

TESTIMONY ON BILL 593
September 02, 1993
Page 7

from the sale of materials and for the construction expenses incurred in the development of new housing units by the Beneficiary, after the issuance of a Qualifying Certificate for that activity. Units developed by the Beneficiary shall be for the purpose of providing housing to the resident population of the Territory to be eligible under this Section."

We further suggest deleting the last sentence of Section 2418.6.

As we attempt to rebound from our present economic decline, we have to seriously consider other factors such as the competition from the many other areas such as Bali, Okinawa, the Philippines and Vietnam for Asian investments and from Puerto Rico and the Virgin Islands for U.S. investments. This Program simply attempts to provide an equal playing field on the international investment market.

Serious consideration must be given to the tourism markets coming from Taiwan and Korea. If these markets are to grow then the need exists to entice, through the Qualifying Certificate Program, hotel developers from these countries to build the facilities necessary to cater to these specific groups. Rather than restricting the Program's latitude and flexibility, language as contained in Bill 593 specifically directs GEDA as to what factors should be considered in granting benefits and allows GEDA the ability to direct and redirect resources to those sectors in which they would be most beneficial to our growing community.



TESTIMONY ON BILL 593
September 02, 1993
Page 8

In closing we urge this Committee to adopt Bill 593 into law as soon as possible and re-arm the Territory in its attempt to stimulate future economic growth.

In addition to the re-structuring of the Qualifying Certificate Program, the Authority, as directed by the Governor, is identifying methods of streamlining processes that will facilitate economic growth, while still safeguarding our environment, assuring building code compliance and compatible land use. A sincere attempt is being made to develop clear objective requirements which developers must comply with, and deadlines for government agencies to meet in their review process for development applications. These changes are being reflected in the new Land Use Plan currently being developed and in amendments to other permitting statutes and regulations that will be coming before this Legislature in the near future. We ask that you consider and support these initiatives which promote the managed growth of our Territory.

Thank you for the opportunity to allow me to express the Authority's perspective on Bill 593. Should there be any questions regarding our testimony, I am more than happy to respond.

Respectfully submitted,



CHARLES P. CRISOSTOMO
Administrator



TESTIMONY

Bill 593 - An Act Relative to the Qualifying Certificate Program Granted by the Guam Economic Development Authority

Mr. Chairman, members of the Committee on Economic-Agriculture Development and Insurance, my name is Allen A. Pickens, Managing Director of KPMG Peat Marwick Micronesia, P.C. I am here to testify in favor of Bill 593 relative to the Qualifying Certificate (QC) Program administered by the Guam Economic Development Authority (GEDA).

Our community is in the midst of a recession driven by acts of God and global economic conditions. We will recover from the former much faster than the latter.

The economies of destination resorts are subject to business cycles just as are other communities. Guam has seen two such cycles in the past 30 years; (1) the upturn in the late 60's and early 70's followed by the downturn from 74 through 84 and, (2) the upturn in 85 to 91 followed by the current downturn. We can ill afford a downturn of the duration experienced in the 74 to 84 period. Immediate and decisive action is necessary to limit the extent of the current recession.

Any student of economics will tell us that capital is a necessary component of the growth equation. Further, an economy, like a business, grows or fails. Guam is a net consumer rather than a generator of capital. In order for Guam to grow, a continuing stream of investment capital from outside is required.

In our business, we have the opportunity to meet with representatives of prospective investors on a regular basis. These representatives are tasked with measuring the return which might be realized on a given capital investment. Today we have an investor's market. He is offered myriad opportunities and incentives. It is not a level playing field.

If Guam is to be successful in attracting needed new capital, it must provide attractive incentives. Further, it must discontinue the habit of changing the rules after an investor has committed to a project and fulfilled their portion of the agreement.

Having expressed a strong desire for the passage of Bill 593, we must point out several technical matters which should be addressed before the Bill becomes Law:

- (1) Section 2406 is too restrictive. Capital infusion alone may be enough to warrant the issuance of a QC. The establishment of a support entity may also warrant a QC (examples might include technical medical support, unique engineering in support of off-shore mining, biotechnology research, etc.).
- (2) Section 2410.4 opens the possibility of questions every time there is a personnel action; i.e., was it done to allow for continued employment of a non-citizen? How would "resident employee" be defined? If tax definition is used, the section has virtually no meaning as the vast majority of not-citizen employees are classified as resident aliens for income tax purposes. I believe the concern of protecting the Guam workforce is adequately dealt with at Section 2410.2.
- (3) Section 2411. How will "participation" be defined? Does it require the provision of student(s), scholarship(s), teachers(s) or advisor(s)? Must the "participant" be an employee? Must they be "local"? What if the University program is canceled or provides no meaningful training? Who will be in a position to measure the value of the University program?
- (4) Section 2422, line 5 has a typographical error - "employment date" should be "employment data".
- (5) Section 2418.6. What is the purpose of this section? There is no gross receipts tax on real estate transactions under current law.
- (6) The QC enabling legislation provided GEDA with the authority to propose abatement of GRT in general. We now have several specific areas where such abatement is authorized but no general abatement authority. The current approach unnecessarily narrows the incentive tools available to GEDA.
- (7) Section 2419.4 limits rebates on dividends to dividends on current year earnings. This will prove unwieldy. Most often dividends are declared after the end of a fiscal period when the financial results are known. It would be more appropriate to provide the rebate on dividends paid pursuant to earnings from any and all years covered by the QC.

- (8) Section 2423.2 provides for filing of a Certificate of Compliance with the tax returns filed in support of abated taxes (note that this section does not address income taxes which are rebated). This won't work. The taxes which may be abated include gross receipts tax and real property tax. Gross receipts tax returns are filed each month while real property taxes are paid twice each year. The Certificate of Compliance is issued annually at a point well after the filing of gross receipts tax returns and the due dates for paying the real property taxes.

In conclusion, the passage of Bill 593 is very necessary if Guam is to remain competitive with other locations in attracting investment capital.

A handwritten signature in black ink, appearing to be 'A. A. P.', written in a cursive style.



JOSEPH F. ADA
Governor

FRANK F. BLAS
Lieutenant Governor

DEPARTMENT OF

REVENUE & TAXATION

GOVERNMENT OF GUAM

JOAQUIN G. BLAZ, Director • V.M. CONCEPCION, Deputy Director

OK
due in
bill file
SEP 03 1993



Senator Ben Pangelinan
Chairman
Committee on Economic-Agricultural
Development and Insurance
22nd Guam Legislature
Agana, Guam

Dear Mr. Chairman:

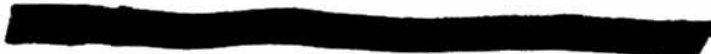
While I received no written invitation to testify on Bill 593, I feel that your committee should hear my concerns on the bill.

I see no need to lift the moratorium on extending the rebate program to hotels. Occupancy rates at all hotels are now at an all-time low. I see no need to provide incentives to increase available rooms while established hotels here in Guam suffer low occupancy.

