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Fri, Jun 9, 2017 at 3:33 PM

6/9/2017	6/9/2017	Office of the Governor of Guam	Supreme Court of Guam Case No. CRQ 17-001; Request for Declaratory Judgement (7 G.C.A § 4104)	34-17-617

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OFFICE OF SPEAKER BENJAMIN J.F. CRUZ

Committee on Appropriations and Adjudication

I Mina'trentai Kuattro na Liheslaturan Guåhan

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Speaker Benjamin J.F. Cruz

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SUPREME COURT

OFFICE OF THE GOVERNOR OF GUAM
Ricardo J. Bordallo Governor's Complex
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Attorneys for Petitioner
I Maga'låhen Guåhan Eddie Baza Calvo

IN THE SUPREME COURT OF GUAM

IN RE:	SUPREME COURT OF GUAM CASE NO. CRQ 17-001
REQUEST *OF I MAGA'LÅHEN GUÅHAN* EDDIE BAZA CALVO RELATIVE TO THE INTERPRETATION AND APPLICATION OF ORGANIC ACT SECTION 1423B AND WHAT CONSTITUTES THE AFFIRMATIVE VOTE OF THE MEMBERS OF *I LIHESLATURAN GUÅHAN*	REQUEST FOR DECLARATORY JUDGMENT (7 G.C.A. § 4104)

COMES NOW, Petitioner *I Maga'låhen Guåhan* **EDDIE BAZA CALVO**, Governor of Guam, and pursuant to 7 G.C.A. Section 4104, Rule 26 of the Guam Rules of Appellate Procedure, and the Organic Act of Guam, respectfully requests that the Court issue a declaratory judgment interpreting Section 1423b of the Organic Act of Guam, relative to what constitutes the affirmative vote of the members of the Guam Legislature sufficient to pass a bill; *and further* interpreting Section 1423i of the Organic Act of Guam as requiring the presentation of Bill 1(1-S) to the Governor of Guam for executive action pursuant to Sections 1422 and 1423i of the Organic Act of Guam.

Speaker Benjamin J.F. Cruz

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Doc. No. 34GL-17-0617.

I. JURISDICTION AND STANDING

1. The Supreme Court of Guam has original jurisdiction over this matter pursuant to the Organic Act of Guam (Title 48 U.S.C.) § 1424-1(a) and 7 G.C.A. § 4104.

2. Petitioner Eddie Baza Calvo is the elected Governor of Guam and is presently holding office.

3. Pursuant to § 4104, the Governor of Guam has standing and authority to request that the Supreme Court of Guam issue a declaratory judgment *"as to the interpretation of any law, federal or local, lying within the jurisdiction of the courts of Guam to decide, and upon any question affecting the powers and duties of I Maga'låhi and the operation of the Executive Branch . . ."*

II. FACTUAL BACKGROUND

A. Bill 1(1-S).

4. On April 11, 2017, Governor Calvo, pursuant to authority vested in him by § 1422 of the Organic Act of Guam, recommended a bill to the 34th Guam Legislature, to wit: *"An Act to Add § 1512.4 to Article 5, Chapter 1, Title 5, Guam Code Annotated, Relative to Authorizing the Issuance of General Obligation Tax and Revenue Anticipation Notes of the Government of Guam."*

5. The purpose of the recommended bill is to authorize the Government of Guam to issue up to $75 million of tax and revenue anticipation notes (TRANs) in each of fiscal years 2017, 2018 and 2019, the proceeds of which TRANs would be used to pay Status A tax refunds upon filing and processing, rather than up to six months later as is currently the practice absent TRANs. TRANs are a financing vehicle widely used by state and local governments in the United States to manage timing mismatches between

Doc. No. 34GL-17-0617.

general fund cash flow receipts and disbursements. Utilizing TRANs would have the benefits of returning income taxes to their rightful owners more timely, reducing the costs to the Government of Guam by lowering its interest costs and improving the economy by having dollars circulating in the economy sooner.

