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I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN

THIRTY-THIRD GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

May 4, 2015

The Honorable Edward J.B. Calvo
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill Nos. 32-33(COR), 56-33(COR), 58-33(LS), 59-33(COR), 60-33(COR) and 62-33(LS); and Substitute Bill Nos. 14-33(COR), 52-33(COR) and 66-33(COR), which were passed by *I Mina'Trentai Tres Na Liheslaturan Guåhan* on May 1, 2015.

Sincerely,

TINA ROSE MUÑA BARNES
Legislative Secretary

Enclosure (9)

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I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 60-33 (COR), "AN ACT TO REPEAL AND REENACT CHAPTER 11 OF TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM TAX COMMISSION," was on the 1st day of May 2015, duly and regularly passed



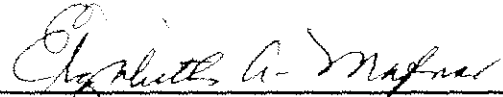
Judith T. Won Pat, Ed.D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 4th day of May,
2015, at 4:15 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 60-33 (COR)

As amended by the Committee on Finance & Taxation,
General Government Operations, and Youth Development;
and further amended on the Floor.

Introduced by:

Michael F.Q. San Nicolas
B. J.F. Cruz
T. C. Ada
N. B. Underwood, Ph.D.
Mary Camacho Torres
James V. Espaldon
V. Anthony Ada
Frank F. Blas, Jr.
FRANK B. AGUON, JR.
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
R. J. Respicio
Dennis G. Rodriguez, Jr.
Judith T. Won Pat, Ed.D.

**AN ACT TO *REPEAL* AND *REENACT* CHAPTER 11 OF
TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO
ESTABLISHING THE GUAM TAX COMMISSION.**

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

2 **Section 1. Short Title.** This Act *shall* be cited as the “Guam Tax
3 Commission Act.”

4 **Section 2. Creation of the Guam Tax Commission.** Chapter 11 of Title
5 2, Guam Code Annotated, is hereby *repealed* and *reenacted* to read:

1 "CHAPTER 11

2 GUAM TAX COMMISSION

3 § 11101. Legislative Findings and Intent.

4 § 11102. Creation.

5 § 11103. Definitions.

6 § 11104. Membership.

7 § 11105. Subcommittees.

8 § 11106. Duties.

9 § 11107. Authority.

10 § 11108. Administration.

11 § 11109. Dissolution.

12 § 11110. Severability.

13 **§ 11101. Legislative Findings and Intent.**

14 *I Liheslaturan Guåhan* finds that since 1950, under the Organic Act of
15 Guam, the government of Guam has administered a Guam Territorial
16 Income Tax which mirrors the U.S. Federal Income Tax (48 USC
17 §1421i(a)). The Organic Act further provides under §1421i(a) that, in
18 addition to the mirror tax, the Legislature of Guam is authorized to "levy a
19 separate tax on all taxpayers in an amount not to exceed 10 per centum of
20 their annual income tax obligation to the Government of Guam."

21 *I Liheslaturan Guåhan* further finds that in the Tax Reform Act of
22 1986 (Public Law 99-514: §1271), the United States Congress authorized the
23 government of Guam to "[enact] laws (which shall apply in lieu of the
24 mirror system) with respect to income - (1) from sources within, or
25 effectively connected with the conduct of a trade or business within, any
26 such possession, or (2) received or accrued by any resident of such
27 possession." In order to implement this section of law, an implementing

1 agreement must be in effect between the United States and Guam. Such an
2 agreement was drafted and signed by the Governor of Guam, the Director of
3 Revenue and Taxation and the Assistant Secretary of the United States by
4 April 5, 1989, but is not in effect pursuant to Public Law 20-181. Once such
5 an agreement is entered into and a local tax code is created, revenue,
6 adjusted for inflation, *shall not* be less than what was received by Guam the
7 fiscal year preceding the implementation year.