The industry talks of sixty to sixty-five percent occupancy at best in the coming months and perhaps years. Let us work to make the existing industry healthy again before we encourage new hotels to come and share the misery. Once the industry is healthy again, that in and of itself will make the investment atmosphere incentive enough for other entrepreneurs to invest in new hotels here in Guam.

I applaud Sections 18 and 26 of the bill. I have fought hard in the past to preserve the integrity of the rebate program by insisting that the beneficiary be the sole entity to benefit from the rebate certificate. The Government of Guam through the Guam Economic Development Authority must be the sole judge of which businesses it wishes to benefit. We must not allow this prerogative to be exploited by the beneficiaries.

As you may know I have become embroiled in this legal controversy of the transfer of benefits. I have also fought to keep the benefits limited to those activities enumerated on the certificate. I am heartened by this effort to solidify the positions which I have espoused.



Fax: (671) 472-2643

I have in the past and shall continue to oppose any measure that seeks to reduce the tax base. I am dead set against all the sections of this bill that allow for an abatement of the gross receipts tax. There are already far too many exemptions in the gross receipts tax law as it is. There is an exemption for sales of real property by developers, sales of personal property to the Government of Guam, manufacturers and wholesalers exemptions. Why allow an abatement of these taxes when these incomes are already exempt? I implore you to rid this bill of language that abates the gross receipts tax.

Finally, I must comment on Section 6 which seeks to keep rebated or abated profits on Guam. This measure should be passed without question. The establishment of this particular measure solidifies the working partnership of the program beneficiary and the People of Guam. In fact all of Section 6 should have been part of the GEDA program from its inception. I congratulate the authors of this provision for recognizing the deficiencies of the program in the area of local benefit.

I am in favor of the bill with the exceptions I have pointed out.

Thank You.

SINCERELY,



JOAQUIN G. BLAZ

Agassi works too fast for new coach

NEW HAVEN, Conn. (AP) — Andre Agassi made quick work of Kelly Evernden 6-0, 6-3 in the first round of the Volvo International, perhaps a little too quickly in the opinion of new coach Pancho Segura.

Segura would have preferred Agassi take advantage of the easy match to work on parts of his game like the serve and volley. Instead Agassi battered Evernden into submission from the baseline, winning the first eight games in a match that lasted only 46 minutes — plus a brief 10-minute rain delay.

"I wanted him to come in behind the ball more and serve and volley. Today he did that only once," Segura said.

Agassi, who fell from the top 20 in the international rankings for the first time in five years because of a wrist injury in the spring, agreed it would have been a good match to work on his game if show-

TENNIS

ers weren't forecast.

"Any time you have threatening weather like this you just want to get the match over with," Agassi said.

Only five matches were completed on Monday and Tuesday's play was delayed a half-hour by rain. But all 19 singles matches were played as scheduled and most of the doubles matches were also completed.

Five seeded players were beaten Tuesday: No. 9 Arnaud Boetsch, No. 12 Marc Goellner, No. 14 Richard Fromberg, No. 15 Jan Siemerink and No. 16 Carl-Uwe Steeb. Aside from No. 10 Agassi, the only seeded players to advance were No. 11 Marc Rosset and No. 13 Jonas Svensson.

Mats Wilander, playing in only his second ATP tournament in two years, also

lost, beaten by Buff Farrow 2-6, 7-5, 6-4.

Austin stops Keller

TORONTO — Tracy Austin, playing in a tournament she won 12 years ago, took another step in her comeback with a 7-5, 6-2 victory over Audra Keller in the first round of the Matinee Ltd. Canadian Open.

Austin, a two-time U.S. Open champion who has won nearly \$2 million, has been beset by assorted back injuries through the years and a broken leg from a car accident in 1989.

Minor successes this year and a pair of victories last week at the Virginia Slims of Los Angeles have given her renewed confidence. She is now in the rankings for the first time in 10 years, at No. 159.

In second-round matches, Jennifer Capriati, the No. 6 seed and 1991 Canadian Open champion, advanced with a 6-2, 6-1 victory over Chanda Rubin, and No.

15 Naoko Sawamatsu of Japan won the last 12 games en route to a 7-5, 6-0 decision over Canada's Patricia Hy.

In other first-round matches, Leila Meakhi of Georgia defeated Rene Simpson-Alter of Canada 6-3, 6-4; No. 7 Anke Huber of Germany beat Brenda Schultz of the Netherlands 6-3, 6-0; and No. 8 Manuela Maleeva-Fragniere of Switzerland topped Ruzandra Dragomir of Romania 7-5, 6-4.

No. 9 Helena Sukova of the Czech Republic stopped Noelle van Lottum of France 6-3, 6-3; No. 14 Katerina Maleeva of Bulgaria defeated Natalia Medvedeva of Ukraine 6-1, 6-4; No. 16 Lori McNeil beat Elena Likhovtseva 6-1, 7-5; No. 17 Natalia Zvereva of Belarus dropped Rachel McQuillan of Australia, 6-2, 2-6, 6-1; and No. 18 Miriam Oremans of the Netherlands downed Meredith McGrath 6-4, 6-1.



GENERAL SERVICES AGENCY
GOVERNMENT OF GUAM

BID INVITATION

BID NO. DPW072-93

FOR: **Heavy Duty Steel Desks, Chairs Bookcase and Filing Cabinets(NEW).**

OPENING

DATE: **SEPT. 03, 1993** TIME: **10:00 A.M.**

PLACE: **GENERAL SERVICES AGENCY PITI, GUAM**

INTERESTED PARTY MAY PICK UP BID FORMS/SPECIFICATIONS AT SAID PLACE

LORENZO C. AFLAGUE
Chief Procurement Officer

GOVERNOR JOSEPH F. ADA
LT. GOVERNOR FRANK F. BLAS



INVITATION TO BID

Sealed bids in duplicate for the Renovation of Building B, Phase II, Project No. 200-5-1036-L-TAM will be received at the Contracts Administration Section Office, Department of Public Works, Government of Guam, until 2:00 p.m., September 3, 1993. Bids will be publicly opened and read aloud shortly afterwards in the Division of Highways Conference Room located in Building "B", Department of Public Works.

Contract time is one hundred Twenty (120) calendar days. All bids must be accompanied by bid security in the amount of 15% of the total bid amount. Bid security may be bid bond, certified check or cashier's check made payable to the Treasurer of Guam. A non-refundable amount of Fifty Dollars (\$50.00) payable to the Treasurer of Guam is required as payment for each set of Invitation for Bids documents which can be secured from Contracts Administration Section, Department of Public Works, Tumon Guam commencing on August 19, 1993. A receipt of payment should be obtained from the cashier no later than 2:30 p.m. at the Building Permits Section, Department of Public Works applying for the bid documents.

The Department of Public Works hereby notifies all bidders that it will affirmatively insure that in any contract entered into, pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color and national origin in consideration for an award.

The Department of Public Works reserves the right to reject any or all bids and to waive any imperfection in the bids in the interest of the Government of Guam.

