St. Croix Chamber of Commerce, St. Thomas-St. John Chamber of Commerce, USVI Hotel and Tourism Association, St. Croix Hotel Association, the St. Croix Retail and Restaurant Association and American Resort Development Association

Discussion and Recommendations

Summary

The St. Croix Chamber of Commerce, St. Thomas-St. John Chamber of Commerce, the USVI Hotel and Tourism Association, the St. Croix Hotel Association, the Christiansted Retail and Restaurant Association and the American Resort Development Association ("private sector organizations") opposes the proposed package of sin taxes submitted by the Governor that are under consideration by the Legislature. These new taxes will take money out of the pockets of Virgin Islanders, undermine economic development, damage our critically important tourism industry and not be accompanied by the serious reductions in recurring expenditures that we believe are vital to addressing financial sustainability. The private sector proposes consideration of an alternative set of revenue and expenditure measures in lieu of the proposed increases in sin taxes, and believes the quid pro quo for agreeing to absorb any new revenue measures must a real, and accountable commitment to a broad reaching and sustainable right-sizing of the government. Without such a real and sustainable reduction in spending, the future financial viability of the private sector, the Government and its responsibility to the Government Employees Retirement System are at peril.

The current financial crisis requires that the entire Virgin Islands community be engaged in a discussion about what public sector services can be afforded. The eternal problem is that that such a discussion rarely happens outside of a crisis. But the consequences of not immediately and seriously engaging in this discussion that embraces all the stakeholders is that the responsibility for determining our collective future may ultimately be assumed by the federal government, that will, as they have in Puerto Rico, assign responsibility for and control of our future to a Presidentially-appointed control board.

Our objective as a community must be to assume control of our own destiny, rather than allow ourselves to continue down the path—and no one should be under the illusion that this is not the path that we are on—toward insolvency, where we are simply unable to pay our bills, and where investors and retirees alike, along with the private sector, government employee and those who rely on government services, pay the price for our unwillingness to assume responsibility of our destiny. The current environment requires that we must work together to design a realistic and immediately implementable action plan that takes us as far as we can go, and then, together, go to Congress to fill in the gaps and take the steps that we cannot accomplish on our own.

Context

The Mapp Administration has put forward a Five-Year Plan to bring the General Fund to a point of solvency, and set forth in that plan an array of revenue enhancement initiatives with some expenditure reduction measures. The implementation of that Plan was predicated on continued access to the capital markets to raise funds for working capital purposes, as will be necessary as long as Governmental revenue are not sufficient to support Governmental expenditures, or as seen from our perspective, until Governmental expenditures are brought into line with recurring Governmental revenues.

The goal of solvency for the General Fund is the critical objective for the Government and for the Territory. Solvency for the General Fund also requires that the sustainability of the Government Employees' Retirement System be addressed. As currently crafted, the Five-Year Plan does not take into account the continued solvency of GERS, which according to the System's actuaries will be completely out of money by 2023. Accordingly, a significant amount of work remains to be done to put the Government and Territory on a path to solvency and fiscal sustainability; yet it is clear to us that the half-measures contemplated by the proposed tax increases and the proposed plan will not be a step toward that ultimate objective, and will only worsen the current situation by increasing the already untenable debt burden facing the Territory, while imposing on the residents and businesses of the Territory new tax burdens that will weigh on them, and only worsen a climate for economic development that we all must be working together to improve.

The private sector organizations are against the imposition of new taxes that will take money out of the pockets of Virgin Islanders, and undermine economic development, especially during a period of anemic job creation. Furthermore, we are not seeing sustained improvements in business conditions after a long period of recovery from the Great Recession; business cycles continue to be uneven given the tourist seasons, dependence on the U.S., and increased competition within the region. Furthermore, the private sector believes that any new revenue measures must be accompanied by a real, and accountable commitment to a broad reaching and sustainable right sizing of the government.

Those who suggest that the government is already operating at bare bones are simply not recognizing the seriousness of the challenges that we face. The question is not how many people we want to employ, but what can we afford. Reducing existing level of services at the margins is no longer possible. The decision before the community is what services can continue to be funded and what must be eliminated and/or re-designed in their delivery to achieve deep operating cost reductions to achieve an operating balance in the General Fund.

If, as we believe to be the case, the willingness of institutional investors to purchase bonds issued by the Government to pay operating expenses is coming to an end due to lack of investor confidence that a PROMESA-like situation can be avoided, we must act now to prevent far worse consequences down the road. It has long been said that the public, and most importantly the Government employees, will not believe that the Government's financial challenges are real until the payday comes when salaries are not paid. Similarly, many say that people will not believe the extent of the crisis facing GERS until the day comes when retirement paychecks are not sent out. Those of us in the private sector know well that access to credit can cease and that a business can run out of money, at which point people are no longer paid. That reality is true of our Government, and it is true of GERS. The private sector wishes to avoid this outcome.

