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MINISTER 'SHOCKED' BY REALTORS' CHALLENGE TO REAL PROPERTY TAX

A Cabinet minister yesterday said he was "shocked and disappointed" that Bahamian realtors are calling for the withdrawal of all 2022 real property tax bills because they are "illegal and invalid".

Michael Halkitis, minister of economic affairs, told Tribune Business the legality concerns raised by the Bahamas Real Estate Association (BREA) over the recent valuation exercise "do not arise" and voiced surprise that it would "encourage people to ignore their obligations" to pay due taxes given the Government's dire fiscal position.

"Frankly, I am shocked and disappointed that BREA would take such a position, especially to encourage people to ignore their obligations given our need to improve our fiscal position," the minister said in response to this newspaper's inquiries, as the backlash over property tax bills that have increased by up to 435 percent continues to mount.

Mr Halkitis pushed back after BREA published a statement, understood to have been vetted by its attorneys, in which it urged the Davis administration to withdraw the 2022 real property tax bills now being mailed out to home and business owners on the basis that the appraisals supporting the Department of Inland Revenue (DIR) valuations are not valid or illegal.

BREA, echoing concerns first printed in this newspaper earlier this week, said US-based Tyler Technologies, which was contracted by the DIR to conduct the New Providence-wide mapping exercise behind the triple-digit tax bill increases, cannot legally conduct appraisals/valuations in this nation because it is not licensed to do so.

And nor could it be licensed, the Association added, because only Bahamian citizens or permanent residents with the right to work can be authorised to do appraisals under the Real Estate (Brokers and Salesmen) Act 1995 via its sections four and 13.

Tyler Technologies effectively confirmed it was providing appraisal services to the Government in a May 2019 press release seen by Tribune Business. “We are pleased to be selected once again to provide appraisal services to The Bahamas and bring fair and equitable taxation to its residents,” said Jake Wilson, its vice-president and general manager of appraisal services.

While backing the Government’s decision to use Tyler’s software to modernise real property tax administration, BREA said: “At no time did Tyler submit to BREA application(s) to license its appraisers under their contract with the Government. BREA has not granted any appraiser licenses to Tyler or its personnel.

“Based on evidence in the Tyler press release, Tyler has admitted that it was contracted by government to provide appraisal services to government on two occasions. Under the Act, such appraisal services were illegal without a valid licensed issued under the Act.

“By extension, any reassessed property value undertaken and provided to the DIR or government by any unlicensed representative of Tyler should therefore be deemed illegal and void in law. Under the circumstances, and on behalf of the residents of The Bahamas, BREA kindly asks the Government to immediately withdraw altogether its 2022 assessment of real property tax.”

Mr Halkitis and the Government, though, made the counter-argument that the powers of the Government’s chief valuation officer to assess property values for taxation purposes are “totally unrelated to the provisions of The Real Estate (Brokers and Salesmen) Act 1995”.

They pointed to the Real Property Tax Act 2010’s section seven, which states that this official has the duty to determine which properties - and owners - are liable to pay taxes. “No such prohibition regarding citizenship or work permits can be found in the Act,” the Department of Inland Revenue said in a statement last night.

“And the chief valuation officer (CVO) has the power to obtain information from any person that is relevant to the CVO’s accurate assessment of property under the Act.” As a result, Mr Halkitis said the issues raised by BREA have no impact.

“In performing their duties under the Act, the chief valuation officer can use whatever tools he has at his disposal to assist in his/her work,” the minister told Tribune Business. “So this issue of unlicensed appraisers does not arise. I encourage all to pay their property tax and remind them that there are mechanisms in place to hear and resolve any disputes.”

However, BREA is far from the only private sector group urging the Government to change course. The Bahamas Chamber of Commerce and Employers Confederation (BCCEC) yesterday issued its own statement calling on the Davis administration to phase-in the real property tax increases, rather than implement them in one go, due to the “devastating” impact on already-struggling firms.

