



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE SPEAKER	
Date:	Jan 2, 1997
Time:	4:30pm
Received By:	P. Roberts
Print Name:	P. Roberts

JAN 02 1997

The Honorable Don Parkinson
Speaker
Twenty-Third Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

REFER TO
LEGISLATIVE SECRETARY

Dear Mr. Speaker:


Enclosed please find a copy of Substitute Bill No. 347 (LS), "AN ACT TO AMEND §24907 OF TITLE 11, GUAM CODE ANNOTATED, REGARDING STATUTE OF LIMITATIONS TO FILE CLAIMS FOR REFUNDS OF REAL PROPERTY TAXES; TO ADD NEW SECTION 24907.1 TO TITLE 11, GUAM CODE ANNOTATED, TO ALLOW FOR JUDICIAL REVIEW OF ADMINISTRATIVE DENIAL OF REAL PROPERTY TAX REFUND CLAIMS; AND TO APPROPRIATE TWENTY THOUSAND EIGHT HUNDRED THIRTY TWO DOLLARS TO MS. TERESITA WILSON", which I have signed into law today as **Public Law No. 23-138**.

This legislation was submitted to the Legislature by the Governor's Office in August, 1995. It is a response to an error in taxes overpaid by Ms. Teresita Wilson for many years. In Ms. Wilson's case, the Department of Revenue and Taxation made an error in the assessment of her property, yet the current law does not allow the department to correct this error and refund the overpayment to her. The current law only allows corrections to be made for the previous 3 years, whereas the error persisted for many, many years.

I am very pleased to sign this legislation into law and correct a longstanding overpayment by Ms. Teresita Wilson, so that she can receive her rightful refund.

Copies of the Governor's message and this public law have been delivered to the Office of the Legislative Secretary.

Very truly yours,


Carl T. C. Gutierrez
Governor of Guam

Attachment

231844



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

JAN 02 1997

The Honorable Hope A. Cristobal
Acting Legislative Secretary
Twenty-Third Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910


OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>Veronica C.</u>
Time	<u>5:25 pm</u>
Date	<u>2 Jan 97</u>

Dear Madame Legislative Secretary:

Enclosed please find a copy of Governor's message and copy of Substitute Bill No. 347 (LS), "AN ACT TO AMEND §24907 OF TITLE 11, GUAM CODE ANNOTATED, REGARDING STATUTE OF LIMITATIONS TO FILE CLAIMS FOR REFUNDS OF REAL PROPERTY TAXES; TO ADD NEW SECTION 24907.1 TO TITLE 11, GUAM CODE ANNOTATED, TO ALLOW FOR JUDICIAL REVIEW OF ADMINISTRATIVE DENIAL OF REAL PROPERTY TAX REFUND CLAIMS; AND TO APPROPRIATE TWENTY THOUSAND EIGHT HUNDRED THIRTY TWO DOLLARS TO MS. TERESITA WILSON", which I have **signed** into law today as **Public Law No. 23-138**.

Governor's message and copy of the public law have been delivered to the Office of the Speaker.

Very truly yours,


Carl T. C. Gutierrez
Governor of Guam

231640
Attachments

TWENTY-THIRD GUAM LEGISLATURE
1996 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 347 (LS), "AN ACT TO AMEND §24907 OF TITLE 11, GUAM CODE ANNOTATED, REGARDING STATUTE OF LIMITATIONS TO FILE CLAIMS FOR REFUNDS OF REAL PROPERTY TAXES; TO ADD NEW SECTION 24907.1 TO TITLE 11, GUAM CODE ANNOTATED, TO ALLOW FOR JUDICIAL REVIEW OF ADMINISTRATIVE DENIAL OF REAL PROPERTY TAX REFUND CLAIMS; AND TO APPROPRIATE TWENTY THOUSAND EIGHT HUNDRED THIRTY TWO DOLLARS TO MS. TERESITA WILSON," was on the 23rd day of December, 1996, duly and regularly passed.