Revenue increases will be agreed to and supported by the business community, if those increases bring with them the real and verifiable commitment on the part of the Government, the Legislature, and the public authorities to reduce their spending, and their level of employment to a degree that ensures sustainability of governmental operations along with the revenue measures taken and those already in place. Such new revenue measures must be those that will neither undermine economic growth nor protect sacred cows or protected groups of people or businesses, as we all know has taken place in the past.

In our view, nothing meaningful will happen quickly. We understand the Government's premise that it must raise funds in the bond market to help support a soft landing in terms of the painful measures that must be taken. We are very skeptical, however, of the bankers and advisors who suggest the proposed package of sin taxes will be sufficient to meet investor demands, and suspect that once those increases are enacted, investors will find other reasons to decline to purchase the bonds, or require some other set of demands, or perhaps demand a level of interest rates that will further undermine the solvency of the General Fund. News reports suggest that market participants are coming to believe that the day of reckoning will soon be upon the U.S. Virgin Islands, and that a PROMESA event lies in our future that will ultimately involve a haircut, or reduction in value, being imposed on all creditors of the Government. In that environment, no rational investor would lend money, if they believe that they will in short order be told by an intervening authority that they must accept less than repayment in full for the money they have leant.

We, of course, may be wrong in that assessment, but legislators who insist on approving this legislation should consider the consequences of passing the proposed tax increases only to find that investors remain unwilling to purchase the Government bonds. Those legislators will have accomplished the worst outcome of having imposed new taxes on our community, only to find out that government workers who they believe they are helping have been left in the position of receiving no paycheck, and having to pay higher taxes for their spirits, cigarettes, sodas and beer, all the same.

Below, for your consideration, is our assessment of the sin taxes that have been proposed by the Governor, being considered by the Legislature, at the behest of the banks and capital markets, and the alternative measures that we suggest could contribute to the requirements of a multi-year plan, that must be revised to include revenue measures that are less injurious to our community and the critical tourism industry, that must, as suggested above, be accompanied by such expenditure reductions as necessary to bring our long-term budget into balance, and, perhaps most important, must fully and realistically address the funding situation of the GERS.

We by no means believe that the development of such a revised long-term plan will be easy. It will not. It will be difficult, and will require real and deep sacrifices by many across our community. But we are willing to dedicate the time and resources necessary to develop such a revised plan, and we do so, and all must do so, recognizing that should we fail, we will find that solutions—and we believe more draconian solutions—will ultimately be imposed upon our community by forces beyond our control.

Sin Taxes/ Environmental and Infrastructure Impact Fee /Time Share fee

- These are harmful Consumer and Local Business Taxes – most of these products are consumed locally
- A bill of this nature will have a very negative impact upon residents and businesses throughout the territory, including restaurants, bars, grocery stores, movies theaters, as well as tourist related businesses such as hotels and duty free retailers. A sin tax on beer, spirits, tobacco and soda will make it more expensive to operate a business. Such a regressive tax will raise bills for families that are already struggling to make ends meet as well as harm a wide-array of tourist related businesses as shown in the Economic Impact Analysis previously submitted. If a tax is added on juices, teas, coffee drinks and other sugar-sweetened beverages this will further hurt working families. The bill also restores the excise tax on boats, boat engines and boat-parts, which is harmful and will further chase what remains of this industry to the British Virgin Islands. We also are against the Environmental and Infrastructure Impact Fee /Time Share fee as proposed as it discourages additional investment in the only segment of the VI tourism economy that has seen sustained development in the Virgin Islands over the last 25 years.
- We reiterate our skepticism that imposing the proposed package of sin taxes will materially affect the willingness of institution investors to buy the proposed bonds. Prospective investors understand that demand for liquor, tobacco, beer, carbonated drinks and other affected products will be significantly impacted when these drastic increases go into effect. Illegal trafficking in the affected

products will be further incentivized, and investors know that the proposed package of taxes will not meaningfully impact our fiscal challenges. In particular, we are significantly concerned that in its desire for funds, the Virgin Islands Public Finance Authority will resort to selling its bonds to hedge fund investors, rather than our traditional buyers, which will result in higher interest rates and significantly complicate any workout down the road, as the experiences of both Puerto Rico and Detroit have demonstrated.

Proposed Revenue Measures

We suggest consideration of the following revenue measures in the multi-year plan, in lieu of the proposed package of sin tax increases. We can finalize the implementation details with our respective teams.

