)

### **III. Discussion: 80+ Telephone Appeals**

A letter was sent on May 18, 2012, from the Board to James Miller and Christopher James requesting that they pick 3 to 5 cases to be heard by an ALJ, with the remaining cases to be held in abeyance to these decisions. Counsel was to reply by May 31, 2012; no response has been received. The Board will send a second letter to counsel asking for the requested information by July 1, 2012; if no agreement between counsel has been made by this deadline, all 82 cases will be transferred to the Department of Inspections and Appeals.

Ms. Koenig moved to extend the previous June 1<sup>st</sup>, 2012, deadline to July 1<sup>st</sup>, 2012, for selecting cases; the original parameters are the same, the parties shall agree to a sample of cases, not to exceed five (5), to be heard. In the event that the parties cannot agree, the 82 cases will be sent to the ALJ or other necessary agency to be handled. Mr. Elgin seconded the motion; it was passed unanimously.

(Three cases were jointly recommended by both counsel and were sent to an Attorney Law Judge for a Decision. All remaining small telephone cases have been ordered to be held in abeyance.)

### **IV. Hearing: In the Matter of Rodney E. Flores. v. Iowa Department of Revenue and In the Matter of Gregory S. Alcalá. v. Iowa Department of Revenue**

These two cases were heard jointly by the Board regarding cigarette taxes owed from cigarettes purchased online. Mr. Donn Stanley represented the IDR.

**November 28, 2012 – Hoover State Office Building**

**I. Hearing: In the Matter of John & Delores Meyer v. Iowa Department of Revenue, SBTR Docket No. 1003**

This is an appeal of the IDR Director's Review of File brought before the State Board of Tax Review. Mr. Meyer presented his case to the Board first: The purpose of Mr. Meyer making an investment on behalf of his son, Arlan, was to protect the investment from Arlan's new wife in the event their new marriage ended in divorce. The Administrative Law Judge, Internal Revenue Service and State of California Franchise Board all agreed no taxes are due from John & Delores Meyer. (Arlan is a resident of California.) Mr. Meyer has paid the taxes in dispute, \$938, and is requesting a refund. Mr. Meyer's brother sold his company in 1990; the Vanguard account was opened in Arlan's name at that time.

Mr. Stanley presented to the Board second: The Vanguard investment is tax free at the federal level, not at the state level. Amendments to the IRS and State tax forms were not validated. The responsible party for the tax due is based on the primary owner of the Vanguard account. All years prior to this are beyond the statute of limitations.

Mr. Elgin asked whose social security number was attached to the Vanguard account. Mr. Stanley replied that Mr. John Meyer's social security number was.

**II. Deliberation: In the Matter of John & Delores Meyer v. Iowa Department of Revenue, SBTR Docket No. 1003**

Mr. Elgin made the motion to go into closed session; Ms. Koenig seconded the motion, and the motion was carried. The Board went into closed session at 1:53 p.m.

Ms. Koenig made the motion to come out of closed session; Mr. Elgin seconded the motion, and the motion was carried. The Board came out of closed session at 2:06 p.m.

Mr. Elgin made the motion to agree with the Iowa Department of Revenue decision to deny Mr. Meyer's tax refund claim; Ms. Koenig seconded the motion. The vote was unanimous, and the motion was carried.

**III. Discussion: Legislative Summary and recommendation for the 2013 legislative session with IDR Director Courtney Kay-Decker**

(The remainder of the meeting was not recorded)

**A. Strategic Plan (New as of January)**

1. To collect all tax due and no more
2. To serve state government
3. To make Iowa a place to make it easy for taxpayers to comply
4. Three goals:

- a) Superior customer service
- b) Expertise (Retirements, etc.)
  - (1) Replacing existing experts
  - (2) Offer training/Webinars to tax preparers
  - (3) Training 2 minute videos on Web site
- c) Modernization (Technology)
  - (1) Five Systems
  - (2) Newest: Collections – 10 years old
  - (3) A couple are 30-40+ years old
  - (4) South Carolina security breach
- 5. Online tax filings 88-89%
  - a) Software options (for free)
  - b) Get back to Chairman on whether there are income limits
- 6. Imaging project
  - a) Changed to centralized mail room
  - b) Keeps checks where they belong
- B. Five Legislative Bills
  - 1. Internal Revenue Update Bill (IRC) – Waiting to see if we fall off the fiscal cliff
  - 2. Streamlined Sales Tax
    - a) Add food grad carbon dioxide to not be taxed in the food category
    - b) Collected 14 mil last year
  - 3. Policy Bill: Manufacturers in Processing
    - a) Independent Processing Exemption Committee
    - b) Sherwin Williams Case
    - c) This is an economic development tool
    - d) This is not going to allow restaurants
    - e) Income tax credits
    - f) Utility Tax Replacement Tax Force
    - g) Informational filing for LLCs
    - h) State Tax Appeals Board (Based on ABA Model)
      - (1) Possible move to DIA
      - (2) Possible IDR will be exempt from IA Code 17A
      - (3) Need to get IDR Director out of process
  - 4. Technical Bill (Passed last year)
    - a) Code clean up
    - b) Put all exemptions in one place
  - 5. Efficiency Bill
    - a) Twenty-day Courtesy Notice (Sales Tax & Environmental Protection Fee)
    - b) Financial Inst. Records Match Process (FIRM) – Send letters to banks for levying matches
    - c) Make code consistent with our practice
    - d) Use of Geographic Information System (GIS)
      - (1) Parcel Information for property tax
      - (2) Local Option Sales Tax (LOST)

C. Discussion

1. Cable One Case
2. Streamlined Sales Tax
3. Property Tax valuation of Telecoms, Cable, etc.

### **Recommendations for the 2013 Legislature**

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

- The Board recommends that a comprehensive study to clarify the sales and use tax on machinery and equipment exemptions be undertaken with specific emphasis on defining retail/manufacturing space.
- The Board strongly agrees that the Department's goals of improving customer service and increasing efficiency in handling compliance and collections for state tax purposes by better communications, increasing expertise in the Department, and modernizing technology.
- The Board encourages the Legislature and Governor to continue to make property tax reform a top priority.
- The Board encourages the Legislature to realign the State Board of Tax Review as a separate and distinct body from the Dept. of Revenue to ensure the perception that the Board is independent in its deliberations.

The State Board of Tax Review has reviewed the Department of Revenue's 2013 legislative proposals, has met with the Department Director and staff concerning the proposals, and supports the Department's proposed legislative package for 2013.

