

STATEN VAN ST. MAARTEN			
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Meeting with MinFin Minister Roland Tuitt:

Re: CFT letters and Taxand project:

June 11, 2012

1. Minister Tuitt, just to be clear, you indicated that CFT letters of April 20 and May 9 was not answered. Please note my understanding on this is that the letter of April 20, 2012 was dependent upon the progress of the quarterly report as well as the update on the budget amendment which was still in progress...the letter of May 9 was answered and sent to the CFT along with the quarterly report by the former Minister of Finance on May 14, 2012. In the first quarterly report the questions which the CFT had with regard to the NAf 21 mln was addressed. Furthermore, I also understood that prior to May 14, 2012, members of the CFT met with the Taskforce Financial Management and received a presentation from the Head of the Tax Authority with regards to plan "B" of the Tax Authority to try to still replace the perceived NAf 21 mln deficit. They also received a presentation from the Ministry of Health as it pertains to their concern whether or not the AOV/AWW fund would become a risk due to the aging of our society and this too was addressed, in fact sufficiently to remove the fears of the CFT that at this moment the AOV/AWW fund is in no immediate financial danger but that this could be the case in 20 years as our society matures but there are already measures being looked at to address this in ample time.
2. You also mentioned that according to the cash flow projection it reflected some Naf 441mln inflows with an estimated outflow of Naf 432 mln, which will allow enough funds to cover for both the COLA and to cover for the estimated shortfall of the Naf 21 mln Condo fees. Permit me to ask 2 follow up questions:1). Please advise the booking procedures which will be followed to pay out the COLA?
3. 2). Was there not a clear plan "B and even C" to cover for the Condo income projection? Please advise.
4. When you said the COLA was agreed between Gov and the Union and not budgeted. Please clarify?
5. Mention was also made about profit tax not collected as projected. Please clarify? Weren't there other income categories in which were collected more than was budgeted? Why weren't these mentioned? Please mention these as well.

6. You further stated that Taxand project may have been agreed to by the CoM, but the former Minister was responsible to follow the law and you also went on to point out the Taxand story depicting the steps the previous Minister failed to take:

\* Money paid that was not budgeted - Wasn't the decision to pay the costs from the cash reserves? Wasn't the administration busy with the budget amendment which would include part of the payment for 2012? Wasn't it also mentioned to be budgeted in 2013 in the "Beleidsnota 2013" which was sent out to the Ministries for budget 2013? If government was capable of always paying out after the budget is amended why is the score that government received from the Performance Evaluation Financial Administration on average a D+? How could the budget have been amended before the budget 2012 was approved? Coincidentally was not the budget 2012 approved by Parliament on March 22, 2012? And wasn't the Taxand Project also approved on March 22, 2012, by the Council of Ministers? - It is also my understanding that this was a work in progress and at the time the budget had already passed through the stages the changes could not be included in the budget 2012 and so it had to be taken up in the first budget amendment 2012 which was being worked on by the administration to include many things among which the Taxand Project, the motions of Parliament from the passing of the budget 2012 as well as the plans of approach for Justice and some other errors which needed to be corrected.

- Comptabiliteitsverordening was not followed - Local public bid could not be done due to the tax companies locally all having local clients would be a conflict of interest. In the decision to approve the project a draft resolution was also sent to the Governor wherein it refers to article 47 sub 4 of the Comptabiliteitsverordening, which allows for the foregoing of a public bid. The fact that the Governor's cabinet did not sign the resolution before the government fell while it had been in the possession of his cabinet for at the least a month had to do with the fact that there needed to be corrections and clarifications made to the resolution. Didn't the Governor send back the file with the resolution on May 4, 2012, with questions and corrections to be made from his cabinet and weren't those questions and corrections made and the file sent back to the Governor around May 14, 2012, shortly before the new government took office? The positive decision of the Council of Ministers of March 22 was also to mandate the Minister of Finance to sign the contract with Taxand on

behalf of the Government. To understand how the process works once the Council of Ministers agrees to the project the Secretariat of the CoM requests the Minister of Finance to make a cover letter to the Governor requesting that the resolution invoking article 47 sub 4 be signed and then it is sent to the Governor. The procedure has been changed because it is only the Minister of Finance who can forego public bid based on article 47 sub 4 but the cover letter to the Governor has to be signed by the Minister of Finance regardless of who is responsible for the project, and so even with a Council of Ministers decision this had to be done. Please advise your comments.