Increase filing fee for Division of Corporation and offer same day and same hour options.

- Increase the filing fees for the Division of Corporations and Trademarks in the Office of the Lieutenant Governor
- The new formation of Corporations and LLCs in the Territory require you to pay the first year franchise taxes up front so there is nothing to wait on! Try to streamline the government processes to expedite them – business licenses, Coastal Zone Management permits, Economic Development Commission applications, and trade name clearance for entity formation.

Expand the authority to settle Bureau Internal Revenue debts for immediate collection.

- It is currently difficult to settle amounts owed to BIR
- Waive penalties and require immediate payment

Obtain a list of registered companies from Division of Corporations and Trademarks and the Department of Licensing and Consumer Affairs and compare those lists against a list generated by the BIR of companies that are filing 720s, 941s and corporate or entity tax returns.

- The companies that are incorporated or organized in the USVI that are not appearing on the BIR list (for either gross receipts or income tax) become a targeted class.

Streamline EDC process by revising application process to shorten the statutory time periods that have extended the application process with respect to amendments; with automatic renewal if no action is taken within 6 months of renewal date

Legalize and Tax Marijuana

- Revenue Enhancing
- While the Bill recently defeated relating to cannabis legalization is unlikely to create many jobs or new tax revenues, it is also not likely to be self-funding with respect to the development and operation of a proper regulatory infrastructure. However,

work being done on a new bill is likely to result in a self-funding regulatory infrastructure, many new jobs, and substantial tax revenue from tourists and other visitors.

- There are several revenue sources relating to cannabis.
    - Licensing and related fees – should self-fund the initial regulatory infrastructure
    - Sales and Excise taxes on sales of pre-processed and processed products
    - Employee related taxes on new jobs
- Net new dollars equals net new construction, employment and related spending (tax) revenues

IRB must collect hotel tax from AirBnB and VRBO rooms

- Immediate revenue enhancing impact
- In addition to collecting Room Tax there should be cross referencing with Airbnb and VRBO "Owners" and "Hosts" and their LLC names with Gross Receipts and/or Taxable Income Revenue on individual tax returns. We have the list of LLC and Condo Owner names

Amnesty for income tax to the extent allowable under the law (similar to recent BIR initiative with gross receipt tax)

- Accounts Receivable/Collections

Require casinos to pay gross receipt tax

- Revenue Enhancing

Require the proposed Racino to pay gross receipt tax

- Revenue Enhancing

Sell outstanding accounts receivable to collection firm

- Accounts Receivable/Collections

Property Tax agreement for timeshares

- Immediate revenue enhancing impact

Rescind the "Personal Use Tax Loop Hole" on imported products

- Intermediate term revenue enhancing impact
- Eliminate the Personal Use Exemption Loop Hole *and* institute a 5% Port Use Fee to make up for lost GRT revenue on inbound shipments purchased by individuals from off island companies
- If the Personal Use Exemption Loop Hole cannot be rolled back because of legal reasons (unconstitutional) institute a proposed Port fee tax of 10% (building materials).
- The government would get the GRT and Excise Tax it currently loses on imported building materials bought by individuals from off island companies or for inbound

shipment s by individuals that cannot provide a letter of good standing showing that they are a business and current in paying their gross receipts taxes.

Require the government to buy local along the same terms as EDC companies.

- Immediate economic development and revenue enhancing impact

Every commercial vehicle including Taxi's must pay a road tax every year based on the miles driven. This can easily be administered by DMV as they have the miles every year the vehicle is renewed.

- Immediate revenue enhancing impact

Increase property tax rate by a small percentage

- Immediate revenue enhancing impact
- Exception for local families with land who have seen huge assessments in value; any deferred taxes would be due when land is sold

Income Tax surcharge

- Significant revenue impact on multi-year plan
- Implementation tied to strict revenue reduction measures

Proposed Expenditure Measures and Other Actions

The development of a multi-year plan must include enforceable expenditure reduction goals. We suggest at a minimum the following:

Government right-sizing and reduction in recurring expenditures

- Assessment of every department staffing levels over a ten-year period, and reduction of staffing to be in line with lowest level of appropriate service metric over the ten-year period.
- Further staffing reduction of 10% below the historical level calculated above.
- Implementation of recommended actions of GERS reform plan presented to the legislation two years ago.

Full and fair federal funding

- Work with Congress and the Executive Branch departments to achieve equitable parity of funding under federal programs based upon the same formula as small states receive, most notably with respect to Medicaid, SSI, as well as to have the territories compensated for the costs of Earned Income Tax Credit, Child Tax Credit and other tax credits and federal tax measures that have negatively impacted Government revenues through the mandatory application of the mirror tax system