DON PARKINSON
Speaker


Attested:



SONNY LUJAN ORSINI

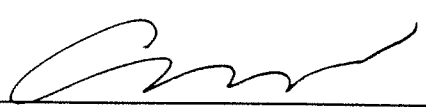
Senator and Legislative Secretary, Acting

This Act was received by the Governor this 23rd day of December,
1996, at 4:55 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 1-2-97

Public Law No. 23-138

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No. 347 (LS)

As substituted by the
Committee on Ways & Means

Introduced by:

S. L. Orsini

At the request of the Governor
in accordance with the Organic
Act of Guam

AN ACT TO AMEND §24907 OF TITLE 11, GUAM CODE ANNOTATED, REGARDING STATUTE OF LIMITATIONS TO FILE CLAIMS FOR REFUNDS OF REAL PROPERTY TAXES; TO ADD NEW SECTION 24907.1 TO TITLE 11, GUAM CODE ANNOTATED, TO ALLOW FOR JUDICIAL REVIEW OF ADMINISTRATIVE DENIAL OF REAL PROPERTY TAX REFUND CLAIMS; AND TO APPROPRIATE TWENTY THOUSAND EIGHT HUNDRED THIRTY TWO DOLLARS TO MS. TERESITA WILSON.

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

2 **Section 1. Legislative Findings.** §24907 of Title 11, Guam Code
3 Annotated, establishes a statute of limitations of three (3) years in which to
4 file an administrative claim with the Department of Revenue and Taxation
5 for a real property tax refund pursuant to §24906 of Title 11, Guam Code
6 Annotated. The three (3) year limitation period begins to run when the real
7 property tax payment for which a refund is sought is paid to the Treasurer of
8 Guam. A real property tax refund claim not made within the three (3) year
9 limitation period is barred and cannot be recovered by the taxpayer, although

1 the claim may be otherwise meritorious and the taxpayer is equitably
2 deserving of receiving a refund.

3 There have been instances when taxpayers have overpaid their real
4 property taxes in reliance upon erroneous real property tax assessments
5 made by the government of Guam, but, because the errors were discovered
6 more than three (3) years after payment was made, the taxpayers have been
7 barred from recovering otherwise meritorious refunds.

8 Ms. Teresita S. Wilson, a resident of Guam, is the owner of Lot No.
9 10111-10-R13, Dededo, Suburban. Her situation illustrates some of the
10 problems which have occurred because the current statute of limitations bars
11 claims that are older than three (3) years. From 1978 through 1991, Ms.
12 Wilson in good faith paid the Treasurer of Guam the annual amounts of real
13 property tax assessed in reliance upon the real property tax statements
14 received by her from the Department of Revenue and Taxation.

15 In 1992, Ms. Wilson discovered that her property had been over
16 assessed by the Department of Revenue and Taxation because the
17 Department of Land Management, in November 1997, accepted a survey
18 map which erroneously stated that the size of Ms. Wilson's property was
19 128,757 square meters; when in fact the size of her lot is 128,757 square feet.
20 The Department of Revenue and Taxation assessed the real property taxes
21 against Ms. Wilson's property from 1988 through 1991 based upon the
22 erroneous survey map accepted by the Department of Land Management.

23 In 1992, the Department of Revenue and Taxation corrected the
24 erroneous real property tax assessments against Ms. Wilson's property based
25 upon a corrected survey map of Ms. Wilson's property that was accepted by
26 the Department of Land Management in that year. Also in 1992, Ms. Wilson
27 filed a refund claim with the Department of Revenue and Taxation seeking a

1 refund of Twenty-three Thousand Five Hundred Twenty-six Dollars and
2 Four Cents (\$23,526.04) for her overpayment of real property taxes from 1978
3 through 1991. Due to the present statute of limitations, the Department of
4 Revenue and Taxation and the Attorney General's Office were only able to
5 approve a refund for Ms. Wilson in the amount of Four Thousand Nine
6 Hundred Five Dollars and Thirty Cents (\$4,905.30) representing
7 overpayment of taxes for the three (3) years preceding Ms. Wilson's filing of
8 her refund claim for erroneous taxes paid.

9 In the case of errors made by the government of Guam resulting in over
10 assessments of real property taxes, the bar of the statute of limitations could
11 be ameliorated by amending §24907 of Title 11, Guam Code Annotated, to
12 provide that the statute of limitations for the filing of real property tax
13 refund claims shall begin to run when the taxpayer discovers the government
14 error, or when the taxpayer is in possession of information that would put
15 the taxpayer on notice to investigate whether the government has made an
16 error, whichever occurs first.

