

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

Bill No. 80 (LS)  
Introduced by:

A. B. PALACIOS, SR. 

**AN ACT RELATIVE TO THE REVIEW OF THE DEPARTMENT OF REVENUE AND TAXATION'S INCOME TAX PREPARATION AND SERVICE PROCESS ACTIVITIES, MAKING UPDATED ADJUSTMENTS IN THE ANNUAL FEES FOR SUCH SERVICES, AND FURTHER ENABLING THE DEPARTMENT TO APPLY ADDITIONAL FUNDS TOWARD THE EFFECTIVE ADMINISTRATION AND OVERSIGHT OF THESE PROGRAMS AND SERVICES; THROUGH AMENDING §40105, §40117 OF TITLE 11 AND §6101, §7113 OF TITLE 18, ALL OF THE GUAM CODE ANNOTATED..**

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

**Section 1. Legislative Findings and Intent.**

1        *I Liheslaturan Guåhan* finds that the Department of Revenue and  
2        Taxation administers the Income Tax Preparer Program in which individuals  
3        are provided official certification to serve the community in their private  
4        capacity or with a specific business organization in providing tax preparation  
5        assistance. *I Liheslaturan Guahan* also finds that the administration of this  
6        program requires direct assistance and service by Department personnel to  
7        ensure that the proper certification and administration of the program is  
8        carried out in the best interest of the income tax preparer applicant and the  
9        island community. It is important that the official certification of any income  
10       tax preparer by the department is conducted with a thorough review and  
11

1 assessment of each applicant, because said individual will be tasked with a  
2 critical service of ensuring accuracy and accountability of how people in the  
3 community correctly process their tax returns. The Liheslaturan Guahan  
4 further finds that the fees assessed for these services and for the service of  
5 processing official corporation documents have not been properly adjusted  
6 over the years to reflect the actual costs associated with the provision of these  
7 services, thus implementing a cost-recovery that would directly contribute  
8 toward the proper and more effective administration of these services.

9 Therefore, it is the intent of *I Liheslaturan Guahan* to recognize the  
10 importance of ensuring that services being administered by the Department of  
11 Revenue and Taxation reflect the actual cost of providing such services to the  
12 community, thus applying the appropriate fees and fines for the services and  
13 utilizing the additional revenues generated for enhancing the administration  
14 of these essential services by the department.

15 **Section 2. Subsection (e) of §15906, Article 9, Chapter 15, Title 17,**  
16 **Guam Code Annotated, is hereby amended to read:**

17 **A.) Section §40105 of Chapter 40, Title 11, Guam Code Annotated, is**  
18 **hereby amended to read as follows:**

19 **“40105. Application for Examination; Registration.**

20 **(a) Examination Fee. The Department of Revenue and Taxation is**  
21 **hereby authorized to assess an examination fee of One Hundred Dollars**  
22 **(\$100.00) to each applicant taking the examination for Income Tax Preparer.**

1 **This fee shall not be applicable to Income Tax Preparers who are employed**  
2 **by the Department of Revenue and Taxation.**

3 (b) Every tax preparer shall take an examination of not less than fifty  
4 (50) questions which will be prepared by the Director of such division or  
5 organizational unit or board as he may designate. To qualify, each preparer  
6 must receive a passing grade of at least seventy percent (70%).

7 (c) Every tax preparer shall register upon forms prescribed by the  
8 Director of the division designated by him. The form shall contain sufficient  
9 information to identify the tax preparer, including name, address,  
10 identification numbers and other identifying data which is prescribed by the  
11 Director.

12 (d) Any tax preparer maintaining more than one business location shall  
13 be permitted to file a single form which, in addition to the information  
14 required in § 40104(b), clearly designates each location, identifying one  
15 location as the principal location and all others as additional locations, and the  
16 individual or individuals in charge of each location.

17 (e) If any of the information required by this Section changes, the tax  
18 preparer shall promptly notify the Director of the changes.

19 (f) The Director shall determine the fee for taking the tax preparers  
20 examination. The fee shall be commensurate with costs incidental to such  
21 exam. The tax preparers examination fee shall be collected from each  
22 applicant when he applies for the examination and deposited with Treasurer  
23 of Guam. This fee shall be non-refundable.

1 (g) An unsuccessful examinee may be re-examined as follows:

2 (1) Second test thirty (30) days after first exam;

3 (2) Third test thirty (30) days after second exam;

4 (3) Thereafter the examinee may be re-examined every six (6)  
5 months.

