



THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

Charlotte Amalie, V.I. 00802
340-774-0001

Senator Louis P. Hill

November 9, 2007

VIA MESSENGER

Honorable Usie R. Richards
President
27th Legislature of the Virgin Islands
Capitol Building
St. Thomas, VI 00802

RECEIVED
OFFICE OF
SENATE PRESIDENT
USIE R. RICHARDS
07 NOV - 9 PM 2:43

RE: Governor's Proposed Real Property Tax Legislation

Dear President Richards:

Submitted herewith is my proposal to amend the real property taxation laws of the U.S. Virgin Islands. As you are aware, since 2003, the Government of the Virgin Islands ("Government") has operated under an injunction issued by the District Court of the Virgin Islands ("District Court") in the matter known as *Berne v. Government of the Virgin Islands*. Under this injunction, the Government was required to issue tax bills at the levels established in 1998 until such time as the Virgin Islands completed a re-appraisal of all real property in the Territory. This re-appraisal has now been completed.

The *Berne* litigation and the Court-order re-appraisal revealed just how antiquated the real property tax system in the Territory had become. Indeed, what is perhaps the central feature of any real property tax system – the rate of tax or "mill rate" – has remained unchanged for 71 years! Moreover, the recently completed re-appraisal has shown not only the need to conduct all appraisals under a recognized system of appraisal, but also the dramatically different rates at which property values have changed from island to island. Additionally, entirely new categories of real property such as timeshares have come into being during the long period of time when our real property tax system was left unexamined and unchanged. This period of neglect has not been benign, as it has allowed issues of fundamental fairness as well as matters of basic economic development policy to be ignored.

Taking back local control of real property tax collection and modernizing the system so it fairly raises that proportion of the funds needed to run our government as are to be gathered from real property taxes, has been the goal of the efforts of many in developing the proposal being submitted. The primary aspects of the proposal are outlined below.

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SENATOR HILL
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Letter to President Usie R. Richards
November 9, 2007
Re: Governor's Proposed Real Property Tax Legislation
Page 2

Since 1936 the Virgin Islands has utilized a single mill rate of .0075 percent. My proposal separates real property in the Virgin Islands into four classes, and a separate mill rate would be imposed for each class of property. The four classes are: 1) unimproved non-commercial real property taxed at a mill rate of .00495; 2) residential real property taxed at a mill rate of .00377; 3) commercial real property taxed at a mill rate of .00711; and, 4) timeshares taxed at a mill rate of .01407. This system of multiple rates, which is used in many jurisdictions throughout the United States, results in smaller residential real property tax increases, thereby protecting the interests of Virgin Islands homeowners.

Please note that these rates are not exactly the same as the draft mill rates presented at the meeting between the First and Second branches of the Government on September 27th, 2007. At that time, I indicated that the proposed legislation, including the mill rates, was a work-in-progress. The rates contained in this measure will allow us to increase the available exemptions for homeowners, put in place circuit breakers to address and mitigate instances of extremely high increases in real property taxes for homesteads, while still meeting the goal of raising the revenues set forth in the Fiscal Year 2008 Budget.

Under the proposal, the Tax Assessor is mandated to utilize an internationally recognized system of appraisal. The Tax Assessor would apply the standards of the International Association of Assessing Officers ("IAAO"). This provides an identifiable measuring stick against which the appraisals of the Tax Assessor may be compared. The addition of this criterion will help to avoid the uncertainty that led to the filing of the *Berne* case and related litigation.

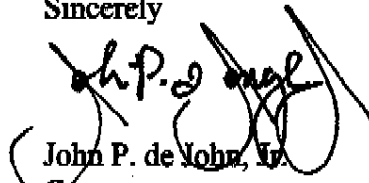
The categories of exemption from real property taxation remain unchanged. However, the homestead exemptions in this proposal are in the form of tax credits and have been increased across the board in all categories. The base homestead exemption which is currently \$250 is raised to \$400 in the proposed legislation. The Veterans exemption is increased from \$312.50 to \$450, and the exemption for those with qualifying disabilities is increased from \$250 to \$400 under my proposal. Lastly, the existing senior exemption, which presently is \$250, and the elderly exemption, which is now \$375, are now set forth in one exemption of \$500.