17 Presently amending §24907 cited above, however, will not assist Ms.
18 Wilson for the injustice suffered by her and separate compensation in the
19 amount of Eighteen Thousand Six Hundred Twenty Dollars and Seventy-
20 four Cents (\$18,620.74) must be appropriated.

21 It has come to the attention of the Legislature, that the real property tax
22 law does not provide for judicial review of timely filed real property refund
23 claims that are denied by the Department of Revenue and Taxation. The
24 Legislature determines that this oversight should be corrected by adding a
25 new Section to Article 9, Division 2 of Title 11, Guam Code Annotated, to
26 provide for judicial review of the administrative denial of such claims and to

1 establish a statute of limitations within which to file an action in the Superior
2 Court of Guam.

3 **Section 2. §24907 of Title 11, Guam Code Annotated is hereby amended**
4 **to read:**

5 "§24907. **Same Limitation.** No refund shall be made unless
6 written application therefor is filed with the tax collector within three
7 (3) years after payment was made; provided, however, if the refund
8 claim is based upon an error made by the government of Guam
9 resulting in an over assessment of the real property taxes on the
10 property subject to the refund claim, the three (3) year limitation period
11 shall begin to run when the taxpayer discovers the government's error
12 or when the taxpayer is in possession of information that would put the
13 taxpayer on reasonable notice to investigate whether the government
14 has made an error, whichever occurs first."

15 **Section 3. A new §24907.1 is hereby added to Title 11, Guam Code**
16 **Annotated to read:**

17 "§24907.1. **Same: Judicial Review of Administrative Denial of**
18 **Claim.** In the event an administrative refund claim authorized under
19 §24906 of this Title and filed within the period provided in §24907 of this
20 Title is denied in whole or in part by the tax collector, the applicant shall
21 have the right to commence an action against the government of Guam
22 for judicial review of the denial in the Superior Court of Guam,
23 provided that the action must be filed within one (1) year after the
24 applicant receives notice from the tax collector that the claim has been
25 denied in whole or in part."

26 **Section 4. Appropriation.** Twenty Thousand Eight Hundred Thirty-
27 two Dollars (\$20,832) are appropriated from the General Fund to the

1 Department of Revenue and Taxation for the specific purposes of refunding
2 real property taxes assessed to Ms. Teresita S. Wilson for the period of 1978
3 through 1991 and interest calculated at four percent (4%) annually. The
4 Treasurer of Guam is hereby directed to forthwith pay the sum to Ms.
5 Teresita S. Wilson.

VOTING SHEET

Bill No. 347
 Resolution No. _____
 Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C //		✓		
CRISTOBAL, Hope A.		✓		
FORBES, MARK				✓
LAMORENA, Alberto C., V /	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.		✓		
SANTOS, Francis E. /	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith				✓

TOTAL

16 3 0 2

CERTIFIED TRUE AND CORRECT:

 Recording Secretary

23-138

Office of
Senator Francis E. Santos

Committee on Ways & Means
Phone: (671) 472-3414/5 Fax: (671) 477-3048



**TWENTY-THIRD
GUAM LEGISLATURE**

155 Hesler St.
Agana, Guam 96910

April 16, 1996

The Honorable W. Don Parkinson
Speaker
Twenty-Third Guam Legislature
155 Hesler St.
Agana, Guam 96910

Dear Speaker Parkinson:

The Committee on Ways and Means, now reports its findings on **Substitute Bill No. 347 AN ACT TO AMEND §24907 OF TITLE 11, GUAM CODE ANNOTATED, REGARDING STATUTE OF LIMITATIONS TO FILE CLAIMS FOR REFUNDS OF REAL PROPERTY TAXES; TO ADD NEW SECTION 24907.1 TO TITLE 11, GUAM CODE ANNOTATED TO ALLOW FOR JUDICIAL REVIEW OF ADMINISTRATIVE DENIAL OF REAL PROPERTY TAX REFUND CLAIMS; AND TO APPROPRIATE TWENTY THOUSAND EIGHT HUNDRED THIRTY TWO DOLLARS (\$20,832) TO MS. TERESITA WILSON**, to the full legislature with the recommendation to **do pass**.

