Office of

I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

the People

March 3, 2011

Honorable Edward J.B. Calvo
I Maga'låhen Guåhan
Ricardo J. Bordallo Governor's Complex
Hagåtña GU 96910

Chairman
Committee on Appropriations,
Taxation, Public Debt, Banking,
Insurance, Retirement, and
Land

Vice Chairman
Committee on Education

Member
Committee on Rules,
Federal, Foreign &
Micronesian Affairs and
Human & Natural
Resources

Member
Committee on
Municipal Affairs,
Tourism, Housing, and
Recreation

Member
Committee on the Guam
Military Buildup and
Homeland Security

Member
Committee on Health and
Human Services, Senior
Citizens, Economic
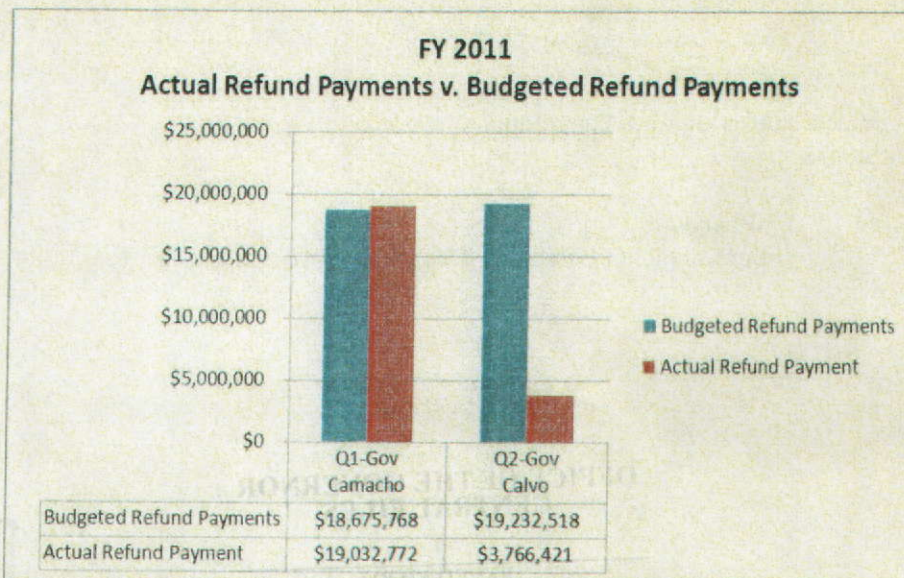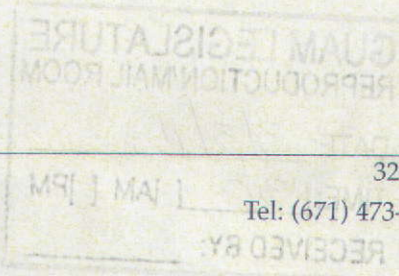Development, and Election
Reform

RE: Withholding of Income Tax Refund Payments

Håfa Adai Governor Calvo,

On numerous occasions, the Calvo administration has made public statements touting the importance of the timely payment of income tax refunds – a practice that has been a personal crusade of mine during my tenure as the Chairman of Appropriations. However, it appears that your administration's actions speak louder than words in this particular matter. While reviewing official documents provided by the financial professionals of the Government of Guam, your administration's performance in the payment of income tax refunds is dismal.

As of the month ending February 28, 2011, the administration is behind in the payment of income tax refunds by roughly $15.2M against the budgeted provision. In contrast to the Camacho administration, it is evident from the visual presentation below that the payment of income tax refunds is not a priority of the Calvo administration. Based on the following data, the Camacho administration has **overpaid** income tax refunds by $556K as of the end of the first quarter of FY 2011.

FY 2011
Actual Refund Payments v. Budgeted Refund Payments

	Q1-Gov Camacho	Q2-Gov Calvo
Budgeted Refund Payments	$18,675,768	$19,232,518
Actual Refund Payment	$19,032,772	$3,766,421

Source: DOA Income Tax Refund Reconciliation Report

324 W. Soledad Ave. Suite 100, Hagåtña, Guam 96910
Tel: (671) 473-(4BEN) 4236 - Fax: (671) 473-4238 - Email: senbenp@guam.net
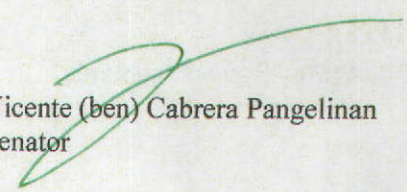Website: http://senbenp.com

This trend is unacceptable and merits swift action by you. The administration's rationale for the nonpayment of income tax refunds is flawed. Based on the *Government of Guam Actual Revenues Compared to Original Estimates General Fund Four Months Ended January 31, 2011* report provided by the Bureau of Budget Management and Research, actual revenue collections are **above** estimated revenue projections by $2.6M.

As the payment of the income tax refunds is directly related to revenue collections, there is no basis to withhold or delay payment. These refund payments are budgeted; the cash to pay them out has been received by the government. Only *your* actions and priorities have denied the taxpayers their refunds. I ask that you change the direction of not paying these refunds to one that does, immediately.

I would like to remind you that the non-payment of income tax refunds not only harms our taxpayers, businesses, and the economy but also places the Government of Guam in a precarious position. Income tax refunds are not government revenues; these are overpayments of income taxes by Guam taxpayers and belong to the taxpayers. The Government of Guam must refund these overpayments to their rightful owners. By failing to pay refunds without an adequate basis for nonpayment, as Chief Executive, you may have breached your fiduciary duty resulting in possible legal action against the Government of Guam from taxpayers.

I recommend that you, as the Chief Executive, address this issue with urgency. There is ample opportunity to reverse the trend. Based on the report provided by the Department of Revenue and Taxation entitled, *Status of 2006/2007/2008/2009 Individual Tax Returns* as of 12/31/10, there are roughly 35,154 "A" status returns worth $54,844,914 that sit at the Department of Revenue and Taxation, waiting to be paid.

Si Yu'os Ma'åse',

Vicente (ben) Cabrera Pangelinan
Senator

cc: All Senators
       John Camacho, Director – Department of Revenue and Taxation