6 B.) Section §40117 of Chapter 40, Title 11, Guam Code Annotated, is  
7 hereby amended to read as follows:

8 **“§40117. Amount of Annual Fees.**

9 The fees prescribed by this Chapter shall be set by the Director in  
10 An amount estimated to provide for the administration of this Chapter within  
11 the limits of the following schedule:

12 (a) The tax preparer registration fee shall be established by the Director  
13 at a sum not to exceed ~~Fifty Dollars (\$50.00)~~ **One Hundred Dollars (\$100.00)**.

14 (b) If a tax preparer maintains more than one tax preparer location, an  
15 additional fee shall be established by the Director at a sum not to exceed ~~Fifty~~  
16 ~~Dollars (\$50.00)~~ **One Hundred Dollars (\$100.00)** for the principal location and  
17 ~~Ten Dollars (\$10.00)~~ **Fifty Dollars (\$50.00)** for each additional location.

18 (c) If a tax preparer has employees, representatives, partners, agents,  
19 officers or members who would be subject to registration under this Chapter  
20 but for the exemption provided in § 40103 (§40103(a)), an additional fee shall  
21 be established by the Director at a sum not exceed:

22 (1) ~~One Hundred Dollars (\$100.00)~~ **Two Hundred Dollars**  
23 **(\$200.00)** if the tax preparer has less than fifty (50) such persons;

1           (2) ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars  
2           (\$1,000.00) if the tax preparer has fifty (50) or more but less than  
3           one hundred (100) persons;

4           (3) ~~One Thousand Dollars (\$1,000.00)~~ Two Thousand Dollars  
5           (\$2,000.00) if the tax preparer has one hundred (100) or more but  
6           less than five hundred (500) such persons;

7           (4) ~~One Thousand Five Hundred Dollars (\$1,500.00)~~ Three  
8           Thousand Dollars (\$3,000.00) if the tax preparer has five hundred  
9           (500) or more such persons.

10           (d) The fees provided for above shall be cumulative except that no tax  
11           preparer shall be required to pay more than One Thousand Five Hundred  
12           Dollars (\$1,500.00) as a registration fee.

13           (e) The annual renewal fees for a tax preparer registration shall be  
14           established by the Director at amounts not to exceed the schedule for  
15           registration fees if the registration is renewed prior to its expiration date.

16           (f) The renewal fee for registration that is not renewed prior to its  
17           expiration date shall be one and one half (1½) times the renewal fee required  
18           for a registration renewal prior to its expiration date."

19           C.) Section §6101 of Chapter 6, Title 18, Guam Code Annotated, is  
20           hereby amended to read as follows:

21           "**§ 6101. Designation of Agent for Service of Process.**

22           Every ~~Very~~ domestic corporation may file with the Director of Revenue  
23           and Taxation a designation of a natural person, residing at a stated address in

1 Guam, as its agent, for the purpose of service of process, and the delivery, to  
2 such agent, of a copy of any process against such corporation shall constitute  
3 valid service on such corporation. Such corporation shall file with the Director  
4 of Revenue and Taxation notice of any change in the address of the person  
5 thus designated, and may revoke any such designation by filing notice thereof  
6 with the Director of Revenue and Taxation.

7 If such designation has not been filed with the Director of Revenue and  
8 Taxation, or if process against any domestic corporation cannot, with the  
9 exercise of due diligence, be served upon the person designated or in any  
10 other manner provided by law, service may be had upon such corporation by  
11 delivering to the Director of Revenue and Taxation, or to any person  
12 employed in his office in the capacity of a deputy, duplicate copies of such  
13 process, together with a fee of ~~five dollars (\$5.00)~~ **Forty Dollars (\$40.00)**,  
14 which shall be included in the taxable costs of the suit, action, or proceeding.  
15 Upon the receipt of such process and fee, the Director of Revenue and  
16 Taxation shall forthwith give notice of the service of such process to the  
17 corporation at its principal office in Guam, and shall deliver to such office, a  
18 copy of such process. The defendant shall appear and answer within thirty  
19 (30) days after such service upon the Director of Revenue and Taxation.”

20 D.) Section §7113 of Chapter 7, Article 1, of Title 18, Guam Code  
21 Annotated, relative to Service of Process on Foreign Corporation is hereby  
22 amended to read as follows:

23 **“§ 7113. Service of Process on Foreign Corporation.**

1 (a) The registered agent of a foreign corporation authorized to transact  
2 business on Guam is the corporation's agent for service of process, notice or  
3 demand required or permitted by law to be served on the foreign corporation.