A pre-bid conference has been scheduled on August 30, 1993 at 9:00 a.m. in the Division of Highways Conference Room located in Building "B", Department of Public Works. All prospective bidders are requested to be present.

/s/ Benigno M. Palomo
Director



Notice of Public Hearing

Committee on Economic-Agricultural Development & Insurance

9:00 am, Thursday, August 26, 1993
Public Hearing Room
Guam Legislature Temporary Building
155 Hester St. Agana, Guam

• AGENDA •

• Department of Agriculture
Proposed amendments to the Rules and Regulations for the Compensation to Farmers for Crop Damages Program.

• Bill 593 an act to renumber and amend Article 4 of Chapter 2, Title 12 GCA, to revise the Qualifying Certificate Program of the Guam Economic Development Authority.

• Bill 569 an act to repeal and reenact Section 47137 of the Government Code and to add new sections 47143 thru 47147 to the Government Code relative to establishing Customs User Fees.

Chairman, Sen. Ben C. Pangliman invites the Public to attend.

"Y MANMIA' CUMBIBADA Y PUBLICO"



GUAM AIRPORT AUTHORITY

(ATURIDAT PUEITON BATKON AIREN GUAHAN)
P.O. Box 8770, Tamuning, Guam 96931 • Telephone: 646-0300, 646-0301, 646-0302
Fax: (671)646-8823

Invitation to Bid (Multi-Step Sealed Bidding)

PRODUCTION AND PRINTING OF GAA FY93 ANNUAL REPORT
Bid No. GAA-011-FY93

The Guam Airport Authority (GAA), an autonomous agency of the Government of Guam, is inviting interested production firms doing business on Guam to submit formal proposals for providing Production services to the Authority. These proposals will be received as part of a multi-step sealed bidding process as authorized by Section 3.202.18 of the GSA Procurement Regulations.

Phase I will consist of receipt and evaluation of unpriced offers for technical services. In general, the Phase I proposal should demonstrate the ability of the firm to perform and provide the services enumerated in the Scope of Work. Only those bidders found acceptable in Phase I will be invited to participate in Phase II of this Invitation to Bid.

Phase I documents are available for review and pickup in the GAA Administration Office located across the Old Terminal Building anytime between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding Holidays. Deadline for submission for Phase I of this bid process is **September 2, 1993 at 4:00 pm.**

If there are any questions relative to this notice, all interested parties are asked to contact Mr. Larry Rivera, Supply Management Administrator, at 646-0300 through 2 anytime during the same hours stated above.

/s/ Jess Q. Torres
Executive Manager

U.S. OPEN TOP CONTENDERS

WOMEN

STEFFI GRAFF: Since losing to Arantxa Sanchez Vicario in May at the Hamburg (Ger.-) Open, she has won the French Open and Wimbledon. She is heavily favored to win a third U.S. Open crown. Graf (57-9) has won seven titles this year, but the 24-year-old German's most impressive season is probably offset by the absence of wounded Monica Seles, 21.

MARTINA NAVRATLOVA: The four-time U.S. Open champion has reduced her schedule but not her desire or skills. At 36, she remains the most gifted champion on tour. She beat Graf at the Pan Pacific Open in Tokyo, U.S. at the Pan Indoors and completed the Virginia Slims of Los Angeles final. Navratlova has taken in love? Becker hasn't been to the French Open since 1979.

BORIS BECKER: Could it be because he's tough and tenacious, 3:1.

ANDRE AGASSI: It is because he has been on the lousy ball this year. The 25-year-old German started with a victory (Dorn), followed by a first-round loss at the Australian Open. He was bounced in the French Open second round and Wimbledon semifinals. He came out of it. Becker (30-12) might be the surviving star at the off-Broadway address - 4:1.

STEFAN EDERBERG: The quiet Swede had better make some noise pretty soon if he's to remain among the game's elite. This has been a tough year for the two-time defending champion, who has won one (Madrid) of 17 events. Ederberg (45-15) lost to Courier in the Australian Open final and Wimbledon semifinals.

FRANZISCA SCHUBERT: The 24-year-old German won't be ready to average that loss. 12:1.

GABRIELA SABATINI: With zero titles this year, it's the first time Sabatini has not won at least one event since turning pro in 1985. The Argentine, 23, was a finalist at Amelia Island, Fla. the Italian Open and German Open. She won the 1980 U.S. Open, her only grand slam title. 16:1.

MEN

PETE SAMPRAS: Most talented man in tennis recorded No. 1 last week while winning at Indianapolis. He has won five titles, including Australian Open, and reached the French Open and Wimbledon finals. Courier (51-9 record) rarely loses early-round matches and seldom loses because of a lack of effort.

JIM COURIER: Hardball-working man in sport to be realistic, 2:1.

MIKE CRICHTON: He's 8 ft, he's the ideal. Including Wimbledon, he's 8 ft, he's U.S. Open crown. Crichton (50-12) has won a U.S. Open crown. Sanchez (50-12) has won a U.S. Open crown. Sanchez (50-12) has won a U.S. Open crown. Sanchez (50-12) has won a U.S. Open crown.

Open: Agassi improved

Wimbledon has made some big improvements, said Agassi, who has gone back to his old full-swing serve instead of the tomahawk chop style he had used at Wimbledon while recovering from tennisitis in the winter. "I feel very confident about my game, my competitiveness," Agassi said. "I've been training with my great player and a private coach, Pancho Segura, a former great player and a pivotal figure in Jimmy Connors' career. The switch from longtime coach Nick Bollettieri has given Agassi more confidence and a stronger sense of what he should be doing on certain points.

"There's no question that since the Wimbledon Open, something I can count on as the match progresses."

... volleyball was introduced to the Olympics as a title competition in 1964, with Russia the first winner.

Notice of Public Hearing

Committee on Economic-Agricultural Development & Insurance

9:00 am, Thursday, September 2, 1993
Public Hearing Room
Guam Legislature Temporary Building
155 Hester St. Agaña, Guam

AGENDA

- Bill 16 an act to require insurance companies operating on Guam to provide liability insurance for all cars regardless of age, providing they pass the annual vehicle inspections.
- Bill 593 an act to renumber and amend Article 4 of Chapter 2, Title 12 GCA, to revise the Qualifying Certificate Program of the Guam Economic Development Authority.

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MEMBER & ASSOCIATE SURVEY

Electronic line-calling

The new Electronic Line is a system for identifying whether there's a "Y" or "N" during a tennis game. It works on the same principle as the standard decoder. TEL was originally used at the 1982 U.S. Open, but this is the first year the system will be used officially.

Reading the line
Arrives at the court
before the court
arrives at the court
presence of
decoder
displays
ball.

Reading the line
Because some players will not use the decoder, officials will work the line, though TEL will make the call.

Special tennis ball
Contains a small quantity of metal particles embedded in the rubber core. The particles detect the magnetic field above each line to produce an electronic signal. TEL records the ball's speed, angle and where it strikes the line.

Reading with a decoder
The TEL handset is a radio transmitter. The handset is a radio receiver. The handset is a radio transmitter. The handset is a radio receiver.

