

SC Taxation Realignment Commission

Meeting Minutes

Wednesday, July 21, 2010

Room 105 Gressette

The meeting was called to order at 10:08

I. Welcome

In attendance:

- Ray Stevens
- Burnet Maybank
- Ben Kochenower
- Charlie Way
- Jimmy Addison
- Ken Wingate
- Don Weaver
- Brian Moody
- Kenneth Cosgrove
- Bob Steelman
- Jack Shuler

II. Adoption of Proposed Agenda

A motion to adopt the agenda was made by Commissioner Way and seconded by Commissioner Kochenower. Agenda adopted via voice vote

III. Adoption of Minutes from Previous Meeting

A motion to adopt minutes was made by Commissioner Way, and seconded by Commissioner Kochenower. Minutes adopted via voice vote

IV. Subcommittees

a. Adoption of Recommendation:

i. Sales and Use Tax

The Commission will be ready to vote today regarding the subcommittee draft report. The report amends current SC law and repeals many exemptions while also lowering the SC sales tax rate. The actual rate would be set once DOR has reviewed the document. The language diversifies sales and use tax rates while still having virtually no impact on farmers. This 'draft' language does not include taxes on services or the gas tax but does include taxation on call centers. The Chairman would like to report out the Sales and Use Report, though not finished, and continues to insert technical corrections. In September, the Commission will vote on the document again while also voting on the reports of other subcommittees.

Commissioner Kochenower moves to adopt the report and Commissioner Weaver seconds the motion.

Commissioner Weaver expresses concerns and Commissioner Wingate emphasizes that his vote is to just receive the report from the subcommittee. Chairman Maybank then clarifies that if the Commission would feel more comfortable then they may just treat this as a first reading.

Commissioner Weaver inquires when the Commission will be provided with a solid number on what the Sales Tax rate would be upon adoption of these recommendations. The Chairman notes that 4.5% will be the solid number until the report is turned into legislation by a member of the General Assembly.

Commissioner Cosgrove asks if there will be further opportunity for review of the report in September and Commissioner Weaver would like clarification on whether or not this is an 'all or nothing' vote. Chairman Maybank informs the commissioners that there will be time for further review and a second reading in September.

b. Updates/Reports

ii. Fuel

Commissioner Cosgrove briefs the Commission that there is one more Fuel Tax Subcommittee meeting scheduled and he will provide a report at the next meeting.

iii. Streamlined Sales Tax

Commissioner Steelman makes motion to adopt, 'in principle,' the Streamlined Proposal and Commissioner Kochenower seconds the motion. The Streamlined concept is adopted via voice vote.

Commissioner Moody clarifies that there will be a second reading for this as well.

V. Property Tax Topics (continued from June 29th meeting)

a. Property Tax Exemption Overview, Chairman Maybank

Chairman Maybank reviews 'Property Tax Exemption' document. The document will be placed on the internet following adjournment. The Chairman would like to allow time for other Commissioners to review and comment on the document at the next meeting.

b. Taxation of Private Sector who lease from the Public Sector, Professor Quirk

"Can Property Taxes be collected from a for-profit entity leasing from a public entity?" Property is exempt if it is owned by the State or a municipality and used for "exclusively public purposes. The judicial expansion of what is a public purpose is broad and includes everything and thus public property will almost always remain exempt. SC Property Tax system does not tax leasehold estates. Ports Authority and Navy Yard are examples of for-profit entities with property tax exemptions. Lessee's interest means the value of the use of the property to the private party, which is the same as the use of comparable taxable property.

Commissioner Kochenower inquires that if state property is taxable if it is not used for public purpose, is the property now taxable or the lessee's interest in the property taxable. Professor Quirk clarifies that it is the property that is taxable.

c. Agriculture Use Property, Issues and Concerns
i. Bob Scott, SC Forestry Association

Mr. Scott is primarily here to discuss abuses that have been identified by the Commission. He is also here to explain that Act 208 is accomplishing what it was designed to do which is to encourage land owners to practice forestry for the long term. SC has more forests today than in 1947 and that is attributed to Act 208. The Forestry Association would like to see the minimum acreage requirement up to 10 acres if warranted. SCFA could support a requirement that landowners submit a forest management plan prepared by a registered forester. All certified tree owners would submit a management plan that could serve as a guide for preparing a plan for the use value system. Submitting a management plan would substantially reduce loopholes in the system. SCFA could also support extending the rollback period beyond 5 years. When land changes from forestry and development, the current tax system requires taxes for the previous five years to be paid on the basis of fair market value (6%). This stipulation works to encourage landowners to keep their land in forestry.

