

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

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Bill No. 72-31(CDR)

Introduced by:

V. Anthony Ada



AN ACT TO ADD A NEW CHAPTER 8 TO 11GCA RELATIVE TO QUANTIFYING AND REPORTING THE AFFECTS OF THE EARNED INCOME TAX CREDIT (EITC) AS IT RELATES TO THE COMPACTS OF FREE ASSOCIATION.

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

2 **Section 1.** A new Chapter 8 is *added* to 11GCA to read as follows:

3

4

Chapter 8

5

**Accounting And Reporting Of Information Related To The Payment Of
6 Earned Income Tax Credits To FAS Citizens Who Are Required To File An
7 Income Tax Return On Guam.**

8

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§8101. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that

10 the Earned Income Tax Credit (EITC) the government of Guam is required, under
11 federal income tax laws, to pay to all eligible income tax return-filers who file a
12 Guam tax return is one of the few credits where the amount of the credit may
13 exceed the income taxes due. Under federal law, income tax-filers with dependent
14 children who have *earned income* may be eligible for a substantial credit
15 regardless of the *income taxes* due. In many cases where a tax return-filer has zero
16 income taxes due, the government of Guam may be required to pay the full amount
17 of the credit to the income tax return-filer depending on the income tax return-
18 filer's *earned income* and number of qualifying dependents. For tax year 2009,

1 income tax return-filers with earned income of up to \$48,279 may be eligible for
2 the EITC. For tax year 2009, the maximum EITC per income tax return-filer was
3 \$5,657 (for married filers with three children and earned income between \$12,550
4 and \$21,450). Given the large number of FAS citizens currently receiving some
5 form of public assistance, it is likely that the number of FAS citizens who claim
6 the EITC on their Guam Income Tax return may number in the thousands. The
7 total amount paid by the Government of Guam, since the inception of the
8 Compacts of Free Association, total hundreds of millions of dollars.

9 *I Liheslatura* further finds the Earned Income Tax Credit was created by the
10 US Congress in 1975 as a tax benefit to assist lower income working families to
11 offset the costs associated with employment tax mandates such as Social Security
12 and Medicare taxes (FICA taxes). Most Guam taxpayers are required to pay into
13 the US Government's Social Security system. Today, the EITC is regarded by
14 many members of both houses of Congress one of the largest anti-poverty tools in
15 the United States (despite the fact that most income measures, including the
16 poverty rate, do not account for the credit), and enjoys broad bipartisan support.

17 *I Liheslatura* further finds since there are no requirements for FAS citizens
18 to disclose their citizenship on their income tax-returns, such returns alone, can
19 not be used to quantify the amount of EITC that the Government of Guam is
20 required to pay FAS citizens.

21 *I Liheslatura* further finds the impact of the EITC mandate on Guam
22 continues to grow and become increasingly convoluted. Since certain Compacts
23 of Free Association and their predecessor agreements have been in place since the
24 late 1980s, there are succeeding generations of original FAS citizens that who are
25 born on Guam and are not considered FAS citizens. Under federal law, any
26 parent, regardless of citizenship, who gives birth to a child in the United States

1 may opt for that child to be a United States citizen. Public Assistance programs
2 for U.S. citizens who are children of FAS citizens are not calculated in Compact
3 Impact costs. Further, many of these children of FAS citizens may be reaching the
4 age where they may be eligible for EITC payments from the Government of Guam.

5 *I Liheslatura* seeks to provide the Department of Revenue and Taxation
6 with the authority and the means to delineate the EITC payments made to FAS
7 citizens and their children from other income tax return-filers who are required to
8 file a Guam Income Tax Return.

9 *I Liheslatura* finds that negotiations between government of Guam officials
10 and representatives of the U.S. government conducted in 2003 did not consider
11 EITC payments as impacting Guam as a result of the Compacts of Free
12 Association, as EITC was not being paid by the government of Guam at that time.
13 Subsequently, the government of Guam paid \$95 Million in EITC for the periods
14 that it failed to make EITC payments.

15 *I Liheslatura* concludes that accurate data related to EITC payments to FAS
16 citizens will greatly enhance Guam's negotiating position to secure reimbursement
17 for past Compact Impact obligations as a means to ensure adequate funding for the
18 future.

19 It is the intent of *I Liheslatura* to create a means to quantify the cost of the
20 Government of Guam's subsidies of EITC payments to FAS citizens and to seek
21 reimbursement of such subsidy costs from the United States government. Such
22 reimbursement will enhance the Government of Guam's ability to make timely
23 payments of the EITC to all tax-filers that are eligible for this benefit.

24

25 **§8102. Authorization to Obtain Identifying Information.** The
26 Department of Revenue and Taxation (the Department) is authorized to obtain,

1 from all agencies and instrumentalities of the government of Guam, any and all
2 information necessary to identify (1) Freely Associated States (FAS) citizens who
3 have filed *Guam Income Tax Returns* and (2) Children of FAS citizens who are
4 United States citizens and who have filed *Guam Income Tax Returns*. Information
5 obtained by the Department is confidential and not subject to public disclosure or
6 the Freedom of Information Act. Information gathered by the Department shall be
7 used for the sole purpose of determining the amount of Earned Income Tax Credits
8 paid or payable to Guam Income Tax Return filers who are FAS citizens or
9 children of FAS citizens as described, *supra*.

10 Information gathered pursuant to the provisions this section shall *not* be
11 used for any other purposes. The improper use of information gathered pursuant
12 to this section is a third degree felony.

13
14 **§8103. Reporting of the EITC payments made to FAS citizens and their**
15 **children.** The Department shall, from the information obtain pursuant to the
16 provisions of §8102 of this Chapter, prepare and file an annual report with the
17 Government of Guam agency responsible for preparing Compact Impact reports.
18 The report shall be redacted of information that may be used to identify individual
19 Guam income tax-filers. The filing date of the report, *supra*, shall be determined
20 by the Government of Guam agency responsible for preparing Compact Impact
21 reports.

22
23 **§8104. Operating Budget.** The Department shall prepare and submit a
24 budget to *I Liheslaturan Guåhan* annually along with its annual budget
25 submission. Nothing herein shall be construed as to limit the Department's ability

- 1 to request for funding for the purposes of achieving the goals of this Chapter at
- 2 any time during a fiscal year.