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session


~~Introduced~~

FEB 14 '94

Bill No. 868(LS)

Introduced by:

Committee on Economic,
Agricultural Development and
Insurance

V. C. Pangelinan

T. C. Ada

M. D. A. Manibusan

A. C. Blaz

H. D. Dierking

J. T. San Agustin

P. C. Lujan

F. E. Santos

F. P. Camacho

T. V. C. Tanaka

T. S. Nelson

J. P. Aguon

E. P. Arriola

M. Z. Bordallo

C. T. C. Gutierrez

D. Parkinson

E. D. Reyes

D. L. G. Shimizu

AN ACT TO AMEND ARTICLE 4 OF CHAPTER 2, TITLE
12, GUAM CODE ANNOTATED, TO REVISE THE TAX
ABATEMENT AND REBATE PROGRAM OF THE
GUAM ECONOMIC DEVELOPMENT AUTHORITY.

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

2 **Section 1. Legislative findings.** The qualifying certificate program
3 with its various abatement and rebates, as administered by the Guam
4 Economic Development Authority (the "Program") has been revised a number

1 of times since it was first established under a statute subsequently approved
2 by the United States Congress (See **Ramsey v. Chaco**, 549 F2d 1335). In order
3 for Guam to continue to achieve economic growth and diversification, and to
4 attract capital investments, financing institutions and programs, including
5 the Program, must keep pace with changes in the marketplace, in the local
6 labor supply, in employee training, and in investment practices.

7 It is the Legislature's intent to restructure the Program to provide
8 flexibility sufficient to address such changes in Guam's market conditions in
9 order to help stimulate the economy to achieve the island's socio-economic
10 goals and objectives.

11 **Section 2.** Article 4, Chapter 2, Title 12, Guam Code Annotated, is
12 amended to read as follows:

13 "Article 4. Qualifying Certificates

- 14 §2400. Legislative findings and intent.
15 §2401. Qualifying Certificate defined.
16 §2402. Beneficiary defined.
17 §2403. Benefits of a Qualifying Certificate.
18 §2404. Eligibility defined.
19 §2405. Promotion of general economic improvement.
20 2405.1. Employment.
21 2405.2. Replace imports.
22 2405.3. Price reduction.
23 2405.4. Needed facilities.
24 2405.5. Economic activity.
25 2405.6. Reinsurance.
26 §2406. Qualifying Certificate: issuance of.
27 §2407. Same: nature of; benefits.
28 §2408. Same: regulations.
29 §2409. Authority's findings on applications.
30 §2410. Conditions of benefits.
31 §2411. Grounds for suspension, rescission
32 or revocation.

1	§2412.	Hearing required.
2	§2413.	Retroactive suspension.
3	§2414.	License required.
4	§2415.	Conflicts of interest.
5	§2416.	Employment of United States citizens and
6		permanent residents.
7	§2417.	Same: work force.
8	§2418.	Same: wages.
9	§2419.	Same: trainees.
10	§2420.	Participation in training programs.
11	§2421.	Qualifying Certificate: non-transferable.
12	§2422.	Application for Qualifying Certificates.
13	§2423.	Monthly reports.
14	§2424.	Publication of all applications for
15		Qualifying Certificates.
16	§2425.	Notice of hearing on applications.
17	§2426.	Recommendations.
18	§2427.	Tax abatements.
19	2427.1.	Property taxes.
20	2427.2.	Rental of land, building or equipment.
21	2427.3.	Sale of alcoholic beverages.
22	2427.4.	Sale of petroleum products.
23	2427.5.	Insurance premiums.
24	§2428.	Tax rebates.
25	2428.1.	Income tax rebate.
26	2428.2.	Variable rates.
27	2428.3.	Determination of income.
28	§2429.	Taxability of abatements and rebates:
29		Legislative intent.
30	§2430.	Income tax rebate on dividends.
31	§2431.	Income tax rebates for the shareholders
32		of a "Subchapter S" corporation.
33	§2432.	Modification of tax benefits.
34	§2433.	Extended term.
35	§2434.	Acknowledgment of benefits by
36		Tax Commissioner.
37	§2435.	Procedure to claim abated and rebated taxes.
38	§2436.	Abatement of taxes.
39	§2437.	Rebate of tax.

1	§2438.	Rebate fund.
2	§2439.	Tax redetermination.
3	§2440.	Implementation by Tax Commissioner.
4	§2441.	Limited to government of Guam taxes.
5	§2442.	Investment of abated or rebated tax in Guam.
6	§2443.	Fees.
7	§2444.	Extraordinary costs.
8	§2445.	Periodic adjustment of fees.
9	§2446.	Rule-making authority.
10		

11 **§2400. Legislative findings and intent.** The Legislature recognizes
12 that the Qualifying Certificate program of the Guam Economic
13 Development Authority (the "Authority") was conceived as an economic
14 incentive tool to entice investors into Guam. In use for over two decades,
15 it has had substantial positive impact upon the economic development of
16 the territory, mainly in the tourist industry.

17 The Legislature finds that, today, new hotel construction, expansion
18 of existing ones, and development of resorts are occurring in response to
19 demands for additional lodging due to the ever-increasing numbers of
20 visitors to Guam and that government assistance in the form of tax rebate
21 and abatement benefits requires periodic assessment of the growth in this
22 section of Guam's business community.

23 Investment by foreign entrepreneurs continues to be major catalyst
24 for Guam's financial growth. The bulk of their interests, however, lies in
25 large-scale projects that mainly benefit other off-island investors,
26 transients mostly, and which also put undue pressure on the island's
27 infrastructure to expand and meet their needs, depleting rapidly Guam's
28 finite essential resources such as people, land and water. While the
29 territory acknowledges their contributions to the island's welfare in terms

1 of taxes, construction, and employment opportunities on the low end of
2 the pay scale, meaningful participation by people who live and work in
3 Guam, particularly in terms of ownership and joint ventures, has been
4 sorely lacking.

5 It is the Legislature's intent to restructure the Qualifying Certificate
6 program to assist U. S. citizen and permanent resident entrepreneurs in
7 establishing or expanding industries and services industries and services,
8 including those supportive of hotels and their guests, to diversify the island
9 economy, enrich its growth, and enhance the quality of life in Guam. The
10 Legislature affirms that the program must be expanded to attract
11 investments in order to diversify Guam's economy.

12 **§2401. Qualifying Certificate defined.** A "Qualifying Certificate" is
13 a contract valid for a given period of time, executed by the Governor upon
14 recommendation of the Authority, between the government of Guam and
15 the Beneficiary, which has qualified for certain tax rebates or tax
16 abatements or for both in return for meeting certain employment,
17 investment, and other requirements as described in this Article and in the
18 Qualifying Certificate.

19 **§2402. Beneficiary defined.** The recipient of a Qualifying Certificate
20 shall be known as a "Beneficiary".

21 **§2403. Benefits of a Qualifying Certificate.** A Qualifying Certificate
22 shall entitle the Beneficiary to tax rebates or tax abatements or both in
23 return for meeting the conditions and requirements prescribed by the
24 Authority in this Article and in the Qualifying Certificate.