Chairman Maybank would like for SCFA to provide requirements for tree farmers in SC, NC, and GA.

Commissioner Kochenower would like to know which suggestion would be most effective in curbing the abuse. Mr. Scott believes submitting the management plan prepared by a certified registered forester could eliminate some abuse.

Commissioner Wingate would like to clarify that someone being required to submit a management plan developed by registered foresters is essentially an additional tax.

Commissioner Steelman inquires as to what the average fair market value of timberland is. Mr. Scott explains that there is no way to determine fair market value as it depends on a variety of things.

d. Dealer Tags: Issues and Concerns
i. Robert Croom, SC Association of Counties

According to DMV there are 18,367 dealer tags issued in the state and according to the BEA, the average car property tax bill is \$140.00. The average value of a vehicle with a dealer tag is most likely considerably higher than the statewide average. Assume a \$20,000.00 vehicle with an assessment ratio of 6% and that gives an assessed value of \$1,200.00. Assume further a millage rate of 200 mills (.200) and the tax bill would be \$240.00. The total fiscal impact of dealer license tags would be \$4,408,080.00.

11,892 of the 18,637 tags were issued to dealers selling fewer than 500 cars per year. That equals 64.75% of the tags. 5,106 of the 18,637 tags were issued to dealers selling less than 100 cars per year. That equals 27.40% of the tags.

There are plenty of anecdotes of vehicles not in any shape to be sold being driven with dealer tags, cars which do not appear to be on a dealer's lot at any time being driven with dealer tags and so on. It is also unusual to make a drive of any distance without seeing a car with a dealer tag.

Given the generous formula of 2 dealer tags for the first 20 sales and 1 additional tag for each additional 15 sales and the fact that nearly two-thirds of the tags are to dealers with what would appear to be low sales, perhaps the formula should be revised.

One revision to consider would be 2 tags for the first 100 and an additional tag for every additional 50 sales.

The statute provides that a person who misuses a dealer tag is subject to a \$300.00 dollar fine, forfeiture of the dealer tag, or both.

There is no specific reference to payment of property taxes which would have otherwise been payable and the statute should explicitly require payment of property taxes on the vehicle or vehicles upon which the misused dealer tag was used.

VI. Testimony from Trade Groups
a. SC Association of Counties, Robert Croom

There are 62 specific exemptions from the property tax found in Section 12-37-220. TRAC has taken testimony on both the dealer tag exemption and the bank personal property exemption. Another exemption is for tractor trailers or trailers used by eighteen wheelers. Section 12-37-2860. There are also special valuation rules which by their operation, essentially exempt a portion of the property subject to the special valuation rule from taxation. The cost of these exemptions and special valuation rules are unknown. In order to value the real property exemptions, it would cost a significant amount of time and money because all real estate is deemed unique. In many cases, despite the BEA's best efforts to estimate the cost of a proposed exemption, the estimate of the fiscal impact of a proposed exemption appears to be vastly different than the amount which the exemption actually costs. One recent example is the exemption for speculative or completed but unsold homes found in Section 12-37-220(B)(51). During legislative debate, the estimated total fiscal impact was approximately \$1 million. In the first year of implementation, there were several counties which had property in excess of \$1 million each which was claimed for exemption under Section 12-37-220(B)(51).

As TRAC has discovered through examination of other property tax exemptions (bank personal property), classifications (4% legal residence), and special valuations which effectively function as a partial exemption (agricultural use valuation), there is usually a constituency for the current law which can put forth some rationale for the current law or at least the concept of the current law. However the devil is in the details. This is evident from the examples of abuses of the agricultural use valuation, the 4% legal residence ratio, and dealer tags TRAC has already discussed. SCAC encourages TRAC to make recommendations along the lines of earlier testimony on these items.

SCAC encourages TRAC to examine these other property tax exemptions or the parameters of qualifying for the exemptions currently in the Code. In particular we suggest the following

for closer study: The exemption for eighteen wheeler trailers, the accelerated depreciation schedule for eighteen wheeler rig valuation, the exemption of eighteen wheeler rigs located or based in this state but registered in another state.