- Terms of reference was not done - Was there not a list of deliverables which Taxand had to live up to? My understanding was that it was difficult to make a Terms of Reference since in this case Sint Maarten was not in charge of the Tax Inspectorate previously and while we thought we had a good idea of the shortcomings of the Inspectorate this was not the case. There was a USONA funded project which cost some NAf. 5.4 million, which was supposed to get rid of all of the backlog at the inspectorate. After the majority of this money had been committed it became apparent that there were more backlogs (appeals assessments from previous years, etc.) at the Inspectorate which were not addressed in this project but which had to be worked off but exactly what this entailed and how much money was involved was not known. So the project started with three simple but important terms. 1. Design a new tax system for Sint Maarten which was simple, fair, which would provide relief for the lower income wage earners as well as competitive enough to attract investment. 2. Improve Compliance by first identifying the non paying companies and individuals and then coming up with a campaign to collect them. 3. Support the Tax Administration professionally to be self reliant (cleaning up of the backlogs and providing managerial and technical support. 4. It had to remain a project of the local Tax Authority. Because there was no definitive information as to exactly what we were dealing with at the Tax Authority a more definitive TOR could not be made prior to the start of the project. Therefore the list of deliverables was made.
- Estimated amount of \$11 mln to \$14 mln expenses Taxand will cost taxpayers (not counting out of pocket

expenses...This has to be seen in the context of what was projected to be gained for government by doing this project. What was the projected extra revenues to come out of this project? Wouldn't the additional revenues far surpass the cost of the project? What would have been the benefit for the regular man out there? Wasn't there plans to decrease income tax for everyone but which would especially affect the person earning less than NAF 36,000.00 which would mean no income tax levied on these persons, 5% income tax for those earning between Naf 36,000-NAf 54,000 per year, and 10% Income tax for those earning between NAF 54,000 and NAF. 72,000.00 and those above would be levied a 15% income tax tariff. Wasn't it also proposed to have a flat rate of 15% for profit tax. Also to abolish the land tax and inheritance tax? Would the proposed decrease in income tax not provide extra money in the pockets of the regular man on the street as a matter of fact for all persons. Would this not translate in more disposable income available to persons so they can absorb the exorbitant cost of living on St. Maarten? Wasn't the projection made that the new tax system would deliver an additional Naf. 180 mln in tax revenues while the compliance project would deliver an additional NAF. 45 mln totaling an additional NAF. 225 mln for government coffers. When brought in this context the cost of the project is worth less than 20% of the additional revenues to be brought in by the project. Is this not a sound investment?

- Article 47 (projects over Naf 50 mln - a public tender should have been carried out). Not if article 47 sub 4 is invoked which was the case. Please advise your comments.
- No bidding was ever carried out See answer above
- Onderhandse openbare trading must be done according to the TOR See answer above
- This project was not budgeted - see answer above
- If the former Minister managed to convince the CoM, then he should have to signed a contract with the company - Was that not the intention and the Minister was mandated to do so by the CoM but the Secretariat of the CoM had to make up the resolution mandating the Minister to sign the contract. Please advise your findings on this?
- All we have is a draft contract signed by Taxand, but not by the former Minister - the contract would have been

signed once the mandate decree was signed. Please advise where you found the progress at the time of you taking office?

