

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

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Bill No. 470-31(LS)

Introduced by:

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AN ACT TO AMEND § 50103 OF CHAPTER 50 OF
DIVISION 2, TITLE 11 GUAM CODE ANNOTATED
RELATIVE TO THE INCOME TAX REFUND RESERVE
FUND.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent: I Liheslaturan Guåhan finds
3 that the processing of income tax returns is prioritized pursuant to the date of
4 filing by individual taxpayers. Accordingly, the priority of payments should
5 be for obligations owed to the people of Guam. The timely payment of income
6 tax returns is proper and should be an area of concern for the government of
7 Guam.

8 The Income Tax Efficient Return Fund requires a set aside for each
9 subsequent tax year – in this instance, for tax year 2012 – regardless of current
10 or past due tax liabilities, monies are accruing subject to provisions of law.
11 These funds shall be deposited to the Income Tax Reserve Fund as requested
12 by the Tax Commissioner as 2012 income tax returns are filed and become
13 due.

1 The estimated liability of the government of Guam for the current 2011
2 tax year has been pegged at \$105 million. Recent success secured millions in
3 Guam Bond proceeds, of which \$60 million will be dedicated to the
4 drawdown of the 2011 tax obligation. Still, for TY 2011 an estimated \$45
5 million shortfall will remain. This does not include recent filings of TY 2010
6 and prior years' claims and also does not include TY 2010 and prior years' "E"
7 and "S" status claims that have since been converted to A Status. This amount
8 is estimated to be \$22 million. However, if the Administration is authorized to
9 utilize the monies available in the Income Tax Efficient Return Fund, which as
10 reported by the Department of Administration, reflects a set aside of \$33
11 million as of May 2012, the government of Guam will be able to satisfy a total
12 of \$93 million in tax refund liabilities. Dedicating these monies to the 2011 and
13 prior years' tax burden will further lessen the estimated amount owed by our
14 government, provide a boost to our island economy and return, without
15 delay, the people's money.

16 It is the intent of *I Liheslaturan Guåhan* to ensure that any reserves
17 intended for a subsequent tax year be made available in order to ensure that
18 any current or past due obligation is first settled. Reconciling the annual
19 obligations of tax refunds owed to the people of Guam should be completed
20 each year and any reserve in the Income Tax Efficient Return Fund may be
21 made available for this purpose.

1 **Section 2.** Sub section 50103 of Chapter 50 of Title 11 of the Guam Code
2 Annotated is hereby amended.

3 “§ 50103. **Formula for Reserve Funds for Income Tax Refunds, Earned**
4 **Income Tax Credits, and Child Tax Credits.**

5 Each year, the Director of Revenue and Taxation, in consultation with
6 the Director of Administration and the Director of the Bureau of Budget and
7 Management Research, shall establish a formula for reserving income tax
8 receipts to pay income tax refunds, earned income tax credits, and child tax
9 credits. Such formula shall be derived from the statistical average of income
10 tax refunds, earned income tax credits, and child tax credits issued in the
11 previous three (3) years, and shall further provide for reserving income tax
12 receipts, on a percentage basis, in order to accumulate sufficient cash reserves
13 to pay projected income tax refunds, earned income tax credits, and child tax
14 credits in a timely manner, notwithstanding any other provision of law, such
15 cash receipts may be used to pay for *prior years'* income tax refunds, earned
16 income tax credits, and child tax credits.”