The proposed measure amends the authority of the Board of Tax Review to hire multiple hearing officers to allow that body to more effectively handle new appeals and reduce the backlog of pending real property tax challenges. Further, this bill provides funding for this purpose as well as to cover the cost of stenographers to transcribe the tax appeal proceedings. Lastly, this bill contains provisions which authorize the Tax Assessor to issue the real property tax bills for the years 2006 and 2007 in fiscal year 2008. As discussed during the budget process, these revenues are absolutely required in order to sustain the FY 2008 Budget passed by the Legislature which I approved. To decrease the financial burden on taxpayers, I have also included the provision by which taxpayers will be able to pay their 2007 real property tax bills in installments without penalty if all prior real property tax bills for their property have been satisfied in full.

Honorable President Usie R. Richards
November 9, 2007
Re: Governor's Proposed Real Property Tax Legislation
Page 3

This bill is the result of a lengthy and demanding process, and represents a significant step by the Government to again manage its own real property tax regime. It is my firm belief that the enclosed measure strikes a fair balancing of the interest of all stakeholders in the Virgin Islands real property tax system. Therefore, I request a favorable and expeditious consideration of this legislation.

Sincerely



John P. de John, Jr.
Governor

Enclosure

BILL NO. 27-_____**TWENTY-SEVENTH LEGISLATURE OF THE VIRGIN ISLANDS****REGULAR SESSION****2007**

To generally amend Title 33, Chapters 81, 83, 85, 87, and 89, and other pertinent portions of the Virgin Islands Code relating to the system of real property taxation in the United States Virgin Islands

RECOMMENDED BY: THE GOVERNOR

BE IT ENACTED by the Legislature of the Virgin Islands

SECTION 1. Title 33, Chapter 81, Virgin Islands Code is hereby amended as follows:

(a) The existing language of Section 2301 is stricken in its entirety;

(b) New Section 2301, Subsection (a) shall read,

"(a) For every calendar year, all real properties in the United States Virgin Islands shall be assessed at one hundred percent (100%) of their fair market values, as calculated by utilizing the assessment methods set forth in Sections 2403 and 2404 of this Title.";

(c) New Section 2301, Subsection (b) shall read,

"(b) The Tax Assessor shall levy and collect on each real property a tax at the following mill rates for each classification of real property:

(1) unimproved non-commercial real property, taxed at .004946;

(2) residential real property, taxed at .003770;

(3) commercial real property, taxed at .007110; and

(4) timeshares taxed at .014070."

(d) New Section 2301, subsection (c), shall read,

"(c) The following definitions shall apply to the classifications of real property set forth in subsection (b) of this Section:

(1) "unimproved non-commercial real property" means any real property which is unimproved and is located in any residential or agricultural zoning districts as set forth in Title 28, Chapter 3, Virgin Islands Code.

(2) "residential real property" means any real property on which a residence is located, to include condominiums but excluding timeshares.

(3) "commercial real property" means any real property which has improvements designed or intended for income production, or unimproved real property which is located in any business, commercial, gaming, industrial, public, special, or waterfront zoning districts as set forth in Title 28, Chapter 3, Virgin Islands Code.

(4) "timeshare" means any real property which is owned or leased by several persons jointly and in which the ownership or leasehold interests are for fixed periods of time."

(e) New Section 2301, subsection (d) shall consist of the language of existing Section 2301, subsection (b) except as follows: (1) strike "Unimproved" at the beginning of the subsection and insert in lieu thereof "The owner of unimproved"; (2) strike "be assessed a tax of 0.25 percent of 60 percent of the actual value thereof" and insert in lieu thereof "receive an exemption in the form of a tax credit equal to 80% of the real property taxes levied by the Tax Assessor"; and (3) delete "subsection (a)" and insert in lieu thereof "subsection (b)".

(f) In Section 2304, re-designating the existing language as Subsection (a), and adding Subsection (b) which shall provide,

"(b) The real property tax exemptions granted by subsection (a) hereof shall be in the form of a credit in favor of the property owners against any and all real property taxes levied by the Tax Assessor against the respective properties."