- How could the previous Minister justify for the incentive program of up to 15% bonus? Wasn't the incentive bonus dependent on the amount of additional revenue the project brought in? Wasn't the 15% mentioned as a cap? Wasn't the incentive bonus to be negotiated based on the results?
- The budget amendment should have been presented to CFT by May 15, 2012. This did not happen and the new government only came in to place on May 21, 2012. Indeed the administration was busy with the budget amendment. The local office of the CFT was informed that this was the case. It is imperative to illustrate the reality of the situation. Wasn't the administration busy with the draft budget amendments for 2011 and 2012? Didn't the motions passed by Parliament on March 22 and approved to be sent down to Finance to be processed some week and half later have to be included as well? Weren't there other factors which had to be included in the budget amendment such as the plan of approach in its entirety for the Ministry of Justice (as only part of it was budgeted for in 2012 budget). Weren't there other changes which had to be incorporated from various ministries still being discussed as far as how those changes would be accounted for so that the budget remained balanced? Isn't it a fact that the new government came in and the budget 2012 was approved on March 22, 2012 and the first budget amendment was being worked on with the various Ministries?

- 7.** Minister Tuitt, you talked about increasing compliance, rather than creating a new tax system. Please advise which is more important, improving compliance or adapting a new and more appropriate tax system? If both are important cannot they be both executed at the same time? Will there be no relief for the population of St. Maarten in 2013? How does the Minister and the government plan on addressing the possible spin off effect of the European financial crisis which will undoubtedly affect the United States of America and this is where 85% of our GDP is earned?

- 8.** Talking about relief for not some districts or certain persons, is it not a fact that the projection of the Taxand project would have brought lower income tax? In the absence of this, please advise what your (Government) intentions are to bring about the necessary relief to the people and by when?
  
- 9.** Structural community projects were being undertaken - starting with Middle Region, Cole Bay, Dutch Quarter in terms of sewage and road network improvements. This is community mindedness or not?
  
- 10.** We need to create a proper tax system. Which would ultimately benefit the small man, while going after the free- riders. Please advise your plans to tackle the free riders in our society? Also please advise in detail – timelines and what to expect from planning stage to implementation to results expected?
  
- 11.** Why should St. Maarten undertake a tax reform project? Or should not St. Maarten undertake a tax project? And if not, why not? What would be the alternative?
  
- 12.** What measures would you undertake as our new Minister of Finance to improve our tax revenue - collection and with broadened base? Would this bring relief to the public at large and especially those earning much less than most of us in this hall? Will increasing compliance accomplish this?
  
- 13.** Would you agree that our current tax system is under-resourced and unable to generate significant substantial and growing revenues and must be changed? As well as investment in this would be required? Do you intend on having more SLA's with the SBAB of Curacao for controls and audits (boekenonderzoeken)? If so please inform us for how much longer this will have to take place?

- 14.** Would you agree that our current tax legislations may not be adequately designed or appropriate and may be even seen as very complex? If so, how do you recommend dealing with it, or if not, how do you intend to get maximum participation and thus no longer have the free-riders, who evade paying taxes? Is it not a very complicated and cumbersome system which in essence promotes tax evasion? Do you consider the current tax system fair and competitive? If not, why not and if so why? In your opinion who benefits most from the current tax system and why?
- 15.** What plans will you implement for a more increased compliance ratio? And will these plans bring relief to the public which your government claims to be working in the best interest of?
- 16.** Please advise your plans to collect the huge back logs of assessed tax? How much that is, and how much of that is truly collectable? What is the status of the backlogs at the Inspectorate of Taxes? Who is working on these backlogs? How much has been cleaned up and at least responded to in the last 5 months? Are there sufficient human and other resources presently available and/or accessible to handle these backlogs?
- 17.** With your intent to increase compliance, what mechanism would you put in place to determine cases of hardship where persons truly are not able to pay? What would you do to remove the focus from harassing those paying taxes and concentrate on those not paying?
- 18.** In words attributed to you last week the media carried the statement that you do not believe that our current taxation system is compatible with St. Maarten's situation. Is this your belief and if so will changing the taxation system not be one of your priorities as the statement went on to say?

