



**EXECUTIVE SUMMARY**  
**Department of Revenue and Taxation Hotel Occupancy Tax**  
**OPA Report No. 14-04, December 2014**

Due to the Department of Revenue and Taxation (DRT)'s interpretation of the law to protect taxpayer confidentiality, the Office of Public Accountability (OPA) was denied access to Hotel Occupancy Tax (HOT) data. As a result, we could not verify the HOT data's completeness, reliability, and accuracy. Therefore, we have no assurance whether HOT filings, payments, and collections were in compliance with Public Law 32-068 for the six calendar years (CY) 2008 to 2013.

As the Tourist Attraction Fund (TAF)'s primary source of revenue, HOT is annually audited by contracted, independent auditors Deloitte and Touche, LLP (DTT). Because DTT is required to comply with the American Institute of Certified Public Accountants (AICPA) Auditing Standards and the Government Auditing Standards, OPA places general reliance on DTT's annual TAF financial audits.

HOT is an excise tax assessed at 11% that hotels are required to collect and file with DRT and pay at Treasurer of Guam (TOG) on a monthly basis. The tax payments are deposited into the TAF and recorded by the Department of Administration (DOA).

**Audit Scope Limitation Due to Restricted Access**

DRT management directed its staff, as well as DOA and DTT to provide only redacted HOT data to OPA.

DRT's Taxpayer Service Division (TSD) Administrator provided data for HOT filings with "hotel" code names, while DRT's Tax Enforcement Division (TED) Acting Tax Collection Supervisor provided a summary of HOT accounts receivable with "taxpayer" code names. The redacted information made it difficult, if not impractical, to perform data analyses. For example, TSD and TED's data: (1) did not specify whether the code names represented the hotel or other lodging facility (establishment) or taxpayer; (2) did not specify whether the reported amounts were based on the establishment or taxpayer; and (3) used code names that could not be matched between taxpayers and the establishment they owned.

We requested HOT tax payment data from DRT, DOA, and DTT. DRT stated it was difficult to extract the payment information from its financial management system (AS400) due to: (1) the period when tax payments were due, (2) the timing of when tax payments are made, and (3) the actual amounts paid. DOA provided only monthly summaries of total HOT payments from fiscal year (FY) and CY 2009 to 2013. DTT provided redacted hard copies of HOT payments from FY 2009 to FY 2013. We made numerous attempts to reconcile, but the redacted data provided by DRT (HOT filings detail), DOA (HOT payments summary), and DTT (HOT payments detail) did not reconcile.

We requested to review the redacted filings and payments for two specific prominent hotels. DRT's TED Administrator did not honor our request because it is specific to two hotels. We subsequently obtained confirmation of taxes due and payments from these two hotels. However, since all the information we obtained from DRT was redacted, we could not readily match the figures for one of the hotels.

Based on numerous attempts to reconcile the redacted data, we found:

- **Accuracy of \$3 million (M) in uncollected HOT receivables could not be verified.** As of May 2014, five taxpayers owed a cumulative balance of \$3M in HOT from CY 2002 to CY 2013, with outstanding balances from \$120 thousand (K) to \$1.6M. While DRT may seize the debtor's property to collect on unpaid taxes, DRT has not seized properties since the 1990s;
- **Inconsistent and Uncomparable data pertaining to the number of hotels reported.** DRT does not have a comprehensive list of all hotels subject to HOT. We attempted to verify the 38 hotels in DRT TSD's CY 2013 HOT filings against other listings from DRT TED, Bureau of Statistics and Plans, Guam Visitors Bureau, and Guam Hotel and Restaurant Association. TSD's HOT filings data did not match or were not comparable with the other listings. In addition, we could not verify whether TSD's HOT filings included all hotels subject to HOT;
- **\$2.2M HOT exemptions claimed by eight taxpayers within CY 2008 and CY 2013 could not be verified.** In our analysis of the redacted tax returns, we found instances where Hotel 9 consistently claimed identical exemptions for both HOT and Gross Receipts Tax (GRT) totaling \$1.2M whereas the other seven taxpayers did not. In addition, there were missing exemption schedules and the amounts on amended returns were not reflected on the database provided; and
- **Between CY 2008 and CY 2013, taxes due for 10 taxpayers were inaccurately assessed at the obsolete HOT tax rate of 10%.** As a result of our inquiry, DRT determined that at least one taxpayer should have been assessed at the 11% HOT tax rate and others at the 4% GRT tax rate. These errors resulted in over- and understatements in both HOT and GRT, which cumulatively understated HOT by \$9.2K. As suggested, DRT updated the GRT tax return by changing line 20's tax rate from 10% to 11% in June 2014.

### **Systems Not Fully Interfaced**

Since 2011, DRT and DOA's AS400 systems have not interfaced so as to have complete HOT information. The lack of system interface between DRT, DOA, and TOG, as described in OPA Report No. 13-01, contributed to major delays during the TAF and Government of Guam financial audits of FY 2012 and FY 2013. In FY 2013, DRT and TOG's systems interfaced incorrectly and resulted in the creation of a \$64M suspense account, which had an adjusting entry as high as \$1.1 billion. DOA and DRT subsequently reconciled to \$270K as of June 2014. As of report issuance, DRT continues to manually input tax returns in the AS400.

### **Conclusion and Recommendation**

DRT did not concur with majority of the audit findings and emphasized that the law [Title 11 Guam Code Annotated (GCA) § 26120] and their "due diligence to protect confidential taxpayer information" are what prevented them from allowing OPA access to un-redacted HOT data. Due to this scope limitation, we could not verify the completeness, reliability, and accuracy of DRT's redacted HOT data. As such, we have no assurance that all HOT filings, payments, and collections were made in accordance to law. Based on discussions with DRT and some members of the 32<sup>nd</sup> Guam Legislature, we recommend that the Legislature clarify the law to allow OPA full access to taxpayer returns and other information in the conduct of audits and reviews of local Guam taxes, consistent with the duties outlined by 1 GCA § 1909.



Doris Flores Brooks, CPA, CGFM  
Public Auditor