6. On April 13, 2017, the Governor's bill was introduced by the Guam Legislature Committee on Rules as Bill 1(1-S). On April 28, 2017, Bill 1(1-S) was referred to the Guam Legislature Committed on Appropriations and Adjudication. A true and correct copy of Bill 1(1-S) is attached hereto and marked as ***"Exhibit 1."***

7. On April 28, 2017, Governor Calvo, pursuant to authority vested in him by § 1423h of the Organic Act of Guam, called the Guam Legislature into special session to consider Bill 1(1-S). After a public hearing, such special session was convened by the Speaker of the Guam Legislature on May 9, 2017. After debate, the Guam Legislature voted on Bill 1(1-S). Of the 15 members of the Guam Legislature, 14 were present but only 13 voted on the bill – Senator James Espaldon abstained from voting after having been recused for a potential conflict of interest.

8. The final tally of the vote on Bill 1(1-S) was 7 votes in favor, 6 votes against, and 1 abstention. The Speaker of the Guam Legislature declared at the end of said vote that the measure had failed to pass.

9. On May 25, 2017, Governor Calvo sent a letter to the Legislative Secretary, Senator Regine Biscoe Lee, advising her that pursuant to § 1423b, Bill 1(1-S) had in fact passed. Organic Act § 1423b provides in relevant part as follows:

> *The quorum of the [Guam] legislature shall consist of a simple majority of its members. No bill shall become a law unless it shall have been passed at*

a meeting, at which a quorum was present, by the affirmative vote of a majority of the members present and voting, which vote shall be by yeas and nays.

A true and correct copy of Governor Calvo's letter dated May 25, 2017, is attached hereto and marked as ***"Exhibit 2."***

10. Accordingly, by a margin of 7 to 6 votes, Bill 1(1-S) was passed by a majority of the members of the 34th Guam Legislature present and voting at a meeting/session at which a quorum was present. Pursuant to § 1423i of the Organic Act, the Guam Legislature is required to present Bill 1(1-S) to the Governor of Guam for executive action.

11. On or about May 25, 2017, Senator Biscoe Lee responded to Governor Calvo's letter dated May 25, 2017, and informed the Governor of the Legislature's position that Bill 1(1-S) had failed to pass. A true and correct copy of Senator Lee's letter to Governor Calvo is attached hereto and marked as ***"Exhibit 3."***

B. Neither Local Law nor Legislative Rules Can Supersede the Organic Act of Guam.

12. In 1998, and notwithstanding the provisions of § 1423b, the Government of Guam enacted Public Law 24-213, codified at 2 G.C.A. § 2104. Public Law 24-213 provides:

No bill shall be passed by I Liheslaturan Guåhan with less than eight (8) affirmative votes of its members.

13. The standing rules of the 34th Guam Legislature further require an affirmative vote of eight members in order to purportedly constitute the effective passage

of legislation, *except* that such requirement is limited as "otherwise required by the laws of Guam." *See* § 1.02(d)(4), STANDING RULES, *I Mina'Trentai Kuåttro Na Liheslaturan Guåhan Otden Areklamento.*

14. To the extent P.L. 24-213 conflicts with § 1423b in determining the affirmative vote of the Guam Legislature, the Organic Act shall prevail and shall constitute the law of Guam. *See Haeuser v. Dep't of Law, Gov't of Guam*, 97 F.3d 1152, 1156 (9th Cir. 1996) ("Guam's self-government is constrained by the Organic Act, and the courts must invalidate Guam statutes in derogation of the Organic Act"); *see also, A.B. Won Pat Guam Int'l Airport Auth. ex rel. Bd. of Directors v. Moylan*, 2005 Guam 5, ¶ 21 ("While we recognize the broad authority granted the Legislature in the Organic Act, we are equally cognizant of the 'well-established principle in this jurisdiction that the Guam Legislature cannot enact laws which are in derogation of the provisions of the Organic Act'").

III. GROUNDS FOR DECLARATORY RELIEF

15. A party seeking a declaratory judgment under § 4104 must satisfy three jurisdictional requirements: (1) the issue raised must be a matter of great importance; (2) the issue must be such that its resolution through the normal process of law is inappropriate as it would cause undue delay; and (3) the subject matter of the inquiry is appropriate for § 4104 review. *In re Request of Gov. Carl T.C. Gutierrez Relative to the Organicity and Constitutionality of P.L. 26-35*, 2002 Guam ¶ 9.