SCAC is also willing to provide additional testimony and research on any other areas of the property tax or other local taxation areas.

b. SC Municipal Association, Miriam Hair, Executive Director

Owners are exempted from paying tax on property. \$24.7 Billion in approximate property value is exempt from property tax. SC ranks 25th in property tax rates.

c. School Boards Association:

i. Scott Price

All school districts in SC rely almost exclusively on local property taxes for their share of local revenues to fund school operations and capital projects. Act 388 exempts owner-occupied homes that are assessed at 4% from school operating millage. School districts receive funding from the state to partially compensate the district for these lost revenues, but the formula created by Act 388 does not adequately compensate many districts on a one-to-one basis for new 4% properties that are created in a district. A gap exists that continues to get larger annually. Further, the classes of property that are not owner-occupied (commercial, rental, industrial, agricultural, and utility owned property) are the only source for “new” operating revenues for school districts.

Exemptions relating to these other classes can have a profound impact on school districts. Huge concern is with state-driven property tax exemptions is the failure of the General Assembly to adequately study or provide for the replacement of locally collected property taxes and consideration of implications at the local school district level.

ii. Bick Halligan

The Property Tax system strongly governs the distribution of state revenue. Millage rates are very tightly capped for school districts found in act 388. The revenue can be and has been used for other purposes. The property tax system is unbalance and distorted and there is a tremendous variation in the school operating tax across the state. This affects the over-taxation of manufacturing and commercial property. Mr. Halligan believes there is an inability to finance growth in larger districts and believes the tax structure does not provide enough revenue for economic development. Mr. Halligan expresses that new revenue from eliminating sales tax exemptions should be used for property tax shortfalls. The Homestead Exemption for school operating taxes should not be altered in any way.

iii. Bob Davis

The amount of millage levied by each of the 85 school districts in South Carolina to fund public K-12 education varies greatly across our state. The number of mills levied for operations ranges from 306 mills in Hampton County down to 94 mills in Georgetown. The

value of a mill in each of the districts also varies greatly. One mill costs the property owner of a non-owner occupied \$100,000 house anywhere in our state just \$6 a mill. That one mill, however, raises revenue that ranges from Greenwood County receiving \$7,999 to Charleston where one mill brings in \$2,741,235.

d. SC Education Association:

- i. "Best Practices for a Stable and Effective Tax Structure" by Jackie Hicks, President of SCEA and Richard Sims, Economist, NEA

K12 has endured over \$300 million in cuts over the last several years and classrooms are being greatly impacted by these decreases.

Dr. Richard Sims: This recession will have permanent affects on the economy as every future year the output of the economy will be less because of the output lost in the recession. Similar downward shift applies to any cuts in education funding. There is no guarantee that funding will return to its long-term growth trend. If revenue limitations and increasing reliance on inelastic funding sources constrain the rate of revenue growth, per pupil investment will grow more slowly that the economy. The recession's permanent impact on many rural economies will be even greater. Rural job losses, and more importantly the loss of workers, are much more likely to be permanent. In addition, it is often the best and brightest who leave, lowering the future average income, productivity, etc. It will be 2017 before SC fully recovers from this recession and is back at pre-recession levels.

Different taxes grow at different rates and we have become more dependent on taxes that do not grow. Typical taxation elasticity's include individual income tax at 1.83%, sales tax 0.81%, corporate income tax .78%, alcoholic beverage tax .39%, beer and wine tax .53%, cigarette/tobacco .43%, motor fuel tax .43%, property tax .76%, and most fees, license and use tax .5 to .7%. Similar growth rates are found among the Tax Foundation's Top 10 and Bottom 10 Business Tax Climate States of 4.3% and 4.2% respectively.

Chairman Maybank requests a 50 state breakout of property tax comparisons. Dr. Sims will provide the comparison.

VII. Tax Incidence

- a. Dr. John Ruoff, Institute of Taxation and Economic Policy's Who Pays? A Distributional Analysis of the Tax Systems in All 50 States (3rd Edition, November 2009)

Raising taxes on healthcare supplies and services could be detrimental to the people for this state. Dr. Ruoff feels that imposing sales tax on services would be more progressive.

Chairman Maybank requests that ITEP also provide a 50 state breakout.

VIII. Future Meeting Schedule:

The next TRAC meeting will be Friday, August 13 2010 at 10 AM in Room 105 of the Gressette Building. Commissioners Moody and Way will be unable to attend. This meeting will be used to invite anyone who would like to speak about a sales tax exemption. The agenda will list trade groups first.

Meeting adjourned at 12:55 PM.