25 **§2404. Eligibility defined.** A Qualifying Certificate shall only be
26 issued to the following entities:

1 Any trust, partnership, sole proprietorship, corporation formed
2 under the laws of Guam, or "possessions" corporation as defined in
3 §2406 of this Article, engaged, or about to engage in any of the
4 following activities:

- 5 1. Agriculture;
- 6 2. Aquaculture;
- 7 3. Mariculture;
- 8 4. Manufacturing;
- 9 5. Commercial fishing;
- 10 6. Services;
- 11 7. Tourism;

12 8. Improvement of real property for purposes which are
13 specifically determined by the Authority to be beneficial,
14 desirable, and necessary for the economic development of
15 Guam;

16 9. Captive insurance business as permitted by Chapter
17 VII, Title XXXIX, Government Code;

18 10. "Export trading company" as defined in §19500.21,
19 Title XX, Government Code, if the main office of the export
20 trading company is established on Guam.

21 **§2405. Promotion of general economic improvement.** No
22 Qualifying Certificate shall be issued unless the Authority finds that the
23 proposed activities of the Beneficiary shall promote the general economic
24 development of the territory by:

25 **2405.1. Employment.** Creation of employment; plus

26 **2405.2. Replace imports.** Replacement of imports; or

27 **2405.3. Price reduction.** Reduction in consumer prices; or

1 **2405.4. Needed facilities.** Creation of vitally needed facilities; or

2 **2405.5. Economic activity.** Creation of economic activity of value to
3 the territory; or

4 **2405.6. Reinsurance.** Increasing the availability of insurance
5 including reinsurance.

6 **§2406. Qualifying Certificate: issuance of.** A Qualifying Certificate
7 may be issued by the Governor of Guam upon the recommendation of the
8 Authority to any applicant that proposes to engage in an eligible business,
9 or to any applicant stockholder of such corporation holding a Qualifying
10 Certificate, and said corporation may be either a Guam corporation or a
11 duly organized "possessions corporation" limited to doing business in
12 Guam, as such "possessions corporation" is defined under Federal income
13 tax laws and regulations. Each Qualifying Certificate shall specifically
14 identify on its face each activity of the Beneficiary which is entitled to the
15 tax rebates or abatements set out in the Qualifying Certificate.

16 **§2407. Same: nature of; benefits.** A Qualifying Certificate, once
17 issued, shall be a contract between the government of Guam and the
18 Beneficiary, and the tax rebates or abatements or both set out in the
19 Certificate may not be curtailed, limited or impaired without the consent
20 of both parties by any subsequent act, except as provided herein. Once
21 issued and unless suspended, rescinded or revoked, a Qualifying
22 Certificate shall constitute conclusive evidence of entitlement to the tax
23 rebates or abatements or both set out on its face.

24 **§2408. Same: regulations.** The Authority shall adopt regulations
25 containing standards, criteria, and measures of investments for the
26 Qualifying Certificate applicant and describing the benefits to be derived
27 by the people of Guam in the issuance of Qualifying Certificates. Such

1 regulations shall include preference to be extended to applicants which
2 have a fifty-one percent (51%) or greater proportion of local ownership by
3 **bona fide** Guam residents, U. S. citizens or permanent residents. The
4 Authority shall recognize and take into consideration any and all
5 provisions of law and regulations administered by other government
6 entities that have review or approval authority over the eligible activity.
7 All of the regulations of the Authority shall be adopted in the manner
8 prescribed by the Administrative Adjudication Law.

9 **§2409. Authority's findings on applications.** In making its
10 recommendation to the Governor the Authority shall consider and make
11 specific findings on the following:

12 (a) The impact of the Beneficiary's proposed activities upon
13 established businesses and markets in Guam;

14 (b) The financial risks facing the Beneficiary in undertaking the
15 proposed activities;

16 (c) The location of the proposed activities;

17 (d) The importance of the proposed activities to the economy
18 of Guam and to the official economic policies of the government of
19 Guam, if any;

20 **§2410. Conditions of benefits.** In its recommendation of specific tax
21 benefits, the Authority shall consider the following as possible terms and
22 conditions to such benefits:

23 (a) **Percentage of investment.** Limiting the tax benefits to a
24 percentage of the capital investment in Guam to be made by the
25 Beneficiary;

26 (b) **Variable rate.** Varying the rate of tax benefits over the
27 term of the Qualifying Certificate;

1 (c) **Limitation on amount.** Limiting the tax benefits to a fixed
2 dollar amount;

3 (d) **Public investments.** Conditioning the tax benefits on the
4 Beneficiary's investing in or creating public improvements separate
5 from its proposed activities;

6 (e) **Local shareholders.** Requiring the Beneficiary to offer ten
7 percent (10%) or more of its corporate equity to qualified residents of
8 Guam on terms and conditions to be established by the Authority;

9 (f) **Profit-sharing, etc.** Requiring the Beneficiary to establish
10 profit-sharing and stock ownership programs and other similar
11 benefits for its employees;

12 (g) **Training.** Requiring the Beneficiary to (i) establish in-
13 house training programs or (ii) make contributions to an
14 independent training or scholarship fund; or

15 (h) **Local purchaser.** Requiring the Beneficiary to procure
16 services or products supplied by Guam-licensed vendors if the total
17 cost of the same does not exceed one hundred ten percent (110%) of
18 the cost of the same services or products available from off-island
19 vendors.

20 **§2411. Grounds for suspension, rescission or revocation.** A
21 Qualifying Certificate may be suspended, rescinded or revoked by the
22 Governor of Guam upon the recommendation of the Authority for the
23 following reasons:

24 (a) **Fraud.** Fraud or misrepresentation of any material
25 allegation in the application for such Certificate;

26 (b) **Noncompliance with Certificate.** Failure to comply with
27 any condition or obligation set out in the Certificate after having

1 been notified by the Authority in writing of such failure to comply and
2 after having been given by the Authority a reasonable period of time
3 within which to correct such failure;

4 (c) **Bankruptcy.** The filing by or against the Beneficiary of a
5 petition for bankruptcy;

6 (d) **Dissolution or death.** A finding by the Attorney General
7 that a corporate Beneficiary has been dissolved, that a partnership
8 Beneficiary has been dissolved, or that an individual Beneficiary has
9 died;

10 (e) **Noncompliance with laws and rules.** Failure to comply
11 with any provision of this Article or with the applicable rules and
12 regulations of the Authority.

13 §2412. **Hearing required.** No recommendation for suspension,
14 rescission or revocation of a Qualifying Certificate shall be made by the
15 Authority **except** after a hearing thereon pursuant to the provisions of the
16 Administrative Adjudication Law.

17 §2413. **Retroactive suspension.** The suspension, rescission or
18 revocation of a Qualifying Certificate may be retroactive to the time of the
19 act or omission giving use to the suspension, rescission or revocation or for
20 any shorter period recommended by the Authority.