(g) The heading of Section 2305 is stricken and in lieu thereof insert "Exemptions".

(h) In Section 2305(a), strike "a person" and insert in lieu thereof "the property owner", and strike "his" and insert in lieu thereof "the property owner's".

(i) In Section 2305(b), strike the existing language in its entirety, and inserting in lieu thereof,

"(b) There shall be the following exemptions from the payment of real property taxes levied by the Tax Assessor in the form of tax credits to the respective real property owners. These exemptions are exclusive, not cumulative, and property owners eligible for more than one of the following exemptions must elect a single exemption for each tax year.

(1) A homestead exemption in the amount of \$400.00 in favor of property owners and their spouses who reside in the homestead, which shall be applied against real property taxes levied by the Tax Assessor against their homestead, as defined in Subsection (a) hereof.

(2) (A) An exemption in the amount of \$450.00 in favor of property owners who are veterans of the Armed Services of the United States of America and their spouses, which shall be applied against real property taxes levied by the Tax Assessor against their homestead, as defined in Subsection (a) hereof;

(B) For purposes of this Section, "veterans of the Armed Services of the United States" means those persons who were in the active service as determined by the Veterans Administration, and received a discharge from such service other than a dishonorable discharge;

(C) Notwithstanding the exemption set forth in Subsection (b)(2)(A) hereof, any veterans of the Armed Services of the United States of America who have service-related disabilities which have been determined by the Veterans Administration to entitle said veterans to receive compensation for permanent and total disability shall receive an exemption from the payment of any real property taxes in the form of a credit against any and all such taxes levied by the Tax Assessor against their homestead, as defined in Subsection (a) hereof.

(3) (A) An exemption in the amount of \$500.00 in favor of property owners who are 60 years of age or older on January 1 of the applicable taxable year referenced in Subsection (f) herein which shall be applied against real property taxes levied by the Tax Assessor against their homestead, as defined in Subsection (a) hereof;

(B) For properties held by tenants by the entireties, if either spouse is 60 years or older on January 1 of the applicable tax year, the property owners shall be entitled to claim this exemption;

(C) This exemption shall be available only when the property owner claiming the same has an individual annual income of less than \$20,000.00, and the annual income of the household is less than \$40,000.00.

(4) (A) An exemption in the amount of \$500.00 in favor of property owners who are have been found to suffer from a total disability, as determined by the Social Security Administration, on January 1 of the applicable taxable year referenced in Subsection (f) herein which shall be applied against real property taxes levied by the Tax Assessor against their homestead, as defined in Subsection (a) hereof;

(B) This exemption shall be available only when the property owner claiming the same has an individual annual income of less than \$20,000.00, and the annual income of the household is less than \$40,000.00.

(5) Notwithstanding the foregoing exemptions, all real property owners within the United States Virgin Islands shall pay a minimum annual real property tax of not less than \$400.00 on their residential real property, except for those taxpayers qualifying under: i) subsection (b)(2)(C) of this Section; and ii) Section 2355a of this Title."

