



## GUAM - November 2018

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### Department fixing 6-year-old computer system problem to help plug real property tax leaks

Department of Land Management is now fixing a 6-year-old computer system problem that would help the government collect taxes from some multi-dwellings such as condominiums, and plug other tax leaks such as not knowing the owners of hundreds of properties.

But Land Management will need more time for its computer system to connect with the Department of Revenue and Taxation's own system, which would allow for a more efficient property tax assessment and collection, officials said.

Public Auditor Benjamin Cruz said it's disappointing that the computer upgrade didn't connect both agencies' systems, when it's been about six years since the issue was known to both Land Management and Rev and Tax.

Without the ability to interface

Without the ability to interface since 2012 or 2013, Land Management has been unable to allow the automated transfer of parcel identification numbers to Rev and Tax.

Identification numbers are necessary to add a property into the tax roll so that the property can be assessed and billed.

Borja said in his letter to Cruz that despite the lack of connecting systems, Land Management has given Rev and Tax unfettered access to its system.

Land Management also provides hard copies of recorded land transactions and forwards them to Rev and Tax on a weekly basis, Borja wrote.

Until the issue is resolved

The Office of Public Accountability in May 2018 said until the issue of creating property identification numbers is resolved, tax assessment rolls will be incomplete and inaccurate and GovGuam will continue to lose property tax revenues.

Land Management Director Michael Borja told Cruz in a letter that an upgrade to the department's Land Web computer system means Land Management, among other things, would be able to input data related to condominium units and allow sharing of newly created identification data for Revenue and Taxation in a more usable format.

The recent upgrade includes a continued maintenance agreement with a contractor into fiscal year 2019. The last contract for the system maintenance expired in January 2013.

Synchronizing about six years worth of data

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Frank Lujan, chief technology officer for the government of Guam, on Monday said Land Management recently completed its database upgrade and trained its staff, and the next step is synchronizing about six years worth of data.

"It's a good step in the right direction," Lujan said, but added that it's a "long road."

Lujan, who heads the Guam Office of Technology, said the task at hand is for Land Management to make sure the data in its system is accurate. Lujan said Rev and Tax, for its part, is ready to receive data from Land Management.

Land Management has to make sure that its data reflects the new owners of condominium units sold and bought in 2013, for example, so that the new owner can be identified, assessed and built.

#### Reported \$40.2M lost revenue

A public auditor's report in May 2018 said Guam had unrealized revenues of about \$40.2 million in real property taxes over five years because agencies could not identify and assess owners of hundreds of properties, un-taxed condominium units, inability to collect delinquent taxes and questionable decline in taxable hotel values.

The same Office of Public Accountability report, under former Public Auditor Doris Brooks, said taxes for some condominiums and town homes also were not assessed because the government, for six years, failed to correct a computer problem that identified those properties.

In response, the governor's office said at the time that more than \$20 million of the reported \$40.2 million lost revenue is due to tax exemptions and tax credits mandated by law, and that almost \$20 million is still collectible.

#### Missing word raises property tax issue

The Department of Revenue and Taxation is seeking further clarification from the Office of the Attorney General on the property tax increase in the 2019 budget law.

Attorney General Elizabeth Barrett-Anderson already has issued an opinion concluding that the property tax increase provision of the 2019 budget law "must be imposed immediately."

Rev and Tax initially intended to wait until next year before implementing it, because the law does not say what date the tax increase should take effect.

However, Public Auditor Benjamin Cruz and Sen. Tom Ada, who chairs the legislative appropriations committee, raised concern that failure to collect the tax now would result in a self-inflicted budget deficit of \$8.1 million, which is the amount the tax increase was expected to raise.

Barrett-Anderson advised that there should be no delay in concluding that the property tax increase "became effective on Aug. 24, 2018" with passage of the budget law, and that "no other statute prohibits implementation."

#### Concern over potential challenges

Rev and Tax Director John Camacho said he fully intends to comply and collect the tax increase this fiscal year as required. He and his staff are working on a revised tax roll, he said. But before that can be issued, he wants the AG to clarify which properties the tax increase would apply to.

The issue now, Camacho said, is over a missing word.

The apparent intention of the Legislature was to impose the property tax increase on homes and businesses valued at \$1 million or more.

However, Pubic Law 34-116 does not include the word "more." It merely states, "There is hereby levied on improvements on all land property in Guam with a value of One Million Dollars (\$1,000,000) a yearly tax rate of seven eighteenths percent of the value thereon."

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"The law just said \$1 million," Camacho said. "It didn't say 'at least \$1 million' or '\$1 million or more.'"

Camacho said he understands that the intent was to impose the tax on buildings and homes valued at \$1 million or more, but his concern is that taxpayers might contest the tax if it's imposed on properties that have a value of more than \$1 million.

"They could challenge us on this," Camacho said. "We're just waiting for the AG to give us guidance on that."

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