21 §2414. **License required.** A Qualifying Certificate shall not be issued
22 to any applicant who has not first obtained a license to do business in
23 Guam.

24 §2415. **Conflicts of interest.** No employee or board member of the
25 Authority or their spouses and no corporation or any other legal entity in
26 which any employee, board member or counsel of the Authority, or their
27 spouses has any financial interest is eligible to apply for a Qualifying

1 Certificate. Neither shall any of the following, during their term of office
2 and for a period of one (1) year after their resignation, termination, or
3 completion of their term of office, directly or indirectly, qualify for a
4 Qualifying Certificate:

5 (a) Members of the Legislature and their spouses;

6 (b) Full-time employees of the executive branch of the
7 government of Guam, and their spouses, from the level of first
8 assistant to the agency director or chief executive and up;

9 (c) The Governor of Guam, the Lieutenant Governor and their
10 spouses;

11 (d) Employees of the Governor's Office and their spouses;

12 (e) Judges of the various courts of Guam and their spouses.

13 Any Qualifying Certificate issued in violation of this Section shall be
14 void **ab initio**.

15 **§2416. Employment of United States citizens and permanent**
16 **residents.** Every Qualifying Certificate shall include a requirement that
17 the Beneficiary shall submit a plan for a management training program for
18 the approval of the Authority. The plan shall establish a management
19 training program through which the Beneficiary shall have as managers
20 and officers residents of Guam who are United States citizens or
21 permanent residents of the United States.

22 **§2417. Same: work force.** (a) **Minimum size.** A Beneficiary shall at
23 all times employ a total work force of not less than the minimum full-time
24 equivalent number established by the Authority and as set out in the
25 Qualifying Certificate. However, at all times, the work force of a
26 Beneficiary shall meet the following minimum requirements:

1 (1) **Initial minimum requirement.** At least seventy-five
2 (75%) of the Beneficiary's non-managerial employees shall be
3 United States citizens or permanent residents of the United
4 States; and

5 (2) **Subsequent minimum requirement.** After the
6 expiration of three-fourths (3/4ths) of the period of the
7 Qualifying Certificate or ten (10) years, whichever is sooner,
8 the Beneficiary shall satisfy the seventy-five (75%) employment
9 requirement for both management and non-management
10 employees.

11 (b) **Management and non-management employees.** The
12 Authority shall be the sole judge of whether a Beneficiary's employee
13 is management or non-management but it may seek advice from the
14 University of Guam, the Guam Community College, the
15 Department of Labor, or such other government agencies as are
16 helpful in advising on carrying out the provisions of this Section.
17 The Authority shall establish by regulation the requirements for
18 practical and equitable training programs as guidance for the
19 Beneficiary and the reasonable minimum number of persons to be
20 employed on a continuing basis for each Beneficiary in accordance
21 with the specific and normal requirements of the business involved.
22 The Authority shall annually report to the Legislature the titles and
23 compensation of all trainees, including those placed in management
24 levels, who are employed by the Beneficiaries of Qualifying
25 Certificates.

26 §2418. **Same: wages.** No resident employee of a Beneficiary shall
27 be paid at less than the prevailing wage rate nor shall such employee be

1 laid off work nor have his or her workweek reduced to less than forty (40)
2 hours in order to create employment for employees who are not United
3 States citizens or permanent residents of the United States. For the
4 purpose of this Section, "prevailing wage rate" shall mean such rate as is
5 established from time to time by the Department of Labor. The
6 Department of Labor is empowered to investigate any complaint filed
7 under this Section and to settle the same by issuance of an appropriate
8 order after notice and hearing pursuant to the provisions of the
9 Administrative Adjudication Law. Any willful violation of this Section, or
10 of any order issued hereunder, may be cause for a Beneficiary of a
11 Qualifying Certificate to forfeit the benefits thereof.

12 **§2419. Same: trainees.** For purposes of the employee percentages
13 of §2417 of this Article, a Beneficiary may include among its employees
14 "trainees" as that term is defined by the Authority's regulations. For good
15 cause shown, the Authority may grant specific and limited exemptions to
16 the percentage employment requirements of §2417 but only if a training
17 program has been implemented by the Beneficiary as required by §2417.

18 **§2420. Participation in training programs.** Every Qualifying
19 Certificate which covers the operation of a hotel or restaurant shall
20 require its Beneficiary to participate in (i) the Hotel/Restaurant Industry
21 Apprenticeship Training Program administered by the Guam Community
22 College or other subsequent and similar programs approved by the
23 Authority and (ii) the Management and Supervisory Training Program
24 administered by the University of Guam's College of Business and Public
25 Administration or other subsequent and similar programs approved by the
26 Authority. Failure to actively participate in such training programs shall
27 be grounds to revoke or suspend the Beneficiary's Qualifying Certificate.

1 **§2421. Qualifying Certificate: non-transferable.** A Qualifying
2 Certificate or the benefits thereunder may not be transferred, assigned or
3 conveyed to another person, firm, partnership, or corporation without the
4 written permission of the Authority. For the purpose of this Section, a
5 transfer of benefits shall have occurred at any time that there is a transfer
6 of a majority of the voting stock of the Beneficiary resulting in a change in
7 the identify of the shareholders who control the Beneficiary. Similarly, a
8 transfer of benefits shall occur whenever a Beneficiary shall lease, assign,
9 or transfer a substantial part of its activities outside of the ordinary course
10 of its business.

11 **§2422. Application for Qualifying Certificates.** Applications for
12 Qualifying Certificates shall be filed on forms prescribed and furnished by
13 the Authority and shall require such disclosures as the Authority shall deem
14 appropriate.

15 **§2423. Monthly reports.** The Beneficiary of a Qualifying Certificate
16 must furnish monthly written reports to the Authority beginning thirty (30)
17 days after the date of the issuance of the Qualifying Certificate. Said
18 reports must include, but are not limited to, financial, employment and
19 payroll data. All such monthly reports shall be treated as confidential by
20 the Authority.

21 **§2424. Publication of all applications for Qualifying**
22 **Certificates.** The Authority shall cause to be published, at the applicant's
23 expense, in a Guam newspaper of general circulation, a brief resumé of an
24 application for a Qualifying Certificate, said publication to be made no
25 later than seven (7) days following submission of an application. The
26 resumé shall be in a form prescribed by the Authority, and it shall include
27 the name and address of the applicant, a brief statement of the proposed

1 investment, a brief summary of the tax rebates and abatements applied
2 for, and the names and addresses of all the owners, partners, or
3 shareholders of the Applicant. Following the filing of the application in
4 due form, payment of the prescribed fees and publication of the resumé, a
5 public hearing shall be held pursuant to the rule-making provisions of the
6 Administrative Adjudication Law.

7 **§2425. Notice of hearing on applications.** A notice of the public
8 hearing required by §2424 of this Article shall be published at the
9 applicant's expense in a Guam newspaper of general circulation in a form
10 prescribed by the Authority at least five (5) days but no more than ten (10)
11 days before the scheduled public hearing date. The Authority shall take all
12 reasonable precautions in connection with such public hearings to avoid
13 disclosure of proprietary secrets of the applicant. The Authority may
14 schedule additional public hearings as necessary. The Authority meeting
15 for approval or disapproval of a Qualifying Certificate shall not be held on
16 the same day as a public hearing on the same Qualifying Certificate
17 application.