To Pass	<u>8</u>
Not To Pass	<u>0</u>
Abstain	<u>0</u>
Inactive File	<u>0</u>
Off Island	<u>0</u>
Unavailable	<u>2</u>
Report out only	<u>0</u>

Copies of the Committee Report and all pertinent documents are attached for your information.

Respectfully,

Francis E. Santos



**TWENTY-THIRD
GUAM LEGISLATURE**
155 Hesler St.
Agana, Guam 96910

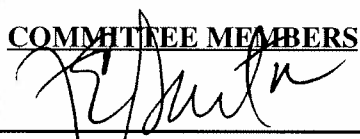
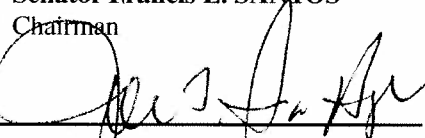
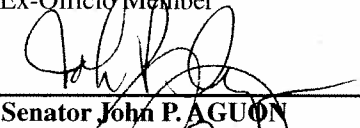

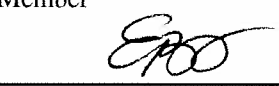
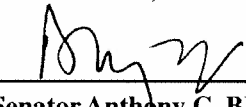

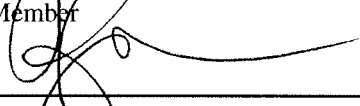
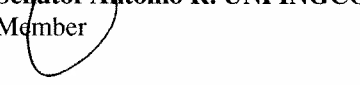
Senator Francis E. Santos

Chairperson, Committee on Ways & Means

Phone: (671) 472-3414/5 Fax: (671) 477-3048

VOTING SHEET

ON BILL #347 AN ACT TO AMEND § OF TITLE 11, GUAM CODE ANNOTATED, REGARDING STATUTE OF LIMITATIONS TO FILE CLAIMS FOR REFUNDS OF REAL PROPERTY TAXES; TO ADD NEW SECTION 24907.1 TO TITLE 11, GUAM CODE ANNOTATED TO ALLOW FOR JUDICIAL REVIEW OF ADMINISTRATIVE DENIAL OF REAL PROPERTY TAX REFUND CLAIMS; AND TO APPROPRIATE TWENTY THOUSAND EIGHT HUNDRED THIRTY TWO DOLLARS (\$20,832) TO MS. TERESITA WILSON.

	<u>COMMITTEE MEMBERS</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO ABSTAIN</u>	<u>FOR THE PURPOSE OF DISCUSSION</u>
	 Senator Francis E. SANTOS Chairman	✓			
Member, Committee on Economic-Agricultural Development & Insurance	 Senator Joe T. SAN AGUSTIN Vice-Chairman	✓			
Member, Committee on Electrical Power & Consumer Protection	Speaker Don PARKINSON Ex-Officio Member				
Member, Committee on Federal & Foreign Affairs	 Senator John P. AGUON Member	✓			
Member, Committee on Rules	 Senator Sonny L. ORSINI Member	✓			
Member, Committee on Tourism & Transportation	 Senator Judith WON PAT-BORJA Member	✓			
Member, Commission on Self-Determination	 Senator Elizabeth BARRETT-ANDERSON , Member	✓			
Member, Guam Finance Commission	 Senator Anthony C. BLAZ Member	✓			
	 Senator Felix CAMACHO Member	✓			
	 Senator Antonio R. UNPINGCO Member	✓			

TWENTY-THIRD GUAM LEGISLATURE

Committee on Ways & Means
Chairperson,
Senator Francis E. Santos

COMMITTEE REPORT ON BILL # 347

AN ACT TO AMEND §24907 OF TITLE 11,
GUAM CODE ANNOTATED
REGARDING THE STATUTE OF
LIMITATIONS TO FILE CLAIMS FOR
REFUNDS OF REAL PROPERTY TAXES;
TO ADD NEW SECTION 24907.1 TO
TITLE 11, GUAM CODE ANNOTATED,
TO ALLOW FOR JUDICIAL REVIEW OF
ADMINISTRATIVE DENIAL OF REAL
PROPERTY TAX REFUND CLAIMS; AND
TO APPROPRIATE EIGHTEEN
THOUSAND SIX HUNDRED DOLLARS
TO MS. TERESITA WILSON FOR REAL
PROPERTY TAXES ERRONEOUSLY
ASSESSED AND COLLECTED.