8 *I Liheslaturan Guåhan* finds that the government of Guam has
9 implemented a number of taxes to provide revenue. These taxes include the
10 Documents Tax found in 11 GCA, Chapter 20; the Annual Excise and
11 Admission Taxes found in 11 GCA, Chapter 22; the Real Property Tax
12 found in 11 GCA, Chapter 24; the Business Privilege Tax found in 11 GCA,
13 Chapter 26, Article 2; the Alcoholic Beverage Tax found in 11 GCA,
14 Chapter 26, Article 3; the Liquid Fuel Tax found in 11 GCA, Chapter 26,
15 Article 4; the Automotive Surcharges found in 11 GCA, Chapter 26, Article
16 5; the Tobacco Tax found in 11 GCA, Chapter 26, Article 6; the Use Tax
17 found in 11 GCA, Chapter 28; and the Hotel Occupancy Tax found in 11
18 GCA, Chapter 30.

19 *I Liheslaturan Guåhan* finds that Governor Ricardo J. Bordallo
20 established a Guam Tax Advisory Committee, pursuant to Executive Order
21 1986-09; that Governor Joseph F. Ada established the Guam Tax Reform
22 Commission in Executive Order 87-6; and that Governor Felix P. Camacho
23 established the Tax Conversion and Reform Commission in Executive Order
24 2003-04. Each of these commissions were formed to review and propose
25 changes to Guam's tax structure and/or policies.

26 *I Liheslaturan Guåhan* further finds that a number of commissions
27 were established through legislative mandates to review and make

1 recommendations on tax policy, including the Guam Tax Code Commission
2 established by Public Law 20-181; the Guam Finance Commission
3 established by Public Law 22-74; and the Legislative Tax Review
4 Commission established by Public Law 27-56.

5 *I Liheslaturan Guåhan* finds that the Legislative Tax Review
6 Commission and the previous commissions served a useful role in allowing
7 policymakers and interested members of the community to review the tax
8 structure and policies on Guam and develop proposals for their reform.
9 Efforts at reforming Guam’s tax system must continue. Systematically
10 reviewing the major components of Guam’s tax code with members of the
11 community can grant policymakers the ability to focus on the larger picture
12 of what a reformed tax code can deliver for the people of Guam. A
13 systematic review would cover not only provisions that narrowly affect a
14 few businesses or a particular industry, but also how the code is structured to
15 promote economic efficiency, equity, simplicity, enforceability,
16 accountability, and social responsibility.

17 It is, therefore, the intent of *I Liheslaturan Guåhan* to establish the
18 Guam Tax Commission to improve Guam’s tax structure and policies,
19 thereby promoting economic efficiency, equity, simplicity, enforceability,
20 accountability, and social responsibility.

21 **§ 11102. Creation.**

22 There is hereby created a Guam Tax Commission, which *shall* have
23 the duties and powers as prescribed by the provisions of this Chapter.

24 **§ 11103. Definitions.**

25 As used in this Chapter, unless the context in which they are used
26 requires a different meaning:

- 27 (a) *Commission* means the Guam Tax Commission.

1 (b) *Chairperson* means the chairperson of the Commission.

2 **§ 11104. Membership.**

3 (a) Members. There *shall* be ten (10) members of the Commission,
4 which are:

5 (1) the chairperson of the committee of *I Liheslaturan*
6 *Guåhan* with jurisdiction over tax policy matters, or his/her designee
7 from among the Members of *I Liheslaturan Guåhan*, who *shall* serve
8 as Chairperson of the Commission;

9 (2) the chairperson of the committee of *I Liheslaturan*
10 *Guåhan* with jurisdiction over budgetary matters or, if such
11 chairperson also has jurisdiction over tax policy matters, then the
12 Speaker of *I Liheslaturan Guåhan shall* designate a member of the
13 majority to serve, who *shall* serve as Vice Chairperson;

14 (3) the minority leader of *I Liheslaturan Guåhan* or his/her
15 designee;

16 (4) an economist, selected by the Chairperson, with a
17 master's degree or doctorate in economics from an institution of
18 higher learning accredited by an accreditation agency recognized by
19 the U.S. Secretary of Education;

20 (5) a Certified Public Accountant selected by the
21 Chairperson from among three (3) names submitted by the Guam
22 Society of Certified Public Accountants of currently licensed Certified
23 Public Accountants in good standing with the Guam Board of
24 Accountancy;

25 (6) a banking professional selected by the Chairperson from
26 among three (3) names submitted by the Guam Bankers Association;

1 (7) a member selected by the Chairperson from the names of
2 among three (3) active members submitted by the Chamber of
3 Commerce;

4 (8) a member selected by the Chairperson from among the
5 names of three (3) active members submitted by the Women's
6 Chamber of Commerce;

7 (9) an attorney specializing in tax laws selected by the
8 Chairperson from among three (3) names submitted by the Guam Bar
9 Association; and

10 (10) an individual designated by *I Maga'lahaen Guåhan*.