With taxpayers reporting up to a six-fold year-over-year increase in their real property tax bills, the Chamber said: “The reassessment has resulted in a higher valuation of some properties and, consequently, an increase in the invoice amount compared to the previous tax year. In some cases, businesses and employers have found the dollar value increase significant and shocking.

“The BCCEC urges the Government to consider the impact of Hurricane Dorian and the COVID-19 pandemic on the business community and employers in The Bahamas. In this case, due to the protracted time between previous assessments, which is not the fault of property owners, the re-assessed taxed amounts have amounted to increases of between 0 to 500 percent due to the appreciation of property values during the time between assessments.

"For example, some property owners have reported tax increases of between 100 percent to 435 percent from the previous year. Such a significant and sudden increase in tax liabilities can devastatingly impact businesses and employers, particularly in an economic downturn," the Chamber continued, arguing that its approach was "fair and balanced".

"Therefore, the BCCEC urges the Government to consider a glide path approach to implementing the changes prompted by the property re-assessments. Such an approach would lessen the tax price shock and economic strain on taxpayers.

"A staged implementation would best ensure businesses remain going concerns, successfully rebound from the economic downturn, and continue to contribute to the country's economic growth and sustainability."

Still, BREA's position threatens the Government's drive to broaden the real property tax base by getting all properties worth $250,000 and upwards on the tax roll and paying their "fair share". In particular, the issue raised by the real estate body could provide the foundations for a legal challenge which, if successful, could create upheaval for 2022 billings and government revenues.

David Morley, Morley Realty's principal, who first raised the concerns surrounding Tyler Technologies' involvement in producing appraisals on the Government's behalf, yesterday told Tribune Business he was sceptical of the Government's assertion that the Real Estate Act does not apply to real property tax valuations.

He argued that, in conducting such an exercise, the Government has "to use lawful tools; they cannot be illegal tools". Mr Morley recalled how a Florida-based appraiser was told by then-Supreme Court justice, John Lyons, that neither himself nor his work could be admitted into evidence in a legal dispute because he had been conducting business here illegally as an unlicensed realtor.

Suggesting that "they're going to try and wiggle around this one", Mr Morley said the critical issues were how some of the huge increases in valuations and tax bills had been determined, and the wisdom of implementing these hikes in "one shot" amid a fragile economy where many businesses and households are still trying to rebound from COVID-19's devastating impact.

"I don't envy the Government in any form or fashion, but normal business people do not conduct business in this manner," he added. "The public is only asking to be treated fairly. You have to work with your community and be fair and reasonable."

The Ministry of Finance, in an earlier statement prior to BREA's release, again argued that the greatest tax increases were being experienced by taxpayers whose real estate had been substantially under-valued for years or those who had previously shirked their obligations by failing to declare their properties and have them included in the tax roll.

It also also hinted that the tax increases had largely fallen on higher-income properties, suggesting that the Bahamian middle class had largely been protected, although Tribune Business has seen billings from such taxpayers that have increased five times' year-over-year.

Simon Wilson, the Ministry of Finance's financial secretary, said in a statement that the $312.50 rebate provided to all owner-occupied residential properties means that all those valued at $300,000 and below will effectively be exempt from paying the tax this year.

"The government has introduced a $312.50 rebate for every owner-occupied property that effectively raises the threshold for payment by $50,000 from $250,000. This means anyone who owns a property valued at $300,000 or below will not pay real property taxes," Mr Wilson was quoted as saying.

"Through the introduction of this rebate, 87 percent of residential property owners will pay $1,000 or less in real property taxes. The revenue gained is through a broadening of the tax base by identifying previously unregistered properties and by ensuring everyone is paying the correct amount."

The Ministry of Finance repeated earlier assertions that "nearly 70 percent of all Bahamians are projected to see no change or will pay less as a result of these changes".

It added: "The other 30 percent may see increases related to the alignment of their recorded property value with the current market value, as assessed by the Government, ensuring that owners of higher value properties are not underpaying."

It is unclear, though, whether these percentages are based on all New Providence residences or just those valued at over $250,000 and liable to pay real property tax. The Davis administration, though, is sticking to its argument that the revaluation has created greater fairness and equity in the real property tax system.