C. The Issue Raised is a Matter of Great Importance.

16. The term "public interest" signifies an importance of the issue to the body politic, the community, in the sense that the operations of the government may be

substantially affected one way or the other by the issue's resolution. *See Request of Gov. Gutierrez for A Declaratory Judgment*, 1996 Guam 4, ¶ 4.

17. The determination of the threshold for the passage of legislation is of paramount importance to the general public. The division of political power into three separate branches of government is a core tenet of the United States and Guam's democratic systems. As it pertains to the legislative branch, the passage of legislation through the affirmative vote of the body is its primary function.

18. Additionally, the failure of the Guam Legislature to forward duly passed legislation to the Governor for action violates the separation of powers doctrine and directly impinges on the power of the Governor under §§ 1422 and 1423i of the Organic Act of Guam to consider duly passed legislation and either approve or veto such legislation. The Governor cannot exercise his Organic Act authority until such legislation is presented to him.

D. Resolution Through the Normal Process of Law is Inappropriate and Would Cause Undue Delay.

19. The issues presented by this request for declaratory judgment require a swift and speedy resolution.

20. Conveniently, the Court has previously determined that it would be inappropriate for at least one of the issues herein brought – the interpretation of § 1423b of the Organic Act of Guam – to be resolved through the protracted litigation process. *See, In re: Request of the Twenty–Fourth Guam Legislature for Declaratory Judgment*, 1997 Guam 15.

21. The court ultimately did not resolve the issue in that case due to a subsequent withdrawal of the petition by the 24th Guam Legislature. The issue was further mooted by an eventual amendment to the Organic Act of Guam which changed the definition of a "quorum" of the Guam Legislature from the original previous number of 11 senators to the current requirement for a simple majority. *See, Guam Organic Act Amendments of 1998*, H.R. 2370, PUB. L. NO. 105-291:3, 105th Cong (1998).

22. However, due to the conflict in language between § 1423b and § 2104, vis-à-vis the Guam Legislature's vote on Bill 1(1-S), the issue has now again become relevant, and exigent, for the same reasons that existed in 1997.

23. Further compounding the exigency is the injurious effect that the 34th Guam Legislature's actions and inactions have in depriving the Governor of his Organic Act authority to approve or veto legislation pursuant to §§ 1422 and 1423i. Also being negatively impacted is the Governor's Organic Act's authority under §§ 1422 and 1423h, respectively, to recommend legislation and convene a special session of the Guam Legislature when he deems "the public interest may require it."

24. In addition, as the Guam Legislature meets in session regularly, future legislation is likely to be impacted by the Court's resolution of the interpretation of § 1423b. Any delay in the interpretation will cause confusion in the legislative process, and may potentially leave future bills in a state of "limbo" until the issue is resolved.

25. Finally, with respect to the intent of the bill itself, in a period of anticipating rising interest rates, the financial benefits of the bill are eroding with every delay, having a negative impact on the finances of the Government of Guam, and on the taxpayers.

E. The Subject Matter of this Request is Appropriate for Review.

26. There are two subjects appropriate for Supreme Court review under § 4104: (1) questions that require an interpretation of a federal or local law lying within the jurisdiction of Guam courts to decide; and (2) questions that affect the powers and duties of the Governor and the operation of the executive branch, or of the Legislature. *See In re Request of Gov. Carl T.C. Gutierrez Relative to the Organicity and Constitutionality of P.L. 26-35*, 2002 Guam 1, ¶ 9.

27. The subject of matter of this request satisfies both prongs. The Governor requests an interpretation of federal laws necessary for the due operation of government, to wit: (a) the threshold for determining the affirmative vote of the Guam Legislature under § 1423b, and (b) whether the Guam Legislature is required under § 1423i to present passed legislation to the Governor for executive action after an affirmative vote by a majority of a quorum of the members of the Guam Legislature present and voting. These are federal laws lying within the jurisdiction of this Court to decide, and are therefore appropriate for review under § 4104.