11 (b) Ex Officio Members. The Commission *shall* have ex officio
12 members, which are:

13 (1) the Guam Congressional Delegate, or his/her designee;

14 (2) the Speaker of *I Liheslaturan Guåhan*;

15 (3) the Public Auditor;

16 (4) the Attorney General;

17 (5) the Director of the Department of Revenue and Taxation;

18 (6) the Director of the Department of Administration;

19 (7) the Director of the Bureau of Budget and Management
20 Research;

21 (8) the Administrator of the Guam Economic Development
22 Authority;

23 (9) the Chief Economist of the Guam Department of Labor
24 and/or the Bureau of Statistics and Plans; and

25 (10) additional individuals appointed by the Chairperson who
26 may provide expertise and knowledge relative to the Commission's
27 duties.

1 (c) The Chairperson *shall*, within thirty (30) days, solicit the
2 selection of three (3) names from each organization listed in items (5), (6),
3 (7), (8), and (9) of Subsection (a) of this Section to serve on the
4 Commission. The Chairperson *shall* appoint an individual from the three (3)
5 names provided by each such organization at his/her earliest convenience.

6 (d) Commission members shall receive no compensation but may
7 be reimbursed by *I Liheslaturan Guåhan* for actual expenses incurred in the
8 performance of their duties, subject to submission of documentation by the
9 Chairperson and approval by the Chairperson of the Committee on Rules of
10 *I Liheslaturan Guåhan*.

11 (e) Each member appointed to serve in the Commission *shall* serve
12 from the date of appointment until the Commission is dissolved pursuant to
13 §11109 of this Chapter. If any vacancy occurs in the appointed membership
14 of the Commission prior to the dissolution of the Commission pursuant to
15 §11109 of this Chapter, the appointing authority *shall* appoint such
16 replacement members in accordance with this Section, and *shall* serve until
17 the Commission is dissolved pursuant to §11109 of this Chapter, except that
18 if the vacancy is of an individual selected by an organization pursuant to
19 Items (5), (6), (7), (8), or (9) of Subsection (a) of this Section, then one (1)
20 of the remaining individuals selected *shall* be appointed to serve until the
21 Commission is dissolved pursuant to §11109 of this Chapter.

22 **§ 11105. Subcommittees.**

23 The Chairperson *shall* establish such subcommittees as deemed
24 appropriate to facilitate the work of the Commission. The Chairman *shall*
25 select members and appoint a chairperson to any subcommittee formed
26 pursuant to this Section.

1 **§ 11106. Duties.**

2 The Commission *shall*:

3 (a) compile the records and work products of previous
4 commissions, to include the commissions formed under Executive Orders
5 1986-09, 1987-06, and 2003-04; and Public Laws 20-181, 22-74, and 27-56;

6 (b) review Guam's tax structure and tax policies, including tax
7 exemptions and credits, which may include a comparative analysis of such
8 policies in relation to other jurisdictions within the United States;

9 (c) review the procedure and policy options available to the
10 government of Guam with regard to de-linking from the U.S. Internal
11 Revenue Code under §1271 of Public Law 99-514;

12 (d) review estimates of the fiscal impact of potential changes to
13 Guam's tax structure and policies;

14 (e) develop informational reports and/or recommendations
15 regarding Guam's tax structure and tax policies, procedure and policy
16 options available to the government of Guam with regard to de-linking from
17 the U.S. Internal Revenue Code as deemed appropriate by the Commission,
18 and the fiscal impacts of potential changes to Guam's tax structure and
19 policies;

20 (f) develop a uniform tax code for Guam; and

21 (g) transmit a copy of any such reports and/or recommendations as
22 adopted by the Commission regarding tax policy to *I Maga'lahaen Guåhan*
23 and the Speaker of *I Liheslaturan Guåhan*.

