



OFFICE OF PUBLIC ACCOUNTABILITY
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May 11, 2017

Honorable Benjamin J.F. Cruz
Speaker and Chairperson Committee on Appropriations and Adjudication
34th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagatna, Guam 96910

Re: Testimony for Bill No. 77-34 (COR) Cigarette Stamp Tax Law

Hafa Adai Speaker Cruz and Committee Members:

FYI, OPA has started an audit on tobacco taxes. Based on our limited review of the bill relative to requiring a tax stamp on cigarettes, we offer the following:

- 1) The current Tobacco Tax can be found in Article 6 of Chapter 26 of Title 11 GCA. The proposed Articles 7 and 8 are to be added to Chapter 6 of Title 11 GCA.
 - a. Is it the Legislature's intent for the cigarette tax stamp to be a new tax that is assessed in addition to the current tobacco tax?
 - b. If this were the case, the effect would be the doubling of taxes as 11 GCA § 26603(a) already prescribes a rate of \$15 per 100 cigarettes prorated.
- 2) The bill does not address whether the proceeds from the cigarette tax stamp are to be deposited into the Healthy Futures Fund or the General Fund. There is no question that the General Fund is in dire need of additional revenues.
- 3) There may be confusion with the term "purchase" or "purchasing" at §6702(b), beginning with line 7 of page 6. Language in this section states that the actual payment of the stamps are payable no later than the 20th day of the month following the month in which the stamps were "purchased". If the intent of this tax is to improve collections as noted in the last paragraph of §6700, consider requiring the upfront payment of the stamps.
- 4) 11 GCA § 26205 states that the statute of limitations for collections of unpaid taxes due on business privilege tax returns shall be 10 years after the tax is assessed. We suggest the Legislature consider requiring records retention for a minimum of 10 years at §6703(a)(4).

- 5) The bill addresses taxes on cigarettes only. What about cigars, other tobacco products, and e-cigarettes?
- 6) The timeline of 90 days after passage for distributors to affix the cigarette tax stamp on each individual package is unlikely to be met.
 - a. Department of Revenue and Taxation (DRT) would need to first decide: what type of stamp, how many and what type of security features, the denomination(s), quantity of stamps to be printed, etc. and then procure the stamps.
 - b. Will the cost to procure the stamps come from the prescribed rate of \$15 per 100 cigarettes or will there be a separate funding source.
- 7) Given the current staffing shortages at DRT and without additional funding to hire and train additional staff, we are concerned as to the enforcement of this new tax.

Our audit of the new Limited Gaming Tax, OPA Report No. 16-06, issued in August 2016, revealed the lack of aggressive enforcement by DRT of Guam's gaming industry, which is predominately a cash industry.

Our follow-up audit of Returned (bounced) Checks, OPA Report No. 16-11, issued in December 2016, showed unrealized revenues of \$1.8 million due to lax collection and enforcement by DRT.

We also have some other issues with the bill, which perhaps can be discussed informally.

Senseramente,



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