

August 14, 2008

The Honorable C.L. "Butch" Otter
Governor, State of Idaho
Borah Bldg. 3rd Floor, Ste 347
Boise, Id 83702

Dear Governor Otter:

This letter is to respectfully request that you direct the responsible state employees to justify their intended action to you before they complete the "give-away" of state funds in the incident involving the multi-state corporation I designate below as "Taxpayer # 8." This is a new and currently un-finalized event.

The Tax Commission has recently offered a compromise of tax liability to another large corporate taxpayer. This taxpayer is yet another uncooperative corporation which refused to provide the audit staff with documents and substantiation as required by law. Despite this lack of cooperation we obtained enough information during the audit, and a Notice of Deficiency was issued by the auditors. The taxpayer protested the audit results in September of 2007. After gathering a substantial amount of additional information during the appeals process, the Commission determined that the audit adjustments were correct. It issued a written decision in June of this year which upheld the audit findings with the exception of the penalty.

The Commission received an offer of compromise from the taxpayer on July 30. A meeting was held last week in which the Commission made the decision to make a counteroffer to this taxpayer. This meeting was attended by Commissioner Chigbrow, Deputy Attorney General Larry Allen, Division Administrator Lynn Chenowith, and Audit Bureau Chief Reva Tisdale. No auditors or audit supervisors were notified of this meeting or invited to attend.

The taxpayer owes the state of Idaho approximately \$238,000 in tax. This does not include interest. This tax deficiency was determined by the Commission in its written decision. The taxpayer offered to pay \$92,000. The group settled on approximately \$175,000 as the counteroffer. After interest is included and updated, the total amount to be given away will be close to \$70,000, which represents an approximate 24% reduction in the amount deemed due by the Commission. All determinations reached in the original decision are still valid as the taxpayer has not provided any additional information to the Commission subsequent to the written decision.

One might wonder whether an offer of \$92,000 against a \$238,000 debt, coupled with an arrogant and illegal refusal to provide documentation, indicates a lack of respect for our

Auditors, Attorneys, and Commissioners? Have we earned that attitude?

On August 11, I was advised by my Bureau Chief of the compromise offer and the supporting details referenced above. On August 12, I requested a copy of the summary of the compromise offered, and a copy of the proposed compromise agreement. These are both documents that the Commission must complete according to the Commission's Administrative Appeal Process, a copy of which was attached to the Attorney General's report issued on July 31, 2008. I was told that Commissioner Chigbrow and Larry Allen were both out of the office; but that when Larry returned he would write these reports. It should be noted that the Commission's Administrative Appeal Process calls for these compromise documents to be completed before a compromise offer is presented for approval.

The Tax Commission examined each protested issue in great detail and provided extensive legal support for its decision on each issue. The taxpayer did not provide any additional information to refute the Commission's decision; it simply asked for a reduction in the amount owed. A doubt as to liability does not exist as evidenced by the Commission's written decision. Without this doubt, the Commission is in direct violation of its statutory authority and Idaho Commission Rule 500 which implements the code if this compromise agreement is finalized.

I ask that the Commission be directed to withdraw its pending offer immediately to avoid this direct conflict with Idaho law. I am not now releasing this to the press because I trust this can be properly resolved "in-house".

Respectfully yours in the interest of good government,

Stan Howland
Multistate Tax Auditor
Idaho Tax Commission

Copies to: Attorney General
Senator Brent Hill
Senator Kate Kelly
Senator David Langhorst
Representative Wendy Jaquet
Lavern Gentry
Commissioners