

Taxation Realignment Commission

SC Taxation Realignment Commission ("TRAC")

MINUTES

Wednesday June 8, 2010 at 10:00 AM

The Meeting was called to order at 10:05 AM

I. Welcome

In attendance:

- Ben Kochenower
- Burnie Maybank
- Kenneth Cosgrove
- Jack Shuler
- Charlie Way
- Don Weaver
- Ray Stevens
- Brian Moody

Not in attendance:

- Jimmy Addison
- Ken Wingate
- Robert Steelman

II. Adoption of Proposed Agenda

Commissioner Way moved to adopt the proposed agenda. Commissioner Steelman seconded the motion. The agenda was adopted by voice vote.

III. Adoption of Minutes

Commissioner Charlie Way motioned to adopt the minutes and Commissioner Kochenower seconded the motion. The minutes were adopted by voice vote and will be posted online immediately upon adjournment.

IV. Subcommittee Updates / Reports

Intangibles and Services Subcommittee: Will meet an hour upon adjournment of the full commission meeting.

Fuel Tax Subcommittee: Has previously met and will meet again tomorrow, Thursday, June 9th, 2010.

Sales and Use Subcommittee: They should have a report in the next few weeks.

Chairman Maybank: Sales Tax Caps Review prepared by Kevin Sayed and Burine Maybank. This document was distributed to the Commissioners. The Chairman reviewed and compared SC's tax on vehicles (both personal and commercial)

Craig Parks, staff, stated that Georgia imposes a local option sales tax as well.

Commissioner Cosgrove requested a local option sales tax chart for Georgia. Craig informed the Commissioner that the local option sales tax is 1%.

The Chairman brought up the issue regarding the Commission not being able to look at Act 388, Craig explained that the Sine Die resolution may or may not be able to let the Commission look at Act 388. Staff will keep the Commission posted on the progress of the Legislature next week.

V. Property Tax

1. Property Tax Legal Resident Overview by Toy S. Glennon, Charleston County Assessor

According to Ms. Glennon, while TRAC may not be able to make a recommendation based upon Act 388, preventing or reducing the "gaming" issue will ultimately provide relief to the business community.

"The more valuable your property, the less you pay in property tax."

"There are a lot of grey areas...primarily dual legal residences".

Children over the age of 18, but are still being claimed on the parent's property tax. Intentional change in the statute, allows a child to have a separate legal residence. 1% interest to the child and the other 99% belongs to the parents.

At the Assessor's Office: individuals must prove that they are separated (separation agreement is optional). The ALJ decision stated that though it was not appealed, it should have been as it overturned an archaic rule.

Having Homestead is required for having legal residence, however not vice versa. Legislative intent was clear on homestead, however not as clear regarding the legal residence issue.

Assessors would prefer to have a database linked to social security numbers. Some counties don't even require this, and others don't even bother to have it included on the physical application. Implementing such a system would streamline the process, making less work for DOR (with quarterly reporting) and the county assessor.

Charleston County Assessor requests the previous domicile (normally, individuals comply), but not all offices follow such a practice.

Easy Solution:" both sections need to be read alike... or spouses by law could be declared to living together."

Property tax break for filing separate "dwarfs" it. Making each file, it would diminish some of the occurrences. Naturally, some people will continue to attempt to receive a property tax break on his/her beach property.

Having marriage certificates sent to DOR would be another easy solution to married couples each owning a house individually and filing for separate exemption. Assessor's Office must be informed within six months of one of the individuals moving.

14-Day Rule: Charleston County Assessor's office has roughly one hundred cases a year, removing these homes from legal residences and then putting them back on the rolls.

DOR is permitting the Assessor's Office limited access to income tax returns. However, given the data is 18 months old, it may not be as useful. Assessor's Office used to have access to DMV database, they will restore the privilege.

Ultimate Solution: Social Security Number Database (for every member of the household)

Part-year residence box needs to be separated.

Commissioner Weaver: "a uniform code for all county assessors' office is desperately needed. One time of the year, a uniform list of documents should be available online. It is not fair to the public."

The regulations at DOR have a sample application, which means each office has a different set of criteria. Normally, the following documents are required: driver's license, social security number, vehicle registration and voter registration.

2. Robert Croom: Agriculture Use

Chairman Maybank requests a table on agriculture use.

