



OFFICE OF PUBLIC ACCOUNTABILITY

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Real Property Tax Levy Unenforced

Impact Will Result in Immediate Deficit and Create Needless Crisis

October 16, 2018

Hagåtña, Guam – During a recent follow-up of the enforcement of real property taxes, the Office of Public Accountability (OPA) has learned that Department of Revenue and Taxation (Rev & Tax) officials will not be enforcing a real property tax increase specific to improvements (buildings) valued at \$1 million or more for 2019. The measure was required by Section 3, Chapter I of Public Law 34-116.

“Unfortunately, I am told that certain parties within the Department of Revenue and Taxation have attempted to nullify this section of law through delay--arguing instead that the absence of an expressed effective date in this section allows for individual interpretation. This is not the case,” stated Public Auditor Benjamin J.F. Cruz.

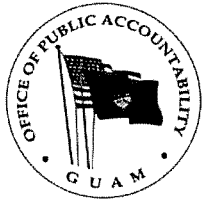
In response to this revelation from Rev & Tax, Cruz has issued a letter to Governor Eddie Calvo reminding the administration of a similar issue involving the implementation of tobacco taxes that the Attorney General’s office provided advice on.

“Section 3, Chapter I of P.L. 34-116 is the law of the land. This is a fact the Attorney General of Guam recognized when she advised DRT on a substantially similar issue in the same legislative Act--the implementation of Tobacco tax increases. In that instance, as in this one, I believe the AG's verbal advice to DRT on August 31 is clear--where no effective date is expressly stated; the provision is effective upon enactment. This means that all qualified improvements have been subject to this additional tax since the enactment of P.L.34-116,” Cruz stated.

Without the implementation of this levy, *“the Government of Guam will face a self-inflicted deficit in the current fiscal year and risk costly litigation should it attempt to properly enforce the law in the future. I respectfully request...that the updated Real Property Tax Roll properly reflect the additional levy on qualified improvements; or that DRT refrain from the publication of the updated Real Property Tax Roll until such time as it has received **expeditious** guidance from the Office of the Attorney General. As Governor and the Organically recognized Tax Commissioner, I ask that you act now--preventing a needless crisis before it begins.”* Cruz stated.

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For more information, please contact Vincent Duenas at 475-0390 ext. 206 or visit our website at www.opaguam.org.



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October 16, 2018

Edward J.B. Calvo
Governor of Guam
513 West Marine Drive
Ricardo J. Bordallo Complex
Hagåtña, Guam 96910

Dear Governor Calvo:

The General Appropriations Act of 2019 included several measures committed to mitigating the negative local impacts of Federal Tax Policy. One such measure assessed a separate but additional Real Property Tax levy on Improvements (buildings) valued at \$1 million or more.

Unfortunately, I am told that certain parties within the Department of Revenue and Taxation have attempted to nullify this section of law through delay--arguing instead that the absence of an expressed effective date in this section allows for individual interpretation. This is not the case.

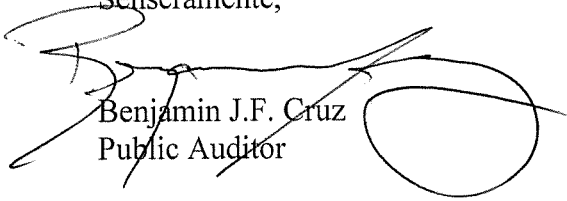
Section 3, Chapter I of P.L. 34-116 is the law of the land. This is a fact the Attorney General of Guam recognized when she advised DRT on a substantially similar issue in the same legislative Act--the implementation of Tobacco tax increases. In that instance, as in this one, I believe the AG's verbal advice to DRT on August 31 is clear--where no effective date is expressly stated; the provision is effective upon enactment. This means that all qualified improvements have been subject to this additional tax since the enactment of P.L.34-116.

For this reason I respectfully request the following:

- 1) That the updated Real Property Tax Roll properly reflect the additional levy on qualified improvements; or
- 2) That DRT refrain from the publication of the updated Real Property Tax Roll until such time as it has received **expeditious** guidance from the Office of the Attorney General.

Unless the aforementioned steps are taken, the Government of Guam will face a self-inflicted deficit in the current fiscal year and risk costly litigation should it attempt to properly enforce the law in the future. As Governor and the Organically recognized Tax Commissioner, I ask that you act now--preventing a needless crisis before it begins.

Senseramente,


Benjamin J.F. Cruz
Public Auditor