24 **§ 11107. Authority.**

25 Government of Guam agencies and departments, including
26 autonomous entities, *shall* make available to the Commission in a timely

1 manner such data and technical support as is necessary for it to perform its
2 duties as provided in this Chapter. The Commission *shall* be authorized to:

3 (a) receive and compile the records and work products of previous
4 tax commissions from agencies and instrumentalities of the government of
5 Guam, to include the tax commissions formed under Executive Orders 1986-
6 09, 1987-06, and 2003-04; and Public Laws 20-181, 22-74, and 27-56;

7 (b) request and receive reports from the Department of Revenue
8 and Taxation relating to the application of provisions of Guam's tax law, to
9 include the tax laws under Title 11 of the Guam Code Annotated, and the
10 Guam Territorial Income Tax administered under Title 48 U.S.C. §1421i,
11 including the use of tax exemptions, tax deductions, and tax credits by Guam
12 taxpayers;

13 (c) receive copies of and review such documents as exist in the
14 government of Guam relating to de-linking from the U.S. Internal Revenue
15 Code under §1271 of Public Law 99-514;

16 (d) communicate with the U.S. federal government regarding
17 Guam's tax system, relevant domestic and international tax laws, tax
18 treaties, and tax agreements which may bear upon the present and future
19 relationship between the United States and Guam relative to taxes, and
20 propose modifications of such tax laws, tax treaties, and tax agreements
21 which may benefit Guam's economy and/or government;

22 (e) communicate with the U.S. Department of Treasury with regard
23 to the issue of de-linking from the U.S. Internal Revenue Code under §1271
24 of Public Law 99-514, to ascertain the procedure and guidelines that should
25 be followed for such a policy change and the impacts to local and federal tax
26 authority from such a policy change;

1 (f) request and receive estimates from the Department of Revenue
2 and Taxation and/or the Bureau of Budget and Management Research of the
3 fiscal impact of potential changes to Guam's tax structure and policies;

4 (g) examine any document, report or data, including programs and
5 data files, held by any agency or instrumentality of the government of
6 Guam, which agencies are required to cooperate with the Commission and
7 its employees in any such examination, except as provided by United States
8 and Guam law regarding the confidentiality of specific tax return
9 information;

10 (h) to issue subpoenas, to compel attendance of witnesses and the
11 production of electronic and/or physical books, records, papers, accounts,
12 reports, and documents, as necessary to achieve the mandates of the
13 Commission, which *shall* be provided in such a manner as to ensure the
14 confidentiality of specific tax return information as protected by United
15 States and Guam law;

16 (i) administer oaths relative to testimony and documents provided
17 to the Commission;

18 (j) meet from time to time, as determined by the Chairperson, to
19 execute its duties; and

20 (k) solicit information and advice from various sources on the
21 present tax structure and recommended changes, which may include local
22 and national non-governmental organizations, and agencies of the
23 government of Guam.

24 **§ 11108. Administration.**

25 For administrative purposes, clerical support and necessary funding,
26 the Commission *shall* be accommodated as necessary by *I Liheslaturan*
27 *Guåhan*. Should data and technical support necessary to accomplish its

1 duties as provided in this Chapter be unavailable from government of Guam
2 entities and/or personnel, *I Liheslaturan Guåhan* may enter into contractual
3 agreements with private consultants as it deems necessary to perform those
4 duties, giving preference to those currently licensed to do business on Guam.
5 *I Liheslaturan Guåhan shall* approve the funding of the Commission
6 consistent with its Standing Rules.

7 **§ 11109. Dissolution.**

8 The Commission may be reconstituted and *shall* be reconvened by the
9 chairperson in the following legislative term, pursuant to §11104 of this
10 Chapter.

11 **§ 11110. Severability.**

12 If any provision of this Chapter or its application to any person or
13 circumstance is found to be invalid, or contrary to law, such invalidity shall
14 not affect other provisions or applications of this Chapter which can be
15 given effect without the invalid provision or application, and to this end the
16 provisions of this Chapter are severable.”

17 **Section 3. Effective Date.** This Act *shall* be effective upon enactment,
18 except that, for the current Guam Legislature, the chairperson of the committee of *I*
19 *Liheslaturan Guåhan* with jurisdiction over tax policy matters *shall* designate the
20 Chairperson of the Commission pursuant to §11104(a)(1) of Chapter 11, Title 2
21 GCA, as reenacted in Section 2 of this Act, within ninety (90) days of the
22 enactment of this Act.