

## ASCPA STATE TAX COMMITTEE MEETING WITH ALABAMA DEPARTMENT OF REVENUE

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Commissioner's Office Rm 857112  
50 North Ripley Street  
Montgomery, AL 36132

January 26, 2017

10:00 AM-12:00 PM

Call In Number 1-888-822-7517

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### Meeting Minutes

- i. **Welcome and Introductions** – *Welcome by Commissioner Magee. Follow ADOR issues a juliepmagee Twitter account. Almost reached 10 billion dollars in collections with no new taxes other than a 25 cent increase on cigarette. ADOR has become more efficient in collections and operations. This was due in large part to improvements in technology by the Department. Expectation in General Fund is that with BP money, one time, this year's fiscal budget will not be as dire, but the next fiscal year will be again another tight year for GF budgeting.*
- Simplifies use tax has more businesses coming on board with initiative. Commissioner expects approximately 14 states to mimic ADOR and electronic use tax collections.*

*Updated roster of ADOR employees to be sent to Jeannine Birmingham.*

**Tom Zobelein, ASCPA State Taxation Committee Chair; Julie Magee, Commissioner of Revenue; Mike Gamble, Assistant Commissioner; Joe Garrett, Curtis Stewart, & Brenda Coone Deputy Commissioners of Revenue**

ii. **2016 and 2017 Tax Filing Seasons**

*No issues with CPA practitioners but software issues. 36,000 income tax returns, both by paid preparers and "do it your-self" filers using Intuit tax preparation software had errors due to Intuit's poor programming. Department sent notices requesting that they file amended returns. Most ignored the notices and did not file an amended returns. Those not amending 2015 will likely find adjustments to their the 2016 returns when filed. If professional software is used, as paid preparers we need to apply due diligence that the software is computing the tax return correctly. We cannot completely trust the software as there are almost always issues according to Commissioner Magee. VT has a lawsuit with Intuit.*

*E-filing – on occasion*

- a. Filing Issues from Department and Preparers
  - i. E-filing

**Is there any changes to allow a partnership with a zero apportionment to e-file?** *Yes you can – select filing status three for all 2015 Forms and forward. All approved e-filed forms are being accepted & all Forms are live*

**Department**

- a. **Do we expect CCH to have full special allocation functionality with the new Form 65 Schedule K?**
- 2. Taxpayers without driver’s license how do we handle that?**
- a. **It is our understanding from our software provider that Alabama asked that the driver’s license number not rollover in our system. It will take us extra time to re-enter all of the driver’s license information again when it could have simply rolled over into this years’ program. Can you provide an explanation as to why states would not want the numbers to rollover?** *No for Id theft reasons the Department will not roll that information forward.*
  - b. *We use ProSystem Tax, and they now have a code to enter to indicate the taxpayer does not have any identification (like for a child or elderly person). However, even if you use this code you still cannot e-file.*
  - c. **How do we handle clients without driver’s licenses this year?** *Can we still use the number of 7777777? Yes Identity theft situation, is there an address change? No, the fraudsters use the correct address. They are direct depositing to a debit card in most instances. The only thing they cannot carry over to the fraudulent return is the salary information. Likely to receive a return verification letter if there is a concern of identity theft.*
- 3. The Alabama Form 65 for 2016 has changed to reflect beginning capital, additions, subtractions and ending capital. We are getting a diagnostic that says we cannot e-file the return if ending capital is negative. We have no issue e-filing the federal return if capital is**

negative and we have many clients where ending capital is negative. Please explain why we cannot e-file under these circumstances.

*Effective 2/1/17 this issue has been corrected*

4. **It seems ADOR is putting in extra anti-identity theft measures this year. That is understandable. Can you please explain why refunds are being held until March? Also the ADOR tax tips press release asks that people file early to avoid identity theft. Does this really work?** *Encouraged to file as early as possible in order to beat a fraudulent return filed. This will not stop someone who has stolen identity but it will allow legitimate filer to have authenticated return.*

*Seems all of the people committing ID theft file early because they have fraudulent documents that they are working with and file first.*

*Department is no longer using the Quiz for ID verification for refunds. Instead is using letters with verification numbers*

5. **Review of Act 2016-412 (SB 263) conforms the filing dates for corporate income tax returns to that of the federal filing date. Individual returns though not presently changed for federal purposes are also conformed to the federal due date. Despite the federal change in partnership filing due dates ACT 2016-412 is silent as to filing of Form 65. Please confirm that the filing date for Form 65 also conforms to the federal filing date.**

