



GUAM - October 2018

TAX INCREASE ON HOLD FOR MILLION-DOLLAR PROPERTIES 1

Tax increase on hold for million-dollar properties

Just a few weeks into the new spending year, the government of Guam is looking at a funding shortfall of more than \$8 million.

That's because the Department of Revenue and Taxation has delayed the real property tax increase for 400 owners of buildings or houses valued at \$1 million each or higher.

The tax increase is part of the fiscal year 2019 budget law. However, Rev and Tax has decided to implement the tax increase next fiscal year, according to Public Auditor Benjamin Cruz.

The real property tax increase is projected to raise about \$8.1 million annually from the roughly 400 property owners. That revenue is already factored into this year's budget. The tax increase won't be implemented until a year from now, however, "because there is no effective date of the law," according to an Oct. 10 email from Rev and Tax Real Property Division administrator Benedict Atoigue.

"I'm shocked," Cruz said. He warned that GovGuam is facing a "self-inflicted deficit" and may be subject to "costly litigation" if it delays enforcement of the tax increase until next fiscal year.

The public auditor pointed out that the attorney general weighed in on the "effective date" question when Rev and Tax balked at implementing an immediate increase in the tobacco tax, which also is mandated by the 2019 budget law.

In an Aug. 31 memo, the attorney general advised Rev and Tax that when "no effective date is expressly stated (in the law); the provision is effective upon enactment."

Cruz said he has sent a letter to Gov. Eddie Calvo, who is the "recognized tax commissioner" under the Organic Act of Guam, calling on him to order the update of the real property tax rolls to reflect the tax increase for the 400 affected property owners. In response, the governor wrote to the public auditor, "your letter is noted."

"I warned you that this budget law is flawed," Calvo wrote to Cruz, who is the former speaker of the 34th Guam Legislature.

The budget bill submitted by the Legislature changed only the property tax rate, but the rest of the law stayed the same, "and the rest of the law says that the tax is assessed every March," Calvo stated.

As a result, the governor maintains, "since the 2019 budget bill was passed after March 2018 and, because a law cannot be applied retroactively," Calvo stated the earliest date that the property tax increase can take effect is in March 2019.

"If you wanted to ensure the new rate was immediately effective, you should have written it clearly into the legislation that became law," he stated.

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