4 (b) A foreign corporation may be served by registered or certified mail,  
5 return receipt requested, addressed to the secretary of the foreign corporation  
6 at its principal office shown in its application for a certificate of authority or  
7 the correspondence address indicated in its most recent annual report if the  
8 foreign corporation:

9 (1) has no registered agent, or its registered agent cannot with  
10 reasonable diligence be served;

11 (2) has withdrawn from transacting business on Guam under  
12 §7114 of this Title; or

13 (3) has had its certificate of authority revoked under § 7116 of this  
14 Title.

15 (c) Service is perfected under Subsection (b) of this Section at the earliest  
16 of:

17 (1) the date the foreign corporation receives the mail;

18 (2) the date shown on the return receipt, if signed on behalf of the  
19 foreign corporation; or

20 (3) five (5) days after its deposit in the United States mail, as  
21 evidenced by the postmark, if mailed postpaid and correctly  
22 addressed.

1 (d) In addition to Subsection (b), whenever a foreign corporation  
2 authorized to transact business on Guam shall fail to appoint or maintain a  
3 registered agent on Guam, or whenever any such registered agent cannot with  
4 reasonable diligence be found at the registered office, or whenever the  
5 certificate of authority of a foreign corporation shall be suspended or revoked,  
6 then the Director of the Department of Revenue and Taxation may be an agent  
7 of such corporation upon whom any such process notice, or demand may be  
8 served.

9 Service of Process upon any corporation who is subject to the  
10 jurisdiction of the courts of this Territory, as provided in this section, may  
11 be made by serving the Director of Revenue and Taxation by leaving with  
12 him duplicate copies of such process, together with an affidavit of the  
13 plaintiff or one of the plaintiff's attorneys showing the last known address  
14 of such corporation and, except in actions which the government of Guam is  
15 plaintiff, a fee of Forty Dollars (\$40.00), which shall be included as taxable  
16 costs in case of judicial proceedings. Upon receipt of such process, affidavit  
17 and fee, the Director of Revenue and Taxation shall forthwith give notice  
18 by radiogram to the corporation at the address specified in the affidavit,  
19 and forward to such address by registered mail, with a request for return  
20 receipt, a copy of such process. The Director of Revenue and Taxation shall  
21 retain a copy of such process and his action thereafter with respect thereto.  
22 An unlicensed Foreign Corporation is subject to this section provided it has  
23 a permanent resident on Guam who represented the company and did



1 many other things on behalf of the company through a local business name  
2 (see Traid Corp. v. Mendiola, 1 Guam R. 215 (1973)).

3 (e) Every foreign corporation which transacts business on Guam  
4 without having been authorized to transact business on Guam thereby  
5 submits itself to the jurisdiction of the courts of Guam, and also thereby  
6 designates the Director of the Department of Revenue and Taxation as its  
7 agent upon whom any process, notice or demand upon it may be served in  
8 any action or proceeding arising out of or in connection with the transaction  
9 of business on Guam.

10 Service of Process upon any corporation as identified herein may be  
11 assessed by the Director of Revenue and Taxation a fee of Forty Dollars  
12 (\$40.00), which shall be included as taxable costs in case of judicial  
13 proceedings.

14 (f) This Section does not prescribe the only means, or necessarily the  
15 required means, of serving a foreign corporation.”

16 **Section 3. Additional Revenues to Support Department of Revenue**  
17 **and Taxation Income Tax Preparation and Service of Process Activities.**

18 All additional funds generated as a result of the fees, fines or penalties  
19 imposed herein shall be appropriated by I Liheslaturan Guahan and re-  
20 directed to the Department of Revenue and Taxation for the express use by  
21 the department and its assigned personnel for the administration of tax  
22 preparation and service of process activities. The Director of the Department  
23 of Revenue and Taxation, shall present in the Department’s annual budgetary

1 submission to I Liheslaturan Guahan the additional revenues highlighted  
2 herein to be generated from the fees, fines or penalties, with emphasis for the  
3 funds to be directed for the aforementioned activities.

4 **Section 4. Effective Date.**

5 The application of the provisions contained herein, to include the  
6 imposition of fines and penalties, shall be effective no later than Sixty (60)  
7 days upon the enactment of this Act.

8 **Section 5. Severability Clause.**

9 If any of the provisions of this Act or the application thereof to any  
10 person or circumstance is held invalid, such invalidity shall not affect any  
11 other provision or application of this Act which can be given effect without  
12 the invalid provision or application, and to this end the provisions of this Act  
13 are severable.