- (j) In Section 2305(h), by striking "shall be fined not more than \$200 or imprisoned not more than one year, or both", and inserting in lieu thereof "shall be subject to the fines and terms of imprisonment set forth in Title 14, Chapter 41 Section 843, Virgin Islands Code".
- (k) In Section 2331, strike "assessed", and insert in lieu thereof "levied by the Tax Assessor".
- (l) In Section 2332, insert "real" before "property" in both instances, strike "assessed", and insert in lieu thereof "levied ", and after the second "person" insert ", agent, or representative".
- (m) In Section 2342, after "exemption" insert "in the form of a credit in favor of the property owner", strike "on" and insert in lieu thereof "of", strike "imposed on" and insert in lieu thereof "levied by the Tax Assessor against", and strike "land" and insert in lieu thereof "real property".
- (n) In Section 2343(a), strike "Land" and insert in lieu thereof "Real property".
- (o) In Section 2343(b), insert "property" immediately before "owner", and in Subsection (1) immediately before "other" insert "any", and immediately after "other" insert "legal entities or".
- (p) In Section 2344, strike "land" wherever it appears, including the heading, and insert in lieu thereof "real property".
- (q) In Section 2345, strike "land" wherever it appears, including the heading, and insert in lieu thereof "real property", and in Subsection (b) strike "Economic Development and".
- (r) In Section 2346, strike "land" wherever it appears, including the heading, and insert in lieu thereof "real property".
- (s) In Section 2347, strike "land" wherever it appears, including the heading, and insert in lieu thereof "real property".
- (t) In Section 2348, insert "real" immediately before "property", and strike "subtitle" and insert in lieu thereof "chapter and chapter 85".
- (u) In Section 2349, strike "land" wherever it appears, including the heading, and insert in lieu thereof "real property".
- (v) In Section 2355a(a), strike "exempt from property taxes" and insert in lieu thereof "another exemption in the form of a credit in favor of the property owner from all real property taxes levied by the Tax Assessor against".
- (w) In Section 2355a(c), strike "exempt from property taxes" and insert in lieu thereof "an exemption in the form of a credit in favor of the property owner from all real property taxes levied by the Tax Assessor against".
- (x) In Section 2355b(a), insert "real" immediately before "property".

- (y) In Section 2355c, insert "real" immediately before "property" wherever it may appear.
- (z) In Section 2355d, insert "real" immediately before "property" wherever it may appear.
- (aa) In Section 2355e, insert "real" immediately before "property", and strike "subtitle" and insert in lieu thereof "chapter and chapter 85".
- (bb) In Section 2355f, strike 'assessor' and insert in lieu thereof "Tax Assessor".

SECTION 2. Title 33, Chapter 83, Virgin Islands Code is hereby amended as follows:

- (a) At the end of existing 2361, add the following language, "The Lieutenant Governor, through the Office of the Tax Assessor, shall administer and enforce the laws relating to the assessment, levy, and collection of real property taxes and to the attachment and sale of real property for the non-payment of such taxes."
- (b) In Section 2362, re-designate the existing language as subsection (a), and add a new subsection (b) to provide

"(b) When performing its duties under subsection (a) hereof, the Recorder of Deeds shall transmit written notice of all transfers of real property to the Tax Assessor."

SECTION 3. Title 33, Chapter 85, Virgin Islands Code is hereby amended as follows:

- (a) In Section 2402, Subsection (a),
 - (1) strike "at least" after "shall" in the first sentence;
 - (2) strike "noncommercial real property" and insert in lieu thereof "residential real property as defined in Section 2301(c)(2) of this Title" in the first sentence; and
 - (3) strike all existing language appearing after "Virgin Islands.", and insert in lieu thereof the following;

"If, as a result of a reassessment the amount of real property tax for a homestead increases over 125% from the previous year's real property tax for said homestead, and the household income of the property owners, as demonstrated by the property owners' income tax returns, is less than \$70,000, the property owners shall receive a tax credit equal to 40% of the real property tax increase for said homestead, but which shall not exceed \$5,000."

- (b) In Section 2402(b), strike "at least biennially" and insert in lieu thereof "at least once every five (5) years, in accordance with the standards identified in Section 2404 of this Title,".

(c) In Section 2403, strike "assessor" and insert in lieu thereof "Tax Assessor".

(d) In Section 2404, strike all existing language in subsection (a) and (b), re-designate existing subsection (c) as subsection (b), and insert a new subsection (a) which shall provide,

"(a) In assessing the fair market value of real property, the Tax Assessor shall utilize the applicable standards promulgated by the International Association of Assessing Officers ("IAAO"), and shall promulgate such rules and regulations as are necessary to implement the IAAO standards for all classifications of property set forth in Section 2301(b) of this Title. "

(e) In Section 2405,

(1) strike "assessor" wherever it may appear and insert in lieu thereof "Tax Assessor";
and

(2) in subsection (b) after "partners," insert "every schedule of a limited liability company shall be sworn to by a member or manager,".

(f) In Section 2406 strike "committee of a lunatic", and strike "assessor" wherever it may appear and insert in lieu thereof "Tax Assessor".