18 **§2426. Recommendations.** All recommendations of the Authority for
19 issuance, modification, renovation and suspension of Qualifying Certificates
20 shall be forwarded to the Governor of Guam, together with a memorandum
21 of the Authority's findings in support of its recommendations. Any
22 recommendation of the Authority not approved by the Governor within sixty
23 (60) calendar days from his receipt thereof shall be deemed disapproved on
24 the sixty-first (61st) day following such receipt.

25 **§2427. Tax abatements.** Subject to the provisions of this Article, the
26 Governor is authorized to issue a Qualifying Certificate abating the
27 following taxes on the following terms:

1 **2427.1. Property taxes.** All taxes now levied by virtue of Chapter 24,
2 Title 11, Guam Code Annotated, known as the Real Property Tax Law, shall
3 be abated for a period up to ten (10) years from the effective date of the
4 Qualifying Certificate therefor, and as long as said Certificate is in force and
5 effect; **provided**, that the real property on which the tax is assessed is only
6 utilized by the Beneficiary for activities identified in the Qualifying
7 Certificate.

8 **2427.2. Rental of land, building or equipment.** All taxes now levied on
9 income derived from the lease of land, buildings, machinery or equipment by
10 virtue of Article 2, Chapter 26, Title 11, Guam Code Annotated, known as
11 gross receipts taxes, shall be abated for a period up to ten (10) years, from the
12 effective date of a Qualifying Certificate therefor, and as long as said
13 Certificate is in force and effect; **provided**, that said income is derived from
14 the lease of land, building, machinery or equipment to a Beneficiary of a
15 Qualifying Certificate.

16 **2427.3. Sale of alcoholic beverages.** All taxes now levied by virtue of
17 Article 2, Chapter 26, Title 11, Guam Code Annotated, known as gross
18 receipts taxes, shall be abated for a period up to ten (10) years from the
19 effective date of a Qualifying Certificate therefor, and as long as said
20 Certificate is in force and effect; **provided**, that the gross receipts on which
21 such tax shall be abated have been derived from the sale of alcoholic
22 beverages manufactured in Guam by the manufacturer thereof and that such
23 manufacturer is the Beneficiary of a Qualifying Certificate.

24 **2427.4. Sale of petroleum products.** All taxes levied or paid by virtue of
25 Article 2, Chapter 26, Title 11, Guam Code Annotated, known as gross
26 receipts taxes, shall be abated or rebated for a period up to ten (10) years from
27 the effective date of the Qualifying Certificate therefor, for those gross

1 receipts derived from the sale of petroleum products manufactured in Guam
2 and sold to agencies or instrumentalities of the United States of America, or
3 agencies or instrumentalities of the government of Guam, by the
4 manufacturer thereof; **provided**, that a Qualifying Certificate for such a tax
5 rebate or abatement is granted pursuant to the provisions of this subsection;
6 and **provided, further**, that at any such time that a manufacturer possessing
7 such a Qualifying Certificate no longer continues to qualify for the
8 Certificate, the taxes shall no longer be abated or rebated.

9 **2427.5. Insurance premiums.** All taxes now levied by virtue of §43714,
10 Chapter VII, Title XXXIX, Government Code, shall be abated for a period of
11 up to ten (10) years from the effective date of the Qualifying Certificate
12 therefor and as long as said premiums are collected by a captive insurance
13 company licensed under said Chapter VII that has qualified and continues to
14 qualify for a Qualifying Certificate.

15 **§2428. Tax rebates.** Subject to the provisions of this Article, the
16 Governor is authorized to issue a Qualifying Certificate which establishes the
17 following tax rebate:

18 **2428.1. Income tax rebate.** A rebate of up to seventy-five percent (75%)
19 of all income tax paid to the government of Guam by a Beneficiary on income
20 received from those activities identified in the Qualifying Certificate may be
21 issued for a period not to exceed twenty (20) consecutive years from the
22 effective date of a Qualifying Certificate therefor.

23 **2428.2. Variable rates.** The percentage of rebate may be made variable
24 by the Authority so as to permit higher or lower percentages in earlier or later
25 years of the period. In determining the periods up to twenty (20) years and
26 the percentages up to seventy-five (75%) the Authority shall take into
27 consideration the financial risks involved in the undertaking as well as the

1 impact on the socio-economic development of Guam by the proposed
2 investment.

3 **2428.3. Determination of income.** For the purposes of this Section, the
4 term "income tax paid" shall mean income taxes paid on income received on
5 or after the effective date of the applicable Qualifying Certificate. The
6 Director of Revenue and Taxation of the government of Guam shall have
7 authority to determine any prorations of rebates necessary because of taxable
8 years occurring within the life of the applicable Qualifying Certificate which
9 consist of less than a full twelve (12) months.

10 **§2429. Taxability of abatements and rebates: Legislative intent.** It is
11 the intent of the Legislature that the abatement or rebate of taxes to
12 Beneficiaries pursuant to §§2427, 2428, 2429, 2430 and 2431 of this Article shall
13 be abatements or rebates on the taxes owed on the eligible activities identified
14 in the Qualifying Certificates issued therefor and that no portion of such
15 abatements or rebates shall be later subject to taxation as additional income
16 to the Beneficiary.

17 **§2430. Income tax rebate on dividends.** A rebate of up to seventy-five
18 percent (75%) of the income tax paid by the shareholders of a corporation on
19 the dividends of that corporation may be granted for a period not to exceed
20 five (5) consecutive years; **provided**, however, that the corporation paying the
21 dividends is the Beneficiary of a Qualifying Certificate and that the dividends
22 are being paid from the corporation's earnings on activities identified in the
23 Qualifying Certificate which were received, on a cash basis, during the five
24 (5) year period.

25 **§2431. Income tax rebates for the shareholders of a "Subchapter S"**
26 **corporation.** A rebate of up to seventy-five percent (75%) of all income tax
27 paid by the shareholders of a corporation which has elected to be taxed as a

1 "Subchapter S" corporation, as defined at §1361, Title 26, United States Code,
2 or any successor provision, on the income of the corporation which was
3 received from those activities identified in the Qualifying Certificate, may be
4 granted for a period not to exceed twenty (20) years following the effective
5 date of the Qualifying Certificate therefor.

6 **§2432. Modification of tax benefits.** In the event that a Beneficiary
7 proposes to substantially expand or add to its activities and desires to obtain
8 a modification of its original Qualifying Certificate to include its proposed
9 additional activities, then upon findings and recommendations of the
10 Authority, the Governor may modify the original Qualifying Certificate,
11 subject to the following conditions:

12 (a) **Findings.** The Authority specifically finds that the
13 additional proposed activities of the Beneficiary satisfy the
14 requirements of §§2403 and 2406 of this Article and that the Authority
15 makes recommendations required by §2409 of this Article;

16 (b) **Cancellation of original Certificate.** The original
17 Qualifying Certificate shall be surrendered and cancelled;

18 (c) **Changes in benefits.** The tax benefits applicable to the
19 additional activities may be at rates or for a term different from
20 those tax benefits applicable to the activities described in the original
21 Qualifying Certificate, and the new Qualifying Certificate may
22 include terms, conditions, rebates or abatements different from those
23 in the original Qualifying Certificate.