28. As to the second prong, the Guam Legislature's failure to present duly passed legislation to the Governor of Guam violates the separation of powers doctrine. It negatively affects the operation of the executive branch and impinges on the powers and duties of the Governor under §§ 1422 and 1423i of the Organic Act of Guam to veto or approve duly passed legislation. *See, In re Request of I Mina' Trentai Dos Na Liheslaturan Guåhan Relative to the Use of Funds from the Tax Refund Efficient Payment Trust Fund*, 2014 Guam 15 ¶ 15 ("[I]ssues involving separation of powers are 'undoubtedly the type of matter that can be addressed in a request for declaratory

judgment under section 4104. . . . [T]he court may address questions where one branch's activities 'impinge' on the other branch's operations.").

IV. PRAYER FOR DECLARATORY RELIEF

WHEREFORE, Petitioner *I Maga'låhen Guåhan* Eddie Baza Calvo respectfully asks the Court for a judgment declaring the following:

A. That § 1423b of the Organic Act of Guam is defined as requiring a majority of the members of the Guam Legislature present and voting when a quorum is present, and that such number may be less than eight (8) votes, notwithstanding as required by 2 G.C.A. § 2104.

B. That § 1423b of the Organic Act of Guam supersedes 2 G.C.A. § 2104 to the extent that § 2104 conflicts with § 1423b.

C. That pursuant to § 1423b of the Organic Act of Guam, Bill 1(1-S) was passed by the 34th Guam Legislature with a majority of 7 out of 13 affirmatives votes cast by the members present and voting.

D. That pursuant to § 1423i, the Guam Legislature is required to forthwith present Bill 1(1-S) to the Governor of Guam so that he may duly exercise his powers and duties under the Organic Act of Guam.

Respectfully submitted this 9th day of June, 2017.

OFFICE OF THE GOVERNOR OF GUAM

By _____
SANDRA CRUZ MILLER

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Special Session

Bill No. 1(1-S)

Introduced by: Committee on Rules
by request of *I Maga'låhen Guåhan*, the Governor of Guam, in accordance with the Organic Act of Guam.

AN ACT TO ADD §1512.4 TO ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION TAX AND REVENUE ANTICIPATION NOTES OF THE GOVERNMENT OF GUAM

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BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*, hereby finds as follows: (a) that the government of Guam has budgeted tax income tax refund payments of $125 million in fiscal year 2017 relating to 2016 and earlier; (b) that the administration has been paying its Status A income tax refunds within six months of filing since 2013; (c) that although payment within six months is a significant improvement from prior years, the taxpayers of Guam desire their tax refunds more timely, and furthermore the government of Guam becomes liable to pay interest on tax refunds that are not paid within 45 days of April 15 of each year, (d) that the six-month period, in combination with the timing mismatch between tax revenues (which tend to be received later in the fiscal year) and general fund expenditures (which are concentrated earlier in the fiscal year) creates a burden on the general fund that increases its costs and delays payments to vendors and taxpayers; (e) that tax and revenue anticipation notes (TRANs) are a common financial vehicle that are used by major state and local governments throughout the

Exhibit 1

United States to manage the timing of disbursements more effectively; and (f) that the use of TRANs would reduce the amount of interest payable to Guam taxpayers.

It is, therefore, the intent of *I Liheslaturan Guåhan* to authorize the issuance of TRANs to assist the government of Guam to pay its taxpayers within 45 days of filing.

Section 2. §1512.4 to Article 5, Chapter 1, Title 5, Guam Code Annotated is hereby added as follows:

"§ 1512.4. Tax and Revenue Anticipation Notes.