*Rule 810-3-28-.01 has added a conformity provision for Form 65 for 2016 filing. The version is in review prior to official release but is effective now.*

6. **CCH Prosystems' diagnostics – diagnostics can be sent to ADOR, [corporate.efile@revenue.alabama.gov](mailto:corporate.efile@revenue.alabama.gov)** (Melissa Gillis)

**ii. Delayed refunds**

*Some refunds may be held because ADOR thinks certain items on AL return needs to be verified.*

*Refunds will not be paid until March. Department needs the time to verify the AL withholding claimed on W-2.*

**iii. Items for Improvement**

1. **Will the Department please consider adding the Partnership's apportionment factors on each Partner's AL 65 K-1? Other states are starting to do this and we find it very helpful in preparing our multistate tiered partnership client's apportionment. Having the apportionment factors on each of our client's AL Form 65 K-1 would be a great help preparing our client's AL Form 65 who are partners in other partnerships.**

*Department will take under consideration they can put the additional lines on the form but do not have the power to compel entities to complete that info.*

**iv. Difficulties experienced**

**v. Form 41 Returns with payments**

1. **We were told by a State Revenue Dept employee that if a Form 41 is e-filed, any payment due must be paid electronically, regardless of amount. Is this correct?**

*No, Department software does now allow e-filed returns without the payment (the payment to remit) but payments must be received by the filing due date. There are situations where payments cannot be made electronically (no computer or internet or both) and the Department will work those situations on a case by case basis.*

2. **When will Fiduciary payments be accepted using MAT, now that payments of \$750 or more must be paid electronically?**

*41s can now be e-filed, accepted through MAT. Banks and brokerage firms should now be able to batch file.*

*Committee members with business return issues can be directed to Department members:*

- *Mkki Adams or*
- *Melissa Gillis*

**vi. Why do corporate (c-corp) taxpayers lose their contribution deduction when they carry forward an NOL. The Alabama states they follow the**

**federal NOL rules. Federal converts the contribution carryover to a NOL carry over. It appears that AL is not allowing the same treatment.**

AL law does not have follow the federal on carry-forwards as such each category of carry-forward retains its identity for AL income tax purposes.

vii. Can the Department provide us with a summary of the E-Payment requirements

**b. Filing Issues for 2017 Filing Season**

i. **Changes impacting the 2016 Return Filing that practitioners need to be aware.**

ii. **Fiduciary tax returns extended due date 5 ½ months?**

*Yes*

iii. **PPT with payments under \$750**

1. **Paper file or Voucher with payment still OK?**

iv. **Schedule CR – Credit for Taxes Paid to Other State**

1. **How to handle for 2016 returns**

*File as in the past until Moody Case is final.*

v. **Update non-profit organizations under SB 24**

*Renewals for non profits are going well.*

1. **What needs to be filed and when?**

a. *All entities required to file and or renew their exemption must file a quadrennial AL Form 870 on or before 10/1 of the reporting year. Draft of report is ready but not programed yet but expecting a summer release. Form 870 mirrors the promulgated rule so look there to prepare your clients. Advisory Council for non profit exemptions and operations. Remind clients that have this filing requirement must maintain filing, the first one is in October then they will have four years until they must file again. (Verification needed here.) Once form is available, it will be sent to Jeannine Birmingham so it can be sent to members and made available on ascpa.org.*

vi. **Update on imposing BPT on SMLLCs of tax-exempt organizations?**

1. **Limit to \$100?**

vii. **Optional Personal Property Assessment Link (OPPAL)**

1. **Will it be mandatory for filing the 2017 for Business Personal Property Returns?**

*Not planning to make mandatory. Optional Personal Property Assessment Link.*

*Had about 28000 filings through OPPAL the first year. Now taking comments on how to make the system better. Advisory Council on OPPAL has been established. Comments from County officials asking for a few enhancements. Several CPAs mention that they have used the system and find it favorable. Every county has access to OPPAL, a couple of counties have their own system. This is an online filing portal. Proforma established for second year of filing. .*

2. **Would like the ADOR to consider using a consistent PTIN for each entity (e.g. last four digits of EIN). It is difficult to collect the PTIN in order to be prepare the returns online for the client to submit. If ADOR continues to auto-generate the PTIN, then include an instruction to the taxpayer to forward the PTIN to the preparer of the returns.**

*ID number issue – OPPAL is a portal feeding into county systems who has different ID number systems. Where ADOR would like uniformity at this point, it has not happened but it could once counties become more comfortable with OPPAL. Suggestions & comments can be sent to Brenda Coone.*