24 **§2433. Extended term.** In lieu of the percentage of tax abatements and
25 rebates authorized in this Article, the Authority may recommend and the
26 Governor may grant fifty percent (50%) of said abatements and rebates for a
27 period of double the term authorized by this Article.

1 **§2434. Acknowledgment of benefits by Tax Commissioner.** When the
2 Authority forwards its recommendations to the Governor on the issuance of a
3 Qualifying Certificate, it shall transmit a copy of such recommendations to
4 the Tax Commissioner of Guam for his information. The Tax Commissioner
5 shall forthwith acknowledge in writing to the Governor and to the Authority
6 that the proposed tax benefits are understood and accepted by the
7 Department of Revenue and Taxation.

8 **§2435. Procedure to claim abated and rebated taxes.** The Authority
9 shall monitor the activities of the Beneficiary and its compliance with all of
10 the terms and conditions of the Qualifying Certificate, this Article and the
11 regulations of the Authority and it shall, if justified, issue annually its
12 certificate of compliance by the Beneficiary. No rebate or abatement of any
13 tax shall occur unless the Beneficiary shall have received a certificate of
14 compliance for the applicable tax year.

15 **§2436. Abatement of tax.** When the return for the abated tax is
16 accompanied by a corresponding certificate of compliance for the previous
17 year or part thereof then the actual payment of the tax in question to the
18 government of Guam shall not be required, and upon review of the tax
19 return, the Tax Commissioner of Guam shall, within one hundred twenty
20 (120) days from receipt of said tax return, furnish the taxpayer a certification
21 confirming the nature and amount of the tax abated.

22 **§2437. Rebate of tax.** In the case of an income tax rebate, where the
23 taxpayer's tax return is accompanied by a certificate of compliance, the
24 amount of a tax due prior to rebate shall be deposited with the government of
25 Guam at the time of filing the income tax return. The Tax Commissioner of
26 Guam shall immediately thereafter cause the return to be reviewed and if the
27 rebate is found in order shall cause the amount of the rebate to be withdrawn

1 from the deposit and returned to the taxpayer within one hundred eighty
2 (180) days from the date of the deposit, without interest. The balance of the
3 deposit shall be credited against the taxpayer's income tax obligation to the
4 government of Guam.

5 **§2438 Rebate fund.** Deposits for income tax made with the
6 government of Guam pursuant to this Article shall be covered and deposited
7 into a separate, special account in the Treasury of the territory of Guam, to be
8 designated the "Income Tax Rebate Fund".

9 **§2439. Tax redeterminations.** In the case of any Beneficiary that, in
10 accordance with the applicable laws of Guam, shall have applied for and
11 been granted a redetermination of tax liability or taxes payable or in the case
12 of a redetermination of tax liability made by the Department of Revenue and
13 Taxation, the amount of abated or rebated taxes determined for such
14 Beneficiary for the taxable years affected shall be accordingly adjusted by the
15 Director of Revenue and Taxation and said Beneficiary shall be required to
16 pay the balance due for said taxable years, if any, together with interest at the
17 rate currently assessed by the government of Guam per annum from the date
18 the Beneficiary realized the abatement or rebate benefit; provided, that said
19 balance due may be offset or credited against any tax refund due to the
20 Beneficiary.

21 **§2440. Implementation by Tax Commissioner.** The Tax Commissioner
22 of Guam is hereby authorized to issue such rules and regulations as he may
23 deem necessary to implement the procedures outlined in this Article.

24 **§2441. Limited to government of Guam taxes.** All abatements and
25 rebates herein established and authorized shall apply only to the taxes due
26 the government of Guam.

1 **§2442. Investment of abated or rebated tax in Guam.** Each Qualifying
 2 Certificate shall require a Beneficiary to invest within Guam no less than fifty
 3 percent (50%) of any taxes rebated or abated under §§2427 or 2428 of this
 4 Article for a period of five (5) years following the rebate or abatement. A
 5 Beneficiary shall report all such investments to the Authority.

6 **§2443. Fees.** On the effective date of this Article, and until modified
 7 pursuant to §2445 of this Article, the following fees shall be assessed against
 8 each applicant or Beneficiary of a Qualifying Certificate:

	FILING FEES:	ANNUAL SURVEILLANCE FEES:
11 Agriculture, aquaculture,		
12 and mariculture:	\$150,	\$500,
13 Home manufacturing:	\$100,	\$100,
14 Manufacturing:	\$750,	\$2,000,
15 Commercial fishing:	\$250,	\$1,000
16 Services:	\$750,	\$2,000,
17 Leasehold services:	\$750,	0.75% of annual lease payments,
18 Tourism	\$1,000,	\$3,000,
19 Captive insurance		
20 companies:	\$750,	\$1,000,
21 Export trading companies:	\$750,	\$1,000
22 Motels per motel:		
23 Under construction:	\$750,	\$2,000
24 In operation:	\$750,	\$25 per room,
25 Hotels per hotel:		
26 Under construction:	\$1,500,	\$3,000,
27 In operation:	\$1,500,	\$45 per room.

1 **§2444. Extraordinary costs.** In addition to the filing and surveillance
2 fee, the Authority may also assess against an applicant or Beneficiary any
3 extraordinary costs and expenses incurred to process the application or
4 monitor the Beneficiary's performance of the terms and conditions of the
5 Qualifying Certificate. Such cost and expenses shall not include the salaries
6 of any employees of the Authority but may include but are not limited to the
7 services of outside consultants, or off-island trips necessitated by the
8 application or the surveillance.

9 **§2445. Periodic adjustment of fees.** The Authority is authorized to
10 adjust the fees listed in §2443 of this Article on an annual basis, at the
11 beginning of each calendar year, upon demonstration to the Authority by the
12 Administrator that the cost of performing the services covered by the fees is
13 greater than the amount of the fees. Fee changes shall be made according to
14 the provisions of the Administrative Adjudication Law.

15 **§2446. Rule-making authority.** In accordance with the Administrative
16 Adjudication Law the Authority shall adopt rules and regulations consistent
17 with this Article which provide for, but are not limited to the following:
18 Eligibility, minimum investment levels for different industries, the
19 applications process, the terms and conditions of the various Qualifying
20 Certificates, the monitoring procedure, and the revocation of Qualifying
21 Certificates."

22 **Section 2. Severability.** If any provision of this Act or the application
23 thereof to any person or circumstances is held invalid, such invalidity shall
24 not affect the other provisions or applications of the Act which can be given
25 effect without the invalid provision or application, and to this end the
26 provisions of the Act are declared to be severable.