INTRODUCTION

A public hearing was held on Thursday, April 4, 1996 at 1:00 p.m. in the legislature's public hearing room in Agana to hear testimony on Bill #347.

COMMITTEE MEMBERS PRESENT

Senator Francis E. Santos, Chairman; Senator Tony Unpingco, Senator Judith Won Pat Borja, Senator Anthony C. Blaz, nonmembers present were Senator Vincente C. Pangelinan, and Senator Hope A. Cristobal.

WITNESSES PRESENT

Testifying on the bill were the following individuals, Mr. Frank Torres, Ms. Teresita Wilson, and Mr. Don Wilson, also testifying on behalf of the Department of Revenue and Taxation was Mr. Joseph T. Duenas, director.

TESTIMONY/QUESTIONS/COMMENTS

Senator Francis Santos called the hearing to order at 1:30 p.m. and apologized for the delay.

Mr. Frank Torres, presented oral testimony in favor of the bill, he also informed the panel of Senators that he has spoken to a majority of the Senators and that all senators present have informed him that they are in favor of the bill.

Ms. Teresita Wilson offered very emotional oral testimony in favor of the bill. She stated that she was very thankful that this legislation was able to get this far and that she hoped the senators would vote in favor of the bill.

Mr. Don Wilson, Mrs. Wilson's husband also thanked the senators for hearing the bill and hoped that they would all vote in favor of the bill.

Mr. Joseph T. Duenas, the director of the Department of Revenue presented oral and written testimony in favor of the bill. He stated that under current statute if and when a tax payer discovers an error in the governments assessment of property taxes the tax payer can only request or claim a refund for three years (the current statute of limitation) this bill would extend the statute to read three years from discovery of error. The current statute also states that the taxpayer has no recourse and cannot seek a judicial review of their claim. This would change with the passage of this legislation.

Senator Francis Santos opened the floor for questions and or comments by the other Senators.

Senator Tony Unpingco questioned as to whether or not there was any interest calculated into the amount to be appropriated to Ms. Wilson.

Mr. Frank Torres, stated that there was no interest payment involved here and that if the legislation was to be passed the Wilsons would use the money to pay for a prior years tax obligation.

Senator Hope Cristobal voiced her objection to the fact that the Department of Revenue and Taxation would charge the Wilson's penalties and interest on prior years tax obligations and yet the refund that would be issued did not contain any provision for a reciprocal effect.

The other Senators present also agreed and the chair announced that this avenue would be looked into.

Senator Francis Santos, questioned Mr. Duenas about how many people and how much money this is encompassing. The Director assured the senators present that there were other individuals that this would affect but that the numbers were very small and the claims very minimal.

The amount of eighteen thousand six hundred twenty dollars (\$18,620) was overpaid by Ms. Wilson and set for refund. Furthermore, an additional two thousand two hundred twelve dollars (\$2,212) is added as interest compounded annually from the time of discovery at the rate of four (4%) annually.

FINDINGS AND RECOMMENDATION

Based on these findings the Committee on Ways and Means recommends that the amended version of Bill #347 be reported out to the full Legislature with the recommendation to pass.

Attachments to this report:

- Substitute Bill #347
- Bill #347 as introduced
- Fiscal Note for bill #347
- Committee on Rules Memorandum to Committee on Ways and Means referring bill #347
- Public Hearing Sign Up Sheet
- Written Testimony of Mr. Joseph T. Duenas
- Notice of Public Hearing

TWENTY-THIRD GUAM LEGISLATURE
1996 (SECOND) Regular Session

Substitute Bill No. 347

as substituted by the
Committee on Ways and Means

Sonny L. Orsini
Chairman, Committee on Rules
at the request of the Governor
in accordance with the Organic
Act of Guam

AN ACT TO AMEND §24907 OF TITLE 11, GUAM CODE ANNOTATED, REGARDING STATUTE OF LIMITATIONS TO FILE CLAIMS FOR REFUNDS OF REAL PROPERTY TAXES; TO ADD NEW SECTION 24907.1 TO TITLE 11, GUAM CODE ANNOTATED, TO ALLOW FOR JUDICIAL REVIEW OF ADMINISTRATIVE DENIAL OF REAL PROPERTY TAX REFUND CLAIMS; AND TO APPROPRIATE TWENTY THOUSAND EIGHT HUNDRED THIRTY TWO DOLLARS TO MS. TERESITA WILSON