- 19.** Please advise whether you have any plans to increase competitiveness for St. Maarten to encourage investment and whether the tax system would need to be modified to supplement this effort? E.g. Reduction of tax rates, or through some other means possibly simplification system? What is the current investment climate on St. Maarten like? Is it competitive in the region? If so, to what do you think this can be attributed? If not, why not?
- 20.** Is it not true that improving and simplifying our tax system would result in a much broader tax compliance result, than leaving the existing system in place while endeavoring a higher compliant rate with no changes to our tax system?
- 21.** Considering short to medium time frames, please advise projected estimate amount of tax you believe could be collected by increasing compliance?
- 22.** What changes will you implement for a new effective Tax Administration operations program in order for the operations to become more efficient, both for the Administration and to the taxpayers?
- 23.** Is it true that a similar project to Taxand to revamp our taxation system was tried using existing personnel, but was proven to be very slow to avoid loss of revenue due to time limits to impose assessments? Didn't the workgroup stumble on problems which were not being resolved within a reasonable time frame looking at the governing accord and the pressure to present a new tax system by first January 1, 2012 which later had to be amended to January 1, 2013? Wasn't an economic Model and lack of resources part of these problems? Didn't the then chairman of the workgroup insist on keeping certain parts of the current tax system in place which were not politically acceptable to all parties, such as the land tax and the succession tax? Didn't the former Minister repeatedly ask the Chairman to exclude these two taxes which was

repeatedly ignored by the former Chair of the internal Tax workgroup? Was this workgroup officially installed by decree? If not, why not?

- 24.** To avoid any conflicts of interest, is it not true that there could not be any local public tender even among the big 4 or local 6, namely PWC; KPMG; Deloitte & Touche; Ernst & Young; BDO; Tilly & Baker.
  
- 25.** So in essence to have carried out an open public tender or even internationally would have proven very difficult due to several complications and time constraints, is that not so?
  
- 26.** Is it not so that public tendering systems takes up quite some time? What was the time frame that the decision to engage Taxand had taken and the amount of time the decree which went via the secretariat of the Council of Ministers to the Governor's cabinet for review and eventual signature? Isn't it so that this issue of how long decrees take before they are signed was complained about by several Ministers of the first cabinet with the Governor? Wasn't there a decree accompanying the advise which according to article 47 sub 4 would allow foregoing the public tender? Isn't it so that the entire file was returned from the Governor's cabinet early May 2012 with questions as it pertains to the decree? Weren't these questions answered by the former Minister of Finance and the file sent back to the Governor's Cabinet for finalization?
  
- 27.** Considering the statute of limitation for 2006 would run out. Would not the increased tax revenue for the same period more than make up for the much needed timely decision?

**28.** Is it not so that decisions of this magnitude are often not cut and dry and decisions needed to be taken with the best course at heart? For these reasons the public tender regulation was not followed to the T and proper processes were being followed to do so. Please advise otherwise if this was not the case?

**29.** No one can dispute the qualifications of A&M Taxand company. However, the perception is being created by statements from certain members of the media and the coalition that nepotism and carelessness was the order of the day. There was evidence of some family connection here, but not necessarily between the decision makers. Please tell me if on this planet that we all are passing through, whether or not, we are all not related in one way or another? However, I would like to stress that Parliament - where we conduct the peoples business should be beyond this kind of petty "Ah huh, I got you" type of episodes and absurdities. Can the Minister prove any of the allegations that seems to have been created?

**30.** While it is true that this project was not budgeted, rather than taking the funds from the current account, the money would be in first instance taken from the reserves and wasn't the decision that at the same time it would be looked into if a loan would be possible to cover this capital expenditure?

**31.** Further, a budget amendment to this effect was being worked on. Is this true or false?

Is it not a fact that it is known we need to get rid of the back log protests? I want to believe that you are well aware that many persons are also penalized due to receiving summons, but yet one cannot protest and or even receive payments due to them because of tax department internal issues dating back to when we were part of the Neth. Antilles, more specifically under Curacao?

