



EXECUTIVE SUMMARY
 Government of Guam Use Tax
 Report No. 14-02, April 2014

Our audit found that the Government of Guam (GovGuam) Use Tax process is problematic and in need of significant improvements. Specifically:

1. The total amount of Use Tax assessments and collections is unknown;
2. No GovGuam agency is collecting outstanding receivables which according to the Department of Administration's (DOA) records have amounted to \$4.9M in Fiscal Year (FY) 2013. These receivables are not recorded in the Department of Revenue and Taxation (DRT)'s system; and
3. There is no documentation to support that Use Tax exemptions are granted in accordance with law.

As a result, there is a high probability of lost revenues for GovGuam and susceptibility to fraud, waste, and abuse due to non-assessment and improper exemptions of Use Tax. These conditions occurred because there is no GovGuam agency who is fully responsible for reviewing, monitoring, reconciling, or collecting Use Tax.

While DRT is responsible for enforcing Guam's tax laws and collecting tax revenues, they have relied on the Guam Customs and Quarantine Agency (CQA) for the enforcement and collection of Use Tax. DRT cites the Use Tax law which states CQA is tasked to assess and collect on behalf of DRT. However, CQA is a line agency of GovGuam and relies on DOA for its accounting, financial reporting, records management, accounts receivable, and cash management. Therefore, all Use Tax documents including assessments and collections by CQA are forwarded to DOA and not to DRT.

Total Use Tax Assessments and Collections is Unknown

The total amount of Use Tax assessed and collected between FY 2011 and 2013 is unknown as management at CQA, DOA, and DRT is unable to ascertain the true amounts of Use Tax collections and assessments. The three agencies provided the following sets of Use Tax data that do not reconcile.

FY	CQA	DOA	DRT	*GovGuam Financial Stmts.
2011	\$ 1,212,564	\$ 2,549,493	\$ 337,242	\$ 2,549,493
2012	\$ 1,909,590	\$ 2,458,327	\$ 292,251	\$ 2,459,927
2013	\$ 2,690,735	\$ 2,725,994	\$ 278,674	\$ 2,725,994
Total	\$ 5,812,888	\$ 7,733,814	\$ 908,167	\$ 7,735,414

* FY 2013 GovGuam Financials Statements are unaudited numbers.

Data provided by the three agencies is problematic and incomplete. Specifically:

- CQA does not maintain accurate and reliable data as evidenced by several discrepancies. For example, there were several months of missing data and current year data included prior-year assessments; therefore, we cannot verify the completeness and accuracy of the data.
- DOA's data is inclusive of collections and accounts receivables based on data provided by CQA. Being the centralized processing agency, the data captured by DOA has the most information among the three agencies, and is the basis for the numbers recorded in GovGuam's Basic Financial Statements. However, based on DRT's review of the accounts receivable listing, amounts recorded at DOA may be overstated as it does not account for exemptions filed with gross receipt taxes (GRT).

- DRT data is based only on what is reported by businesses that file GRT. Non-business filers who paid at CQA and Treasurer of Guam are not being captured by DRT, as they do not file GRT. In addition, Use Tax receivables recorded at DOA are not being captured at DRT.

No Agency Following-up on Use Tax Receivables

We found that neither CQA, DRT nor DOA is charged with ensuring Use Tax receivables are reviewed, monitored, reconciled, and followed up to ensure complete and accurate Use Tax information. As a result, the accounts receivable for Use Tax is a cumulative amount that goes back to 1998 and is continuously increasing, going from \$4.1M in FY 2011 to \$4.9M in FY 2013.

While CQA assesses and collects Use Tax payments made upfront, it also receives subsequent payments and forwards all invoices of unpaid Use Tax to DOA for posting and collection. DOA acknowledged that while it receives the invoices from CQA, it only posts the receivables and tracks payments made at the Treasurer of Guam and CQA against the receivable. DOA does not follow up on the collection of these receivable.

DRT only reports Use Tax filed using the GRT form, but does not track total Use Tax of non-filers. Because DRT does not receive any data and documents from CQA or DOA on Use Tax assessment, collections, and receivables, it has not had any involvement in Use Tax collection.

No Documentation to Support Use Tax Exemptions are Granted in Accordance with Law

The majority of exemptions are granted by CQA officers based on their judgment during the initial assessment of incoming cargo; however, CQA does not maintain documentation to ensure the granting of these exemptions are in accordance with law. For example, CQA does not have a complete log of incoming cargo that can be used to verify goods that may have been subject to Use Tax. Further, there is no documentation to show which goods and amounts that were given an exemption versus those that were assessed a Use Tax. As a result, GovGuam is unable to justify whether the exemptions were warranted and in accordance with the law. Due to the lack of documentation, the impact of this finding cannot be determined.

In a few cases, the only documentation that is maintained in regards to exemption amounts is when a consignee's cargo was originally assessed Use Tax by CQA (i.e. CQA had invoiced the consignee and forwarded the document to DOA) and the consignee contests the assessment. In these cases, the consignee must provide documentation to CQA showing that the cargo is exempted from Use Tax. If the cargo is truly exempted, CQA issues a memo to DOA voiding the Use Tax assessment. When DOA receives the memo voiding the Use Tax assessment from CQA, they record the Individual Use Tax Exemption and adjust the accounts receivable. Use Tax exemptions in these cases amounted to only \$19K in the three year period.

Recommendations

Based on our audit, we recommend the following:

- DRT, CQA, and DOA should clearly define their roles regarding Use Tax, which would be solidified in finalizing and implementing the Inter-Agency Cooperative Agreement between the three agencies;
- DOA should write-off the outstanding receivable balance as agreed by the agencies, due to unreliability of the amounts, the resources to be spent to reconcile them and the substantial allowance already provided.
- DRT, as the tax regulatory agency for GovGuam, should be responsible for reconciling, monitoring, and collecting Use Tax assessments. In addition, they should be responsible for ensuring exemptions are granted in accordance with law.
- A process should be implemented where business license number and other relevant business information can be shared between the three agencies;

In several meetings held with CQA, DRT, and DOA, management agreed to the recommendations.

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