(g) In Section 2407, strike "assessor" wherever it may appear and insert in lieu thereof "Tax Assessor".

(h) In Section 2408,

(1) Re-designate the existing language as subsection (a), strike existing subsection (2), and re-designate existing subsection (3) as subsection (2); and

(2) Insert a new subsection (b) which shall provide "Whoever returns to the Tax Assessor a false or fraudulent list schedule, or statement shall be subject to the fines and terms of imprisonment set forth in Title 14, Chapter 41, Section 843, Virgin Islands Code".

(i) In Section 2409, strike "assessor" wherever it may appear and insert in lieu thereof "Tax Assessor".

(j) In Section 2412, strike "assessor" wherever it may appear and insert in lieu thereof "Tax Assessor".

(k) In Section 2414, strike "assessor" wherever it may appear and insert in lieu thereof "Tax Assessor".

SECTION 4. Title 33, Chapter 87, Virgin Islands Code is amended as follows:

(a) In Section 2451(b), in the first sentence after "appealed" insert "plus 50% of the difference between the previous year's tax amount and the current tax year's amount".

(b) In Section 2451(b) add the following sentence to the end of the section,

"Notwithstanding any law to contrary, in the event either the taxpayer or the Tax Assessor fail to make payments or refunds required pursuant to a decision of the Board of Tax Review interest will accrue on the principal amount of said payment or refund at four percent (4%) per annum."

(c) Section 2451 is further amended by deleting "Commissioner of Finance" wherever it appears and inserting in lieu thereof "Tax Assessor".

(d) In Section 2453(c), in the first sentence, strike "shall" and insert "may", and also strike "a hearing officer" and insert in lieu thereof "hearing officers".

(e) Section 2453 is amended by deleting "District Court" wherever it appears and inserting in lieu thereof "Superior Court".

(f) Section 2456 is amended by deleting "Commissioner of Finance" in subsections (b) and (d) and inserting in lieu thereof "Tax Assessor".

(g) Section 2456(c) is amended by deleting "Lieutenant Governor" and inserting in lieu thereof "Tax Assessor".

(h) Section 2456(e) is deleted in its entirety.

SECTION 5. Title 33, Chapter 89, Virgin Islands Code is hereby amended as follows:

(a) In Section 2491,

(1) In the second sentence, strike "chairman of the Board of Tax Review" and insert in lieu thereof "Tax Assessor";

(2) In the third sentence, insert "Upon receipt from the" at the beginning of said sentence, strike the existing "The" at the beginning of said sentence, and insert "of any final decisions on duly filed appeals of real property tax assessments and/or levies, the Tax Assessor" after "Review".

SECTION 6.

(a) The sum of \$559,600 is appropriated from the General Fund in fiscal year ending September 30, 2008, to the Department of Finance for the Office of Board of Tax Review to hire Administrative Assistants and Attorneys or Hearing Officers to prepare, review and submit recommendations on pending cases, and for the costs associated with stenography services.

(b) Section 3 of Act No. 6586 is hereby repealed in its entirety.

(c) Title 3, Chapter 11, Section 180, Virgin Islands Code is amended by adding a new subsection (i) which shall provide

“(i) The Board shall prepare and promulgate , in accordance with the provisions of Title 3, Chapter 35, Virgin Islands Code, such rules and regulations as may be necessary to implement the provisions of Title 33, Chapter 87, Virgin Islands Code, and to carry out its duties.”

(d) Notwithstanding any law to the contrary, the Office of the Tax Assessor is hereby authorized to issue real property tax bills for the years 2006 and 2007 during Fiscal Year 2008. The Governor may, by Executive Order, set the dates for issuance of the bills, deadlines for payment of taxes, dates on which delinquency in payment commences, and dates for appeals in order to afford equitable treatment for taxpayers.

(e) A real property taxpayer may pay its real property tax liability for the year 2007 in two (2) equal installments pursuant to a written agreement with the Tax Assessor, provided, however, that said taxpayer shall first have satisfied in full its real property tax liability for the year 2006 and all preceding years.