



## OFFICE OF PUBLIC ACCOUNTABILITY

Suite 401 Pacific News Building, 238 Archbishop Flores St., Hagåtña, Guam 96910  
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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](http://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.

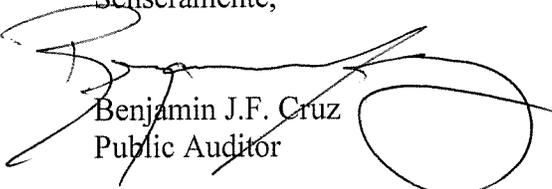
Section 3, Chapter I of P.L. 34-116 is the law of the land. This is a fact the Attorney General of Guam recognized when she advised DRT on a substantially similar issue in the same legislative Act--the implementation of Tobacco tax increases. In that instance, as in this one, I believe the AG's verbal 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