Mr Wilson said the New Providence-wide revaluation was designed to ensure owners of new and higher-value properties are paying their fair share in taxes.

'NOT A RATE HIKE': INCREASE IN SOME REAL PROPERTY TAX RESULT OF REVALUATION, SAYS ECONOMIC AFFAIRS MINISTER

Minister maintains "everyday, working-class Bahamian" not being targeted

NASSAU, BAHAMAS — Economic Affairs Minister Michael Halkitis said yesterday that while real property tax rates across the country have not increased, a complete reassessment of the property tax register has led to some properties being revaluated.

In an interview with Eyewitness News yesterday, Halkitis explained: "The rates haven't jumped; they remained the same. What has happened is that we have completed a total reassessment of the property tax register."

Halkitis noted that while hundreds of millions of dollars are owed to the government in real property tax, the problem has been exacerbated by two issues.

"It's been a twin issue. Part of it was that many properties were not on the register. This reassessment exercise was part of a mission to ensure all properties are on the register," Halkitis explained.

"Another issue was significant undervaluation of properties. Someone might have had a property valuated in 2000 and never been revaluated.

"Any increase in the property tax would have been because of valuation being brought up to a realistic level."

He said anyone who may not agree with their property's valuation can contact the Department of Inland Revenue.

The objective is not about increasing taxes or being overly aggressive but ensuring that those who owe and have [the] capability to pay do so.

According to Halkitis, the government is merely seeking to ensure that people who have the ability to pay their property taxes do so.

"The objective is not about increasing taxes or being overly aggressive but ensuring that those who owe and have [the] capability to pay do so," he said.

"It's not a matter of simply going after your everyday, working-class Bahamian."

Halkitis noted that over the year, the real property tax issue has not been given sufficient attention, with regular assessments not having been carried out and insufficient efforts made to follow up with taxpayers.

He noted that as a part of the government's real property tax collection efforts, the government is offering discounts as an incentive for early payers.

GOV'T TARGETS PROPERTY TAX TRIPLING TO $400M

• Aiming for 3.5% of GDP compared to 1% present

• Top official: Compliance just 25%; others at 90%

• 'Tools' to hit 25% revenue ratio with no new taxes

The Government is aiming to more-than-triple annual real property tax collections to at least $400m as a key component in its ambitions to achieve a 25 percent revenue-to-GDP ratio.

Simon Wilson, the Ministry of Finance's financial secretary, told Tribune Business that it felt yearly property tax collections should be equivalent to 3.5 percent of Bahamian gross domestic product (GDP) or economic output as opposed to present yields of around 1 percent.

Noting that The Bahamas' property tax compliance rate was "around 25 percent", compared to the 90 percent average achieved by many countries on real estate-based taxes, he argued that the possibility of achieving greater returns from this and other existing levies was why no new and/or increased taxes may be required to achieve the Davis administration's revenue ratio target.

Many observers have suggested it the 25 percent revenue-to-GDP target cannot be attained solely through cracking down on tax dodgers and better administration/collection, but Mr Wilson responded: "No, it will not be impossible. It [the ratio] is higher than where we are now, but it's in the range where we used to be.

"A couple of things to bear in mind: Number one, we believe real property tax as a percentage of GDP should be around 3.5 percent. It's currently around 1 percent. The Government has been doing a lot of work on property tax for the last six years with Tyler Technologies and so forth. We believe that work will bear fruit in the coming years."

A 25 percent revenue-to-GDP ratio, which Prime Minister Philip Davis QC is aiming to achieve by the time his administration's term in office ends in 2026, is far higher than the Government's fiscal performance has ever before produced.

Data accompanying the recent supplementary 2021-2022 Budget shows that recurrent revenue, as a percentage of GDP, ranged from a low of 16.3 percent to a high of 18.9 percent over the past five fiscal years, with the latter outturn achieved in the COVID-ravaged 2020-2021 period when economic output slumped below $10bn to help produce the higher ratio.