- 32.** What is the Minister going to do to curtail the harassment of tax payers by the tax authority as a result of backlogs and inadequate administration? When will tax payers who pay their taxes regularly stop getting assessed for these same taxes which they have paid only to have to waste time and go look for receipts to come and prove to the Tax Authority that they have paid their taxes? If the taxes were paid shouldn't the Tax Authority know this? Isn't this time and manpower consuming to be repeatedly harassing the paying public? What will be done to curtail this?
- 33.** How is the merger of the Tax Authority going? What plans does the Minister have for the housing of the Tax Authority? Doesn't the current situation prove to be inefficient to the proper functioning of the Tax Authority? Do the systems within the Tax Authority communicate well with each other? What about the communication between the various departments within the Tax Authority?
- 34.** It is one thing to talk about abuse by the former Minister, but it is a fact that we must help the small man who is paying his fair share, while there are several free-riders continuing to get away. Now, tell me is that right? What will you do to correct this?.
- 35.** The new tax system which was being worked on, would that not have brought relief to the small man and the business community by lowering the income tax bracket for those earning under \$20,000 per year and by lowering the profit tax percentage?
- 36.** How do you as our new Minister of Finance plan to tackle the inefficiencies of the Tax Department and please include all inefficiencies?

- 37.** The other day I met a hard working gentleman friend of mine, Leroy, he has been harassed with these ghost and phantom tax assessments, but have been having serious issues resolving, what cannot be resolved, because the system reflects an outstanding of his dating back further than 10 years. What plans do you have or would you be implementing to resolve this and similar situations such as these?
- 38.** Earlier you talked about the 15% bonus incentive. Is it not the case that this incentive was based on a performance basis - with the specific intention so that this would result in a much higher success rate? Now tell me what is wrong with this approach?
- 39.** My understanding was that there were at least 2 companies that information was received from for this project. However, the other company had an even much higher bonus incentive, as well as a much higher base rate of some Euro 30 million. Should the decision then have been taken to move forward with that company and not work with Taxand with the 15% performance based bonus incentive? From the other company wasn't the deal breaker the fact that the files of the tax payers would have to be transferred to the Netherlands to be worked on in the back office and that one of the requirements was that the monies to cover the cost of the project would have had to be deposited on an escrow account in the Netherlands? Would it be advisable to send private tax payers files to the Netherlands for processing in the back office and possibly shared with the tax authority of the Netherlands?
- 40.** Based on earlier comments about terms of reference, this is generally needed for public tendering, while a contract would spell out whatever parties may have agreed on. I don't think it is right to mix oranges and apples. I do not believe we should try to confuse the people when there is no need to. One is not the other - right? Wasn't there a complete advice from the Ministry of Finance coupled with legal advice from a local law firm? Weren't the recommendations from the Finance Ministry as well as the legal advice all taken over by the Minister of Finance before signing off on the advice?

**41.** Minister Tuit, while I do not expect perfection from anyone, you, as well as not from former Minister Shigemoto. I believe it is clear that given the various time pressures, certain decisions had to have been made. Seeing that the process with Taxand was in progress, please advise whether you will ultimately proceed with the project and with Taxand or you intend to complete this project with another firm, or take a complete different approach? Bearing in mind the statute of limitation on years past that cannot be assessed. Didn't the former Minister of Finance have various sessions/meetings with the Management of the Tax Authority to try to improve this? Wasn't there a project funded by Usona which the steering group meetings were chaired by the former Minister? Wasn't funding becoming an issue whereby issues which were discovered after the project had been committed financially and funding was being sought within the USONA funded project IVB Versterking Financieel Beheer to be able to deal with the lack of resources within the Tax Authority? How many vacancies were budgeted for within the Tax Authority's budget 2012? Didn't the former Minister initiate and maintain discussions with the State Secretary of Finance of the Netherlands for recruitment of personnel for the Tax Authority based on local salaries? Didn't the Tax Authority Management go to the Netherlands for recruitment and selection interviews? What is the status of this recruitment project? How many persons have been hired thus far? How many were recruited specifically for the Inspectorate of Taxes and was this sufficient? If not, why not and how will you deal with this?