(a) Authorization of Issuance of Notes. *I Maga'lahen Guåhan* is authorized to issue taxable and/or tax-exempt general obligation notes of the government of Guam as provided in this Section, in anticipation of the receipt of taxes and other revenues, in any Fiscal Year commencing with the current Fiscal Year ending September 30, 2017 and ending with the Fiscal Year ending September 1, 2019, subject to the following conditions:

(1) that the aggregate principal amount at any one time outstanding of any notes issued in a particular Fiscal Year shall not exceed Seventy-Five Million Dollars ($75,000,000);

(2) that notes may not be issued in an amount that would cause a violation of the debt limitation provisions of 48 USC 1423a (§11 of the Organic Act of Guam);

(3) the proceeds of the notes shall be issued and the proceeds expended for the purpose of paying unpaid tax refund plus interest, as well as to to pay expenses relating to the authorization, sale and issuance of the notes, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit

enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the notes;

(4) that the notes shall mature at such time not later than the last day of the Fiscal Year in the Fiscal Year in which such notes are issued; and

(5) that such notes shall bear interest at such rates and be sold for such price or prices as shall result in a yield to the noteholders that does not exceed (i) three percent (3%) per annum for notes issued in the Fiscal Year ending September 30, 2017, (ii) four percent (4%) per annum for notes issued in the Fiscal Year ending September 30, 2018, and (iii) and five percent (5%) per annum for notes issued in the Fiscal Year ending September 30, 2019.

(b) Terms and Conditions Determined by Certificate. The terms and conditions of the notes shall be as determined by *I Maga'lahen Guåhan* by the execution of a certificate authorizing the issuance of the notes upon or prior to the issuance of the notes. The certificate shall contain such terms and conditions as are consistent with this Section.

(c) Valid and Binding General Obligations; Pledge of Revenues. Any notes authorized by this Section constitute the valid and legally binding general obligations of the government of Guam payable from the sources described in the certificate or indenture. The government of Guam pledges its full faith and credit for the punctual payment of both principal of and interest on the notes and covenants that there shall be collected annually in the same manner and at the same time as government revenue for other purposes is collected, such sum as is required to pay the principal of and interest on the notes. There are hereby appropriated from the General Fund such sums as

will equal the amount of money necessary to pay the principal of and interest on such notes.

In addition, all notes issued pursuant to this Section shall be secured by a statutory lien on all revenues derived by the government of Guam under Section 30 of the Organic Act ("Section 30 revenues"), subject to the immediately succeeding paragraph. This lien shall arise automatically without the need for any action or authorization by *I Maga'lahen Guåhan*, the government of Guam, or any other person or entity. Such lien shall be valid and binding from the time such notes are issued. The Section 30 revenues shall immediately be subject to such lien, and the lien shall automatically attach to the Section 30 revenues and be effective, binding, perfected and enforceable against *I Maga'lahen Guåhan*, the government of Guam, their successors, assignees, and creditors, and all others asserting the rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act. Section 30 revenues that are not required to make payments on the notes shall automatically, and without the need for any further action, be released from such lien and shall be available for appropriation for any other lawful purpose of the government. The statutory lien described in this paragraph shall not be subject to Division 9 of Title 13 of the Guam Code Annotated or any successor statute. The Section 30 revenues received by the government of Guam or by any trustee, depository or custodian shall be deposited in accordance with the provisions of the applicable indenture.

In addition to the statutory lien provided for above, all or any part of the Section 30 revenues may be pledged, if and to the extent determined by *I Maga'lahen Guåhan*, to secure the payment of any notes issued pursuant to this subsection (c); provided, however, that any such pledge of Section 30

revenues shall be expressly subordinate to: (1) the government's pledge of Section 30 revenues securing the Government of Guam Limited Obligation (Section 30) Bonds Series 2016A, and any additional bonds issued pursuant to the Amended and Restated Indenture, dated as of August 1, 2016, by and among the government of Guam, Bank of Guam, as trustee, and U.S. Bank National Association, as co-trustee, as the same may be amended and supplemented from time to time, and (2) the government's obligations in connection the Series 2013A Certificates of Participation (Okkodo High School Expansion Project) (the "Series 2013A Certificates").