The Government's forecasts, though, show the revenue-to-GDP ratio steadily increasing from 20.2 percent in this current fiscal year to 20.5 percent in 2022-2023 and 21.7 percent in 2023-2024 - a trend moving towards the objective set by Mr Davis. And, with other Caribbean nations enjoying revenue ratios near that target, it is thought there is significant scope for The Bahamas to improve.

Still, the extent of the revenue increase required to hit 25 percent of GDP is graphically illustrated by the Government's current fiscal and economic forecasts. Based on the $12.459bn and $13.279bn current price GDP projected for 2022-2023 and 2023-2024, respectively the Public Treasury's total income in those two years would need to be $3.115bn and $3.32bn to meet target.

Both figures are around $700m higher than the Government's previous record-setting year of 2018-2019, the last before COVID and Dorian, when some $2.426bn in recurrent revenue was collected. This gives an indication of the revenue increase being sought by the Davis administration as The Bahamas seeks to pull out of its economic and fiscal crisis.

Mr Wilson yesterday said that, based on 3.5 percent of GDP, the Government will be seeking annual real property tax revenues of around $400m rather than the $350m estimate initially ventured by this newspaper. "Property tax compliance is around 25 percent. Most countries' property tax compliance is around 90 percent," he added of the scope for increased collections.

The $400m goal would near-triple the $158.814m that the Government anticipates collecting in real property taxes during the current 2021-2022 fiscal year. Increases to $181.142m and $218.3m are forecast for 2022-2023 and 2023-2024, respectively, but the latter is still almost 50 percent below the level suggested by Mr Wilson.

Both PLP and FNM administrations have been working closely with US-based Tyler Technologies to improve the real property tax collection database, increase the number of properties on the tax roll, and set the foundation for improved collection, enforcement and administration.

Mr Wilson said the consultant's New Providence mapping exercise, begun under the previous administration, which aimed to capture and measure all land and buildings on New Providence, was "near completion" after being delayed by COVID-19 restrictions.

"The challenge is that we still have a significant number of properties in the system that are categorised as unknown; properties where there are no owners of record," the financial secretary revealed. "But it is near completion and we feel we're pretty happy with the product we've seen so far.

"There's been some gains. I don't have those numbers at the tip of my fingers, but it appears based on what we're hearing from the Department of Inland Revenue that a substantial amount of [new] properties have been registered and the increase in tax liabilities could be substantial. It depends on which approach the Government takes."

Mr Wilson said the Real Property Tax Act allows the Government to retroactively assess back taxes for up to ten years on properties which were eligible to pay, but which had not been registered on the roll. "It could be one year, five years," he added. "It's unlikely to be five years, but the question is what we do."

Speaking earlier at the Ministry of Finance's press briefing, Mr Wilson said: "One of the more interesting ones we uncovered was if you look at electricity bills throughout The Bahamas, you have more people on the BPL (Bahamas Power & Light) roll than you have land registered.

"For every house there should be an electricity connection. We have more electricity connections than we have homes on the real property tax system. We have a strategy for dealing with real property tax collections that we will unveil with the mid-year Budget."

Mr Wilson told Tribune Business that the Government is not solely focusing on real property tax to achieve its 25 percent revenue-to-GDP target. "We'll do a VAT gap analysis and look at VAT payments on a sectoral basis," he said. "We believe there are still significant compliance challenges with VAT which we can address and give additional revenue buoyancy.

"We believe that Customs, even if we forecast a decrease in the average tariff rate, compliance can be improved to increase revenue. The IMF report alluded to some of that." Mr Wilson said the upcoming mid-year and full-year Budget will allow the Government to lay out more details on its fiscal plans, and "what we see that gives us confidence the tax regime can accommodate 25 percent revenue-to-GDP".

The top Ministry of Finance official also revealed that a study on corporate income tax, given global pressures for such a levy with a 15 percent rate, has been initiated. "That might influence the tax mix going forward," he said. "But all things being equal, we feel we have enough tools to get us to 25 percent."