


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

Bill No. 149-31(COR)

Introduced by:

J.T. Won Pat, Ed.D. 

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**AN ACT TO ADD NEW § 26217 OF ARTICLE 2,  
CHAPTER 26 OF TITLE 11 GCA RELATIVE TO  
ELECTRONIC FILING (E-FILING) AND  
PAYMENT OF MONTHLY GROSS RECEIPT  
TAX RETURNS TO THE DEPARTMENT OF  
REVENUE AND TAXATION.**

2011 APR 14 PM 12:00  


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

**Section 1. A new § 26217 of Article 2, Chapter 26 of Title 11 GCA is hereby *added* to read:**

**“§26217. Filing of returns and payment of taxes by electronic means (E-filing).**

(1) Any persons on account of their businesses operating within Guam and levied taxes under this chapter shall be required to file returns and remit payments by electronic means where the taxpayer is subject to tax and has paid that tax in the prior fiscal year on an income that exceeds Twenty-five thousand dollars (\$25,000) or more. Any taxpayer who operates two or more places of business for which returns are required to be filed with the department shall combine the tax payments for all such locations in order to determine whether they are obligated under this section. This subsection does not override additional requirements in any provision of a law which the department has the responsibility for regulating, controlling, and administering.

1 (2) Notwithstanding any other provision of law administered by the  
2 department, the term:

3 (a) "Payment" means any payment or remittance required to be made or  
4 paid within a prescribed period or on or before a prescribed date under the  
5 authority of any provision of a law which the department has the responsibility  
6 for regulating, controlling, and administering. The term does not include any  
7 remittance unless the amount of the remittance is actually received by the  
8 department.

9 (b) "Return" means any report, claim, statement, notice, application,  
10 affidavit, or other document required to be filed within a prescribed period or on  
11 or before a prescribed date under the authority of any provision of a law which  
12 the department has the responsibility of regulating, controlling, and  
13 administering.

14 (c) "Electronic means" includes, but is not limited to, electronic data  
15 interchange; electronic funds transfer; or use of the Internet, telephone, kiosk or  
16 other technology specified by the department.

17 (3) Solely for the purposes of administering this section:

18 (a) Taxes levied under Articles I and II of this Chapter shall be  
19 considered a single tax.

20 (b) A person required to remit a tax acting as a collection agent or  
21 dealer for the department shall nonetheless be considered the taxpayer.

22 (4) The Director may require a taxpayer to file by electronic means returns for  
23 which no tax is due for the specific taxing period and for those businesses below the  
24 twenty-five thousand (\$25,000) threshold. The Director may offer a one-time  
25 business license renewal fee waiver for those businesses who file electronically  
26 below the twenty-five thousand (\$25,000) threshold provided the taxpayer is in good  
27 standing with the department.

1 (5) Beginning January 1, 2012, consolidated filers shall file returns and remit  
2 taxes by electronic means.

3 (6) A taxpayer required to file returns by electronic means shall also remit  
4 payments by electronic means. A taxpayer who fails to file returns pursuant to this  
5 section is liable for a penalty of ten dollars (\$10.00) for each report submitted, which  
6 is in addition to any other penalty that may be applicable, unless the taxpayer has  
7 first obtained a waiver of such requirement from the department.

8 (7) The department shall give due regard to developing uniform standards for  
9 formats as adopted by the American National Standards Institute for encryption and  
10 taxpayer authentication to ensure that the return and payment information is kept  
11 confidential. The department shall also provide several options for filing reports and  
12 remitting payments by electronic means in order to make compliance with the  
13 requirements of this section as simple as possible for the taxpayer.

14 (8) The department shall prescribe by rule the format and instructions necessary  
15 for filing returns and reports and for remitting payments in accordance with this  
16 section to ensure a full collection of taxes, interest, and penalties due. The acceptable  
17 method of transfer; the method, form, and content of the electronic filing of returns  
18 or remittance of payments of tax, penalty, or interest; and the means, if any, by  
19 which the taxpayer will be provided with an acknowledgment of receipt shall be  
20 prescribed by the department.

21 (9) The department may waive the requirement to file a return by electronic  
22 means for taxpayers that are unable to comply despite good faith efforts or due to  
23 circumstances beyond the taxpayer's reasonable control.

24 (a) As prescribed by the department, grounds for approving the waiver  
25 include, but are not limited to, circumstances in which the taxpayer, the owner, or  
26 an officer of the business, or the taxpayer's accountant or bookkeeper, does not:

27 1. Currently file information or data electronically with any

1 business or government agency; or

2 2. Have a compatible computer that meets or exceeds the  
3 department's minimum standards.

4 (b) The department shall accept other reasons for requesting a waiver from  
5 the requirement to submit a return by electronic means, including, but not limited  
6 to:

7 1. That the taxpayer needs additional time to program his or her computer;

8 2. That complying with this requirement causes the taxpayer financial  
9 hardship; or

10 3. That complying with this requirement conflicts with the taxpayer's  
11 business procedures.

12 (c) The department may establish by rule the length of time a waiver is valid  
13 and may determine whether subsequent waivers will be authorized, based on the  
14 provisions of this subsection.

15 **Section 2. Severability.** *If* any provision of this Law or its application to any  
16 person or circumstance is found to be invalid or contrary to law, such invalidity shall  
17 *not* affect other provisions or applications of this Law which can be given effect  
18 without the invalid provisions or applications, and to this end the provisions of this  
19 Law are severable.