

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session
VOTING RECORD

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator V. Anthony Ada	√					
Senator Frank Blas Jr.		√				
Senator Joanne Brown	√					
Senator Christopher M. Dueñas	√					
Senator James C. Moylan		√				
Vice Speaker Tina Rose Muña Barnes		III √				
Senator Telen Cruz Nelson	√	II				
Senator Sabina Flores Perez	√					
Senator Clynton E. Ridgell		√				
Senator Joe S. San Agustin		√				
Senator Amanda L. Shelton		√				
Senator Telo T. Taitague	√					
Senator Jose "Pedo" Terlaje		√				
Speaker Therese M. Terlaje	√					
Senator Mary Camacho Torres		√				

Speaker Antonio R. Unpingco Legislative Session Hall
 Guam Congress Building
 May 28, 2021

Bill No. 104-36 (COR)
 As amended by the Committee on Environment, Revenue and
 Taxation, Labor, Procurement, and Statistics, Research, and
 Planning.

TOTAL

7

8

Aye

Nay

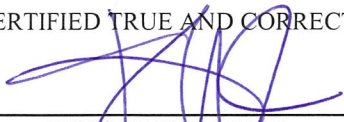
Not Voting/
Abstained

Out During
Roll Call

Absent

Excused

CERTIFIED TRUE AND CORRECT:



 RENNAE V. C. MENO
 Clerk of the Legislature

I = Pass

I MINA 'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 104-36 (COR)

As amended by the Committee on Environment,
Revenue and Taxation, Labor, Procurement,
and Statistics, Research, and Planning.

*

Introduced by:

Sabina Flores Perez
Therese M. Terlaje
V. Anthony Ada
Joanne M. Brown
Christopher M. Duenas
Telena Cruz Nelson
Telo T. Taitague

**AN ACT TO AMEND §§ 6703, 6802, AND 6805, AND ADD
A NEW § 6817, ALL OF CHAPTER 6, TITLE 11, GUAM
CODE ANNOTATED, RELATIVE TO PAYMENT
REQUIREMENTS FOR CIGARETTE TAX STAMPS.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the Cigarette Stamp Tax Law sought to create a better mechanism for
4 accountability in taxes on cigarettes getting paid to the Government of Guam.

5 *I Liheslatura* also finds that cigarette wholesalers are allowed to delay the
6 payment of cigarette taxes upon shipment at the seaport level through the use of a
7 bonded warehouse, allowing for taxes to be collected, not at the withdrawal point
8 from the bonded warehouse, but no later than the twentieth (20th) day of the month
9 following the month in which associated cigarettes were issued and sold out of the
10 bonded warehouse.

1 *I Liheslatura* further finds that the Cigarette Stamp Tax Law allows for an
2 additional delay in the payment of cigarette tax stamps to no later than the twentieth
3 (20th) day of the month following the month in which the cigarette tax stamps were
4 purchased.

5 *I Liheslatura* further finds that with the bonded warehouse mechanism and the
6 Cigarette Stamp Tax Law, there is a double delay in the payment of cigarette taxes
7 due to the Government of Guam.

8 *I Liheslatura* further finds that since the passage of Public Law 34-55, the
9 Cigarette Stamp Tax Law, in October 2017, the Department of Revenue and
10 Taxation has been unable to facilitate the duties charged in the public law as the
11 mandate was never funded; and, it finds that there is no current or future funding
12 source for the stamps, machines, maintenance, and enforcement.

13 Therefore, it is the intent of *I Liheslaturan Guåhan* to create more
14 accountability for the government of Guam and to allow for bonded warehouses to
15 work in unison with the Cigarette Stamp Tax Law, and intends to require cigarette
16 tax stamps to be paid upon purchase. A delay in the payment of stamps would still
17 be allowed, but only through the application with and approval from the Department
18 of Revenue and Taxation, along with a surety bond equal to the amount of the
19 delayed payment.

20 With this payment procedure in place, the products placed in a bonded
21 warehouse, and then withdrawn and stamped for sale, will properly represent that
22 taxes have been paid on those products.

23 It is also the intent of *I Liheslaturan Guåhan* to eliminate the discount on
24 cigarette tax stamps afforded to wholesalers after two (2) years to allow for
25 wholesalers to adjust to the new process of affixing stamps to cigarette packaging.
26 The Cigarette Stamp Tax Law was created to create more accountability, and an
27 additional discount to the stamps in perpetuity would reduce the total revenues

1 generated for the Healthy Futures Fund and thus discounting the importance of taxes
2 on cigarettes.

3 It is also the intent of *I Liheslaturan Guåhan* to create a stable funding source
4 in order to carry out the mandate of the Cigarette Stamp Tax Law by utilizing a
5 portion of the tobacco taxes collected. This would allow for the Department of
6 Revenue and Taxation and the Office of the Attorney General to administer and
7 enforce the Cigarette Stamp Tax Law.

8 **Section 2.** § 6703 of Article 7, Chapter 6, Title 11, Guam Code Annotated,
9 is hereby *amended* to read:

10 **“§ 6703. Proof of Taxation.**

11 (a) The payment of taxes levied by § 26602 and § 26603(a) of
12 Chapter 26, Title 11, Guam Code Annotated, shall be demonstrated by the
13 purchase of tax stamps in Guam, which shall be affixed to each cigarette
14 package. Nothing herein shall be construed as to levy any additional taxes on
15 the sale of cigarettes, unless expressly stated by law.

