

I MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN
2007 (FIRST) REGULAR SESSION

Bill No. 53 (EC)

Introduced by:

v.c. pangelinan

AN ACT TO AMEND §51102, AND §51106, CHAPTER
51 OF TITLE 11, GUAM CODE ANNOTATED,
RELATIVE TO INCOME TAX REFUNDS.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. *I Liheslaturan Guahan* finds
3 that income tax refunds are overpayments of withholding tax made by
4 individual and corporate taxpayers. It is not the property of the government,
5 but held in trust until the taxpayer files his or her tax return and the
6 overpayment is determined. Any overpayment made by a taxpayer in the
7 Territory shall be refunded in a timely and consistent manner.

8 *I Liheslatura* sets aside the estimated amount of overpayments as a
9 provision for income tax refunds, earned income tax credit, and child tax
10 credit payments before it appropriates any money for the operating budget of
11 the government of Guam. Setting aside the cash to fund the refund of
12 overpayments should not impact the available resources for operating the
13 government.

14 Therefore, it is the intent of *I Liheslaturan Guahan* to provide for a truly
15 efficient tax refund payment trust fund that automatically receives deposits
16 from income tax payments including but not limited to individual, corporate,

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1 withholding tax, interest and penalties payments of corporations, employers
2 and self-employed individuals received by the government to ensure that cash
3 is available to make timely refunds for the overpayments made by taxpayers.

4 **Section 2.** Section 51102 of Chapter 51 of Title 11 Guam Code
5 Annotated is hereby amended to read as follows:

6 **"51102. Deposit of Funds.** (a) The Director of the Department of
7 Administration ("DOA') shall directly deposit ~~within ten (10) days at the end~~
8 ~~of each month~~ upon receipt of any payment of income tax, including but not
9 limited to individual, corporate and withholding taxes, interest and penalties
10 by any single employee, employer or corporation to the Trust Fund a portion
11 of the tax payment received to be calculated by multiplying the amount of the
12 tax payment received by the quotient derived by the provision for tax refunds
13 (the dividend) divided by the total income taxes, including but not limited to
14 individual, corporate and withholding taxes, interest and penalties, (the
15 divisor) amounts adopted in the annual fiscal year budget passed by the
16 Legislature, sum equivalent to the percentage of the total income collections
17 ~~for the month equal to its percentage of the budgeted forecasted amount set~~
18 ~~aside for Income tax refunds, earned income tax credits and child tax credits~~
19 ~~adopted in that fiscal year's budget,~~ so that at the end of the calendar fiscal
20 year, the total amount set aside for income tax refunds, earned income tax
21 credits and child tax credits shall ~~gave~~ have been deposited into the Trust
22 Fund. The funds deposited in the Trust Fund by the Director of DOA shall
23 automatically be transferred to the Income Tax Reserve Fund ~~once~~ upon the
24 written request of the Tax Commissioner is ready to make the necessary for

1 payments pursuant to §50105 of Chapter 50, Division 2 of Title 11 of the Guam
2 Code Annotated. The interest and investment earnings shall remain within
3 the Trust Fund.

4 ~~(b) The Director of DOA shall directly deposit within ten (10) days at the end
5 of each quarter to the Trust Fund a percentage of the Self-Employed Payroll
6 Withholding Taxes collections for the quarter equal to its percentage of the
7 budgeted forecasted amount set aside for income tax refunds, earned income
8 tax credits and child tax credits adopted in that fiscal year's budget, so that at
9 the end of the calendar year, the total amount set aside for income tax refunds,
10 earned income tax credits and child tax credits shall have been deposited into
11 the Trust Fund. The funds deposited into the Trust Fund by the Director of
12 DOA shall automatically be transferred to the Income Tax Reserve Fund, once
13 the Tax Commissioner is ready to make the necessary payments pursuant to
14 11 GCA §50105. The interest and investment earnings shall remain within the
15 Trust Fund.~~

16 ~~(c) The Director of DOA shall directly deposit within ten (10) days at the end
17 of each month to the Trust Fund a percentage of income tax collections for the
18 month equal to its percentage of the budgeted forecasted amount set aside for
19 income tax refunds, earned income tax credits and child tax credits adopted in
20 that fiscal year's budget, so that at the end of the calendar year, the total
21 amount set aside for income tax refunds, earned income tax credits and child
22 tax credits shall have been deposited into the Trust Fund. The funds
23 deposited into the Trust Fund by the Director of DOA shall automatically be~~

1 ~~transferred to the Income Tax Reserve Fund, once the Tax Commissioner is~~
2 ~~ready to make the necessary payments pursuant to §50105 of Chapter 50,~~
3 ~~Division 2 of Title 11 of the Guam Code Annotated. The interest and~~
4 ~~investment earnings shall remain within the Trust Fund."~~

5 **Section 3.** Section 51106 of Chapter 51 of Title 11 Guam Code
6 Annotated is hereby amended to read as follows:

7 "**§51106. Reports.** The Tax Commissioner and the Director of the Department
8 of Administration shall report to I Maga'lahaen Guahan and I Liheslaturan
9 Guahan the total deposits each month ~~every deposit~~ and the current balance
10 of the Trust Fund within fifteen (15) calendar days of the end of ~~the~~ each
11 month, ~~of every deposit made to the Trust Fund."~~

12 **Section 4. Severability.** If any of the provisions of this Act or the
13 application thereof to any person or circumstance is held invalid, such
14 invalidity shall not affect any other provision or application of this Act which
15 can be given effect without the invalid provision or application, and to this
16 end the provisions of this Act are severable.