Any such pledge shall be perfected, valid and binding against all parties in accordance with its terms and have priority against all parties in accordance with its terms from the time the pledge is made, and property so pledged shall immediately be subject to the lien of the pledge without the need for physical delivery, recordation, filing, or other further act. The pledge shall not be subject to Division 9 of Title 13 of the Guam Code Annotated or any successor statute. The indenture by which such pledge is created need not be recorded. All Section 30 revenue so pledged is hereby appropriated for the purpose for which it has been pledged. Indebtedness issued by the government pursuant to this Article and that is payable from Section 30 revenue may not be issued in an amount that would cause a violation of the debt limitation provisions of Section 11 of the Organic Act.

All officers charged by law with any duty in the collection of the revenues of the government shall do every lawful thing necessary to collect such sum.

(d) Additional Parity Obligations. The government of Guam, after appropriate enabling legislation, may issue other general obligations of the government secured on a parity with such notes by the general obligation of

the government, if such notes are issued as general obligations of the Government of Guam.

(e) Waiver of Immunity; Submission to Jurisdiction. Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5, Guam Code Annotated, the government of Guam waives immunity from any suit or action in contract on the notes, but does not waive sovereign immunity as to the personal liability of elected officials and employees of the government of Guam.

(f) Form of Notes; Covenants; Appointment of Fiduciaries. The technical form and language of the notes, including provisions for execution, exchange, transfer, registration, paying agency, lost or mutilated notes, negotiability, cancellation and other terms or conditions not inconsistent with this Section, including covenants relating to the collection and application of revenues, shall be as specified in the certificate executed by *I Maga'lahen Guåhan* authorizing the issuance of the notes. The certificate may appoint one or more trustees or other fiduciaries authorized to receive and hold in trust the proceeds of the notes and moneys relating thereto, to protect the rights of noteholders and to perform such other duties as may be specified in the certificate. *I Maga'lahen Guåhan* is also authorized to execute, on behalf of the government of Guam, any appropriate agreements, certificates or other instruments relating to the notes and the sale of the notes.

(g) Authorization for Credit Enhancement. *I Maga'lahen Guåhan* is authorized to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as he determines are necessary or desirable to improve the security and marketability of the notes issued under this Section. Such contracts or agreements may contain an obligation to reimburse, with interest, any such banks, insurance companies

or other financial institutions for advances used to pay principal of or interest on the notes. Any such reimbursement obligation shall be an obligation of the government of Guam of the same character, and shall be payable from the same sources, as provided by the certificate or indenture. Any such reimbursement obligation and any other obligations of the government of Guam under such contracts or agreements shall be treated, under § 11 of the Organic Act, as creating an obligation issued to refund the notes.

(h) Use of Proceeds from the Sale of the Notes. Proceeds from the sale of the notes may be used for purposes as set forth in Subsection (a)(3) of this Section, and also shall include payment of expenses relating to the authorization, sale and issuance of the notes, including, without limitation, printing costs, costs of reproducing documents, note insurance premiums, underwriting, legal and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings, fees and charges for execution, transportation and safekeeping of notes and other costs, charges and fees in connection with the issuance, sale and delivery of the notes.

(j) No Personal Liability. No employee or elected official of the government of Guam shall be individually or personally liable for the payment of any amounts due on any notes issued under this Section, or for any other liability arising in connection with the notes; provided, however, that nothing in this Section shall relieve any employee or elected official from the performance of any ministerial duty required by law.

(l) Permitted Investments. The proceeds of notes issued pursuant to this Section, and any revenues relating to such notes, may be invested in, but only in, the types of investments permitted by the certificate of *I Maga'lahen Guåhan* pursuant to which the notes are issued.

(m) Approval by Guam Economic Development Authority. No notes authorized by this Section shall be sold until the Board of Directors of GEDA has approved the sale by resolution.

(n) Approval of Voters Not Required. The issuance of notes pursuant to this Section shall not be subject to the approval of the voters of Guam.

(o) Approval of Notes. *I Liheslaturan Guåhan*, pursuant to Subsection (b) of this section and § 50103(k), Title 12, Guam Code Annotated, hereby approves the issuance and sale by the government of Guam of the notes for the purposes and in the aggregate principal amount authorized by § 1512.4, Title 5, Guam Code Annotated; provided that such notes are issued and sold subject to the terms, conditions, requirements and limitations mandated therein.