16 (b) Payment for the purchasing of stamps to be affixed to a cigarette
17 package shall be reported each month no later than the twentieth (20th) day
18 of the month following the month in which the stamps were purchased from
19 the Department and payable at the point of purchase of the stamps from the
20 Department.

21 (c) The Department is responsible for and shall effectuate the
22 printing, distribution, and sale of tax stamps.

23 (d) Any taxpayer under this Section may delay the payment of taxes
24 in accordance with the provisions under 11 GCA § 26601(c) relative to
25 cigarettes held and sold out of a bonded warehouse.”

26 **Section 3.** § 6802 of Article 8, Chapter 6, Title 11, Guam Code Annotated,
27 is hereby *amended* to read:

1 **“§ 6802. Affixation; Required Prior to Distribution; Method**
2 **and Manner.**

3 (a) A licensee or the authorized agent or designee of a licensee shall
4 affix a stamp to the bottom of each individual package of cigarettes prior to
5 distribution.

6 (b) No individual package of cigarettes may be sold or offered for
7 sale to the general public unless affixed with the stamp required under this
8 Section.

9 (c) No cigarette package may be placed or stored in a vending
10 machine unless affixed with the stamp required under Subsection (a) of this
11 Section.

12 (d) The Department may adopt rules regarding the method and
13 manner of affixing stamps to a cigarette package.

14 (e) For the purpose of allowing compensation for the initial costs
15 necessarily incurred in affixing the proper tax stamps to each package of
16 cigarettes prior to distribution, each licensee or authorized agent or a designee
17 of a licensee purchasing stamps from the Department may purchase the
18 stamps at a reduction of four-tenths of one percent (0.4%) of the denominated
19 value of each stamp purchased. The reduction shall be the only discount
20 allowed to purchasers from the Department and shall be applicable only for
21 the first two (2) years upon enactment. If a purchaser does not comply with
22 all of the provisions of Guam law, the licensee shall pay the full denominated
23 value of the stamps purchased until the licensee has complied.”

24 **Section 4.** § 6805 of Article 8, Chapter 6, Title 11, Guam Code Annotated,
25 is hereby *amended* to read:

26 **“§ 6805. Price.**

1 (a) Stamps shall be sold at their denominated values as provided for
2 herein.

3 (b) Payment for the stamps shall be made at the time of purchase
4 from the Department.

5 (1) A licensed wholesaler may delay payment of the stamps
6 by applying for a stamp payment delay with the Department. The
7 Department shall set the allowed amount for delayed payment
8 purchases.

9 (A) The licensed wholesaler shall post a surety bond in
10 the amount of one hundred percent (100%) of the allowed
11 delayed purchase amount.

12 (B) Amounts owed for stamps purchased on a delayed
13 payment basis in any calendar month shall be made no later than
14 the twentieth (20th) day of the month following the month in
15 which the stamps were purchased from the Department.

16 (i) Posted surety bonds shall be claimed against
17 the licensed wholesaler for failure to remit payment for the
18 stamps no later than the twentieth (20th) day of the month
19 following the month in which the stamps were purchased
20 from the Department.

21 (C) Licensed wholesalers applying for a stamp payment
22 delay shall be current in their tax liability payments and in good
23 standing with the Department.

24 (c) Any taxpayer under this Section may delay the payment of taxes
25 in accordance with the provisions under 11 GCA § 26601(c) relative to
26 cigarettes held and sold out of a bonded warehouse. Payment for the stamps

1 for cigarettes held and sold out of a bonded warehouse shall be made at the
2 time of purchase from the Department.

3 (d) A licensed wholesaler who fails to pay any amount owed for the
4 purchase of stamps within the required time shall be subject to:

5 (1) the penalties and interest in accordance with the provisions
6 under 11 GCA §§ 26111 and 26112; and

7 (2) ten percent (10%) of the amount due in addition to the
8 amount due. This percentage of the amount due shall be deposited in
9 the Cigarette Stamp Tax Fund.”

10 **Section 5.** A new § 6817 is hereby *added* to Article 8 of Chapter 6, Title 11,
11 Guam Code Annotated, to read as follows:

12 **“§ 6817. Cigarette Stamp Tax Fund.**

13 One percent (1%) of the taxes collected under this Chapter shall be
14 deposited in the Cigarette Stamp Tax Fund.

15 (a) Cigarette Stamp Tax Fund.

16 (1) There is created, separate and apart from any other
17 funds of the government of Guam, under the administration and
18 control of the Director, the Cigarette Stamp Tax Fund (Fund).
19 The Fund shall not be commingled with the General Fund or any
20 other fund of the government of Guam. The Fund shall be held
21 in an account or accounts at a Guam financial institution or
22 institutions separate and apart from all other accounts and funds
23 of the government of Guam. The Fund shall not be subject to *I*
24 *Maga'hågan Guahån*'s transfer authority. The Fund shall be used
25 for the costs associated with issuing the tax stamps, including,
26 but not limited to, supplies, equipment, and personnel in
27 promulgating this Chapter.

1 (2) One half of one percent (0.5%) of the taxes
2 deposited in the Cigarette Stamp Tax Fund shall pay for the
3 promulgation costs incurred by the Department of Revenue and
4 Taxation.

5 (3) One half of one percent (0.5%) of the taxes
6 deposited in the Cigarette Stamp Tax Fund shall pay for the
7 enforcement costs incurred by the Office of the Attorney
8 General.”

9 **Section 6. Severability.** If any provision of this Act or its application to any
10 person or circumstance is found to be invalid or contrary to law, such invalidity shall
11 not affect other provisions or applications of this Act that can be given effect without
12 the invalid provision or application, and to this end the provisions of this Act are
13 severable.