

MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN  
TWENTY-NINTH GUAM LEGISLATURE  
2007 (FIRST) Regular Session

Bill No. 191 (EC)

Introduced by:

A. B. Palacios, Sr. 

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AN ACT TO REPEAL THE TAX EXEMPTIONS FOR  
BANKS, BANKING INSTITUTIONS, SMALL LENDERS  
AND BUILDING AND LOAN ASSOCIATIONS, BY  
AMENDING §26202(f)(1) and (2) OF ARTICLE 2,  
CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED,  
RELATIVE TO TAX ON BANKS, BANKING  
INSTITUTIONS, SMALL LENDERS, AND BUILDING  
AND LOAN ASSOCIATIONS.

2007-001-1  
PM 1:36 P

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

1        **Section 1. Legislative findings and intent.** §26202(f)(1) provides for tax  
2 exemptions on earnings of banks, banking institutions, small lenders, and building and  
3 loan associations by allowing for deductions from gross income, the net of which then is  
4 used as the amount on which to tax. It is estimated that approximately \$12 to \$15 million is  
5 the annual amount not paid over to the government of Guam due to these exemptions. *I*  
6 *Liheslaturan Guåhan* finds that most of the deductions from gross income are for expenses  
7 that are normal and routine in the operation of a business, which are *not* granted to any  
8 other type of businesses. For example, before the banks and other lending institutions pay

1 taxes on their income, the current law allows them to first deduct: salaries, bonuses and  
2 other compensations paid; rent, advertising, audit and legal services; losses from  
3 embezzlement, fire, theft; ordinary operating expenses such as supplies, utilities, insurance;  
4 “bad” loans; losses on property sold; and depreciation on property. After all these  
5 deductions are taken, the institution then pays tax on the lean net income. Based on the  
6 Department of Revenue and Taxation records, the banking and all other lending  
7 institutions in Guam combined, paid a total of less than \$500,000 in 2006. *I Liheslaturan*  
8 *Guåhan* further finds that in addition to the nine tax exemptions granted under §26202(f)(1),  
9 §26202(f)(2) requires only that the taxes be paid annually. Again, businesses other than the  
10 banking and other lending institutions pay taxes on a quarterly basis, in addition to the  
11 annual corporate tax return.

12 *I Liheslaturan Guåhan* finds that the Medically Indigent Program is consistently under  
13 funded, due to competing priorities of other public services. The consistent under funding  
14 of this needed service results in denial of service, or very frequently results in a long wait  
15 for the service while the patient’s condition continues to get worse.

16 *I Liheslaturan Guåhan* finds that the repeal of some of the exemptions provided for in  
17 §26202(f)(1) will yield much needed funds that would enable the Medically Indigent  
18 Program to provide more of the services, and provide it in a more timely manner.

19 *I Liheslaturan Guåhan* desires to re-examine the tax exemptions and tax return filings  
20 for banks and other lending institutions provided for in §26202(f)(1) and (2), to determine

1 how much of a disparity there exists in the treatment of other businesses with respect to the  
2 exemptions in question. It is therefore the intent of *I Liheslaturan Guåhan* to propose an  
3 amendment to §26202(f)(1) and (2), relative to tax on banks, banking institutions, small  
4 lenders, and building and loan associations, to restore equity and fairness in the application  
5 of the exemptions, and to solicit public comments regarding the proposed amendment.

6 **Section 2. Tax on banks, banking institutions, small lenders and building and**  
7 **loan associations.** §26202(f)(1) and (2) of Article 2, Chapter 26, Title 11, Guam Code  
8 Annotated, is hereby *amended* to read:

9 “(f) Tax on banks, banking institutions, small lenders and building and  
10 loan association. Upon every person engaging or continuing within Guam in the  
11 business of operating any bank, banking institutions, building and loan  
12 association, small lending business, or lending institutions, there shall be a tax  
13 equivalent to four percent (4%) of the net income received from business.

14 (1) Net income. For the purpose of this Section, net income shall  
15 mean the gross income of such taxpayer received from all sources less the  
16 following deductions therefrom:

17 ~~[a) Salaries and bonuses paid and other compensation from~~  
18 ~~personal services.]~~

19 ~~b) a) Interest or discount paid.~~

20 ~~[c) Rents paid.~~

1                   d) ~~Ordinary operating expenses such as supplies, utility~~  
2                   ~~services, insurance premiums other than for life insurance,~~  
3                   ~~provided that any deductible insurance expense shall be allowable~~  
4                   ~~only to the extent that such a premium is applicable to the tax~~  
5                   ~~period against which it is claimed.]~~

6                   e) b) Loans or obligations charged off the books of the bank  
7                   as losses unless charged against reserves then in existence.

8                   ~~[f) Losses other than loan losses, such as those occasioned~~  
9                   ~~by fire or other casualty, theft, embezzlement, and the like, but only~~  
10                  ~~to the extent not covered by insurance proceeds collected.]~~

11                  g) c) Transfers from earnings to reserve for bad debts or  
12                  other contingencies provided for.

13                  ~~[h) Miscellaneous direct expenses such as legal, advertising,~~  
14                  ~~auditing, and the like.]~~

15                  i) d) Loss on property sold and depreciation on property  
16                  owned.

17                  (2) A person liable for the payment of taxes levied under this  
18                  Section shall be required to fill ~~[an annual]~~ a quarterly return, and shall  
19                  not be required to file monthly returns. The tax year shall be calendar  
20                  year except that the taxpayer may use his annual accounting period when

1 prior permission is obtained from the Tax Commissioner. The [~~annual~~  
2 quarterly return under this Subsection shall be filed not later than [~~ninety~~  
3 ~~(90)~~ twenty (20) days following the close of the taxpayer's tax [~~year~~  
4 return for the quarter due."]

5 **Section 3.** A new item (3) is hereby added to §26202(f) of Article 2, Chapter 26, Title  
6 11, Guam Code Annotated, to read:

7 "(3) All revenues resulting from the repeal of tax exemptions relative to  
8 banks, banking institutions, small lenders, and building and loan associations,  
9 pursuant to §26202(f) of this Chapter, shall be earmarked for the Medical  
10 Indigent Program subject to appropriation by *I Liheslaturan Guåhan.*"