\$200 penalty currently imposed. Partial requalification every three to five years

Chairman Maybank inquires as to whether or not it is clear when a property "rolls off" of agriculture use? Per Croom: Not really, it is normally left up to the developers. The developer can download a plan and present it, problem solved.

Commissioner Kochenower: Requests Mr. Croom's solutions in writing to the Commission

3. SC Farm Bureau: David Winkles

His remarks were provided to the Commission and will be posted on the TRAC webpage.

Chairman Maybank: Do you know of any other models the Commission can review? No, per Mr. Winkles, however he is more than willing to work with the Commission.

Chairman Maybank: Do you have any resources at the national level? A white paper perhaps? Per Mr. Winkles, they would be happy to connect us with sister Farm Bureau entities across the nation in order to assist in the Commission's work.

"Lifestyle farms" is growing and poses much of the problems with abuse of agriculture classification.

Robert Croom will send his recommendations directly to Russell Ott and Gary Spires with the SC Farm Bureau

NC's agriculture use tax is a good model, per Toy S. Glennon. It is designed to protect family farms. A state division of farms and fostery makes this determination and classifies the parcels as timber or agriculture use.

4. Jay Rhineheart, 2010 SC Realtors President, SC Realtors Association: 4% vs. 6% Issue

Renters are at a disadvantage regarding the 4% vs. 6% issue.

ATI under Act 388: the issue is exacerbated by the 2006 law; very different assessments based upon the year in which an individual purchases a home versus a new (more recent) home buyer.

Commercial implications: North Carolina and Georgia have different taxing systems and we are starting to lose some of the assessment grade investors. The national mid tier investors are no longer coming to SC.

The smaller entities are being adversely impacted.

Residential implications: Taxes are being paid on the prior assessment, rather than point-of-sale. Often time individuals are walking away from a closing due to the taxes

80% of the tax burden is being imposed on 6% properties

Commissioner Way: He agrees whole-heartedly. He does not think the legislature realized what they were doing regarding the point-of-sale issue.

Commissioner Kochenower: How much is Act 388 an impact versus the recession? Per Mr. Rhinehart: 73,000 residential units, 70% of the market funneled through the MLS vs. today's 36,000 residential units. There is no way for him to determine how much is a result of Act 388 versus the current economic climate.

Due to time constraints, Chairman Maybank asked if Robert Croom would submit any additional comments on the 4% vs. 6% issue in writing to the Commission.

5. Lord Hendricks, CEO with the SC Banker's Association: Bank exemption from property tax:

\$22million exemption, five year total exceeds over \$100 million

\$56 million paid in federal taxes

Pursuant to Chapter 11, of Title 12: banks are not taxed similar to a "C" Corporation

Historical Analysis: 1937 Report of Proceedings of a Conference in Charleston at the Francis Marion Hotel, HB 1162:Eliminated the previous ad valorem tax and this tax would be in lieu of all other taxes

1986: electronic banking transactions exempt from sales and use tax

Different industries should be taxed differently and public policy makers should subscribe to this notion.

Banks are the most heavily taxed of all within its classification.

Commissioner Kochenower: We should examine the fact that credit unions are not being taxed.

Mr. Hendricks would ask that the banks maintain their exemption.

IV. Soft Drink Tax

John McCormack, DOR

Brief history on the issue:

Specifically the former tax rates: syrups used in making soft drinks/simple syrups used in making soft drinks: \$0.95 per gallon, soft drinks made form concentrates, powders, or bases: \$0.16/finished gallon

Jay Hicks, SC Beverage Association

Commissioner Weaver: Have DOR provide a list of all fifty states

Commissioner Kochenower: Has the tax increased? Per Chairman Maybank, Jay Hicks will speak to that issue momentarily.

Six other states came on after SC, according to Mr. Hicks. Based upon the chart, there are three states that impose a true soft drink tax. He helped to pass Act 145 which was the gradual repeal of the soft drink tax. He provided three handouts: "Hard Facts about the Soft Drink Industry in SC",

Per Chairman Maybank: What benefit does the state of SC receive from the sales tax elimination on soft drinks? Per Jay Hicks, the plant (Pepsi Plant) stayed in the community.

IV. Other Business:

- Re-schedule May 7, 2010 Meeting

The meeting of the Intangibles Subcommittee will commence an hour upon adjournment of the full TRAC meeting. The meeting will be at 1:30 PM.

- Future Meetings

The meeting schedule will be posted on the website immediately upon adjournment.

V. Adjournment

Meeting adjourned at 12:38 PM.