Section 3. Local Sale of Notes. *I Maga'lahen Guåhan* shall undertake his best efforts to cause a portion of any notes issued pursuant to §1512.4 to Article 5, Chapter 1, Title 5, Guam Code Annotated, to be offered for sale in Guam, as well as in other jurisdictions, if and to the extent that such offer and any sales resulting from such offer do not increase the cost to the government of Guam of issuing and repaying such notes.

Section 4. § 24102(f) of Article 4, Chapter 24, Division 2, Title 11 GCA is hereby amended to read:

"(f) Value, full cash value, fair market value, and cash value means ninety percent (90%) of the <u>sum of (1)</u> appraised value<u>, and (2) the aggregate principal amount at any one time outstanding of any notes issued pursuant to §1512.4 to Article 5, Chapter 1, Title 5, Guam Code Annotated, so long as such sum does not does not exceed one hundred percent (100%) of the appraised value</u>; appraised value means the amount at which property would be taken in payment of a just debt from

a solvent debtor as determined by the last completed valuation conducted pursuant to § 24306, Title 11, Guam Code Annotated, as amended by the annual adjustments mandated in this Chapter. The appraised value of the interest of a lessee or licensee of land owned by the Chamorro Land Trust Commission shall be the appraised value of the land, not including improvements."

Section 5. Severability. If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

May 25, 2017

Honorable Regine Biscoe Lee
Legislative Secretary, I Mina Trentai Kuattro na Liheslaturan Guahan
Guam Congress Building
163 Chalan Santo Papa
Hagatna, Guam 96910

Dear Madam Secretary,

It has been 16 days since the Legislature voted on Bill No. 1 (1-S) in the special session I convened for that purpose. I understand from coverage of the special session that 13 senators were present and voting. Seven senators voted in the affirmative, and six voted against the quicker payment of tax refunds. Customarily, the Legislative Secretary, on behalf of the Legislature, presents legislation duly passed to I Maga Lahi within days, if not hours, of passage and engrossment. The presentment of bills is a legislative duty prescribed in federal law.

No local statute or rule may supercede such authority.

§1423b the Organic Act, vesting the legislative authority of the territory in the Legislature, provides clear and explicit language to enumerate the number of votes needed, when a quorum is present, to pass a bill before presentment to I Maga Lahi. The relevant portion of §1423b states, in part:

> "[The Legislature] shall choose from its members its own officers, determine its rules and procedure, ***not inconsistent with this chapter***, and keep a journal. The quorum of the legislature shall consist of a simple majority of its members. No bill shall become a law unless it shall have been passed at a meeting, at which a quorum was present, by the affirmative vote of a majority of the members present and voting, which vote shall be by yeas and nays."

Behind this legislation are the real lives of thousands of our people waiting for money that is theirs. Please do not let them wait any further. Please do your duty, present that bill to me. I will sign it, and our people, after more than two decades, will finally be able to get their money back as intended under the tax code. You had the opportunity to be part of the solution, but instead you and a minority of senators present and voting stood in its way. You now have a duty to move this solution to my desk for immediate signature.

Sincerely,

EDDIE BAZA CALVO

Exhibit 2

OFFICE OF THE PEOPLE
SENATOR RÉGINE BISCOE LEE
SIKRITÅRIAN LIHESLATURAN GUÅHAN • I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
LEGISLATIVE SECRETARY • 34TH GUAM LEGISLATURE

Honorable Governor Calvo
Ricardo J. Bordallo Governor's Complex
Adelup, Guam 96910

Håfa Adai Governor Calvo,

I am in receipt of your letter dated May 25, 2017, and have transmitted the same to my colleagues.

Bill 1 (1-S) was not duly adopted by I Mina'Trentai Kuåttro Na Liheslaturan Guåhan.

Un Dångkolo Na Si Yu'os Ma'åse'.

Senator Régine Biscoe Lee

cc: Senators, 34th Guam Legislature

Exhibit 3

Chairperson, Committee on Innovation and Economic, Workforce, and Youth Development
Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910 | senatorbiscoelee@guamlegislature.org