**iii. Legislative agenda for 2017**

*ADOR involved with possible changes to federal income tax reform. Changes will have effect, positive and negative, to the states. No state can afford a significant change to state income tax collection. States may pass a budget then federal government passes tax reform so a special session could be called to re-address budgeting.*

**a. MUCR bill to be reintroduced?**

*Commissioners favorite bill and has a good feeling that it will pass this session. Combined reporting is in the majority of the states in the U.S. Why is this an economic development issue? Does it make sense to have a tax that is avoidable in order to attract business? AL corporate income tax solely rests on AL based business owners. Why are they having to bear this burden? AL economic development is mainly based on training of the workforce. That has what has made recruitment possible – not a corporate tax loop. States that for not have combined reporting will have this law within the next few years.*

**b. Conforming CPT & PPT to income tax due dates?**

*BPT due date legislation – combined with bad preparer bill*

- c. Tax preparer bill? See above. Sponsors – Representative Scott, Senator Melson

**d. Conformity with IRS Audit rules effective for 2018**

*AL conformity to new Federal Partnership Audit Guidelines – ON HOLD  
FEDERALLY – State/ADOR needs to determine the AL position and get the  
appropriate legislation passed accordingly. Partnership Audit reg has been  
stayed by President – regs must be reissued and go through the process again.*

Weekly MTC calls – CPAs welcome to participate in calls

**Possible legislation** - *Conforming sales and use tax exemptions, would repeal  
exemptions under use tax law. If something is exempt under sales tax, it would be  
exempt for use tax.*

Lodging tax legislation possible. Residential homes excluded.

Digital Goods Taxation – ADOR looking for clarity. Senator Marsh to introduce a bill.  
Tax Credits – Historical Tax Credits. Marsh did not allow bill to go through in 2016  
requesting a study on effectiveness. Marsh commissioned a study. ADOR requested  
RFPs, Marsh contracted with Professor Murray, Univ of TN The ADOR has engaged  
professors from the University of Tennessee to assist with evaluating various tax  
credits. The work will consist of 3 phases:

- Best Practices (ADOR has the report on this already)
- Evaluation of CapCo and Historic Tax Credits (Due in January)
- Evaluation of New Markets and Film Tax Credit (due in early March)

Economic studies – Historical Tax Credits. Marsh did not allow bill to go through in  
2016 study. He commissioned a study. ADOR requested RFPs, Marsh contracted with  
Professor Murray, Univ of TN, three charges: 1 - best practices for tax credits  
(delivered); 2 - evaluation of CAPCO credit and historical tax credit (due next month);  
3- new markets and movie credits (due early March).

**e. Bill to harmonize state/county/city business license rules**

ADOR have talked to the counties but it seems to derail. Simple in theory but  
complicated compliance issues. ADOR has not seen legislation and has not heard of  
any group working on this issue.

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ATLAS Alabama website – inter agency links, all cities and counties are allowed to have their own page. Links to current process in ATLAS Alabama. Arlene Alexander is marketing to cities, counties, entities. Future capability is huge. CPAs are encouraged to look at website and provide feedback. Liaison is Arlene Alexander

- i. Update the categories
- ii. Allow a joint filing of all business licenses similar to “One Spot?”

**f. Legislation to prevent multiple sales/use/rental/lodging tax audits of our clients by state, county, city and third party auditing firm for the same period.**

**i. Propose legislation to require one combined audit of these taxes.**

**1. Limiting an audit only every 3-4 years**

*Department is going out and working with cities and counties to show administrators how working with Department through on line portals, One Spot and simplified sellers use tax as examples, can benefit their independent work. ADOR is showing them all the things they are doing or are working on they will improve operations*

*Chairman asked if the 25% underpayment for use tax be measured against tax paid for business not issuing sales tax exemption & therefore not presently filing use taxes (example physicians’ offices)? If no use tax ever paid that \$1 would generate a 25% underpayment and open the business statute when in fact they were over all compliant through sales tax paid to their vendors.*

- g. Any legislation we could help promote

iv. Committee’s Review of Draft Tax Forms

- a. Would the Department like this committee to continue to review drafts?
  - i. Limit our review to forms with major changes and or resulting from new legislation.

Yes

v. Miscellaneous Items

- a. Composite Tax Payment Computations
  - i. Netting
- b. Identity theft update
- c. Can the Department periodically issue Acq or nonacq on ATT & Circuit court cases?

vi. Proposed Rule Changes to be issued in 2017:

- a. In process
- b. Slated to be written

vii. Any new client letters to be sent in 2017?



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viii. Adjourn