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

2 **Section 1. Legislative Findings.** §24907 of Title 11, Guam Code
3 Annotated, establishes a statute of limitations of three (3) years in which to file an
4 administrative claim with the Department of Revenue and Taxation for a real property tax
5 refund pursuant to §24906 of Title 11, Guam Code Annotated. The three (3) year
6 limitation period begins to run when the real property tax payment for which a refund
7 sought is paid to the Treasurer of Guam. A real property tax refund claim not made within
8 the three (3) year limitation period is barred and cannot be recovered by the taxpayer,
9 although the claim may be otherwise meritorious and the taxpayer is equitably deserving of
10 receiving a refund.

11 There have been instances when taxpayers have overpaid their real property taxes in
12 reliance upon erroneous real property tax assessments made by the government of Guam,
13 but, because the errors were discovered more than three (3) years after payment was made,
14 the taxpayers have been barred from recovering otherwise meritorious refunds.

15 Ms. Teresita S. Wilson, a resident of Guam, is the owner of Lot No. 10111-10-
16 R13, Dededo Suburban. Her situation illustrates some of the problems which have
17 occurred because the current statute of limitations bars claims that are older than three (3)

1 years. From 1978 through 1991, Ms. Wilson in good faith paid the Treasurer of Guam the
2 annual amounts of real property tax assessed in reliance upon the real property tax
3 statements received by her from the Department of Revenue and Taxation.

4 In 1992, Ms. Wilson discovered that her property had been over assessed by the
5 Department of Revenue and Taxation because the Department of Land Management, in
6 November 1977, accepted a survey map which erroneously stated that the size of Ms.
7 Wilson's property was 128,757 square **meters**; when in fact the size of her lot is 128,757
8 square **feet**. The Department of Revenue and Taxation assessed the real property taxes
9 against Ms. Wilson's property from 1988 through 1991 based upon the erroneous survey
10 map accepted by the Department of Land Management.

11 In 1992, the Department of Revenue and Taxation corrected the erroneous real
12 property tax assessments against Ms. Wilson's property based upon a corrected survey
13 map of Ms. Wilson's property that was accepted by the Department of Land Management
14 in that year. Also in 1992, Ms. Wilson filed a refund claim with the Department of
15 Revenue and Taxation seeking a refund of Twenty-three Thousand Five Hundred Twenty-
16 Six Dollars and Four Cents (\$23,526.04) for her overpayment of real property taxes from
17 1978 through 1991. Due to the present statute of limitations, the Department of Revenue
18 and Taxation and the Attorney General's Office were only able to approve a refund for Ms.
19 Wilson in the amount of Four Thousand Nine Hundred Five Dollars and Thirty Cents
20 (\$4,905.30) representing overpayment of taxes for the three (3) years preceding Ms.
21 Wilson's filing of her refund claim for erroneous taxes paid.

22 In the case of errors made by the Government of Guam resulting in over
23 assessments of real property taxes, the bar of the statute of limitations could be ameliorated
24 by amending §24907 of Title 11, Guam Code Annotated, to provide that the statute of
25 limitations for the filing of real property tax refund claims shall begin to run when the
26 taxpayer discovers the government error, or when the taxpayer is in possession of
27 information that would put the taxpayer on notice to investigate whether the government
28 has made an error, whichever occurs first.

29 Presently amending §24907 cited above, however, will not assist Ms. Wilson for
30 the injustice suffered by her and separate compensation in the amount of Eighteen
31 Thousand Six Hundred Twenty Dollars and Seventy-Four Cents (\$18,620.74) must be
32 appropriated.

33 It has come to the attention of the Legislature, that the real property tax law does not
34 provide for judicial review of timely filed real property refund claims that are denied by the
35 Department of Revenue and Taxation. The Legislature determines that this oversight should
36 be corrected by adding a new Section to Article 9, Division 2 of Title 11, Guam Code

1 Annotated, to provide for judicial review of the administrative denial of such claims and to
2 establish a statute of limitations within which to file an action in the Superior Court of
3 Guam.

4
5 **Section 2. §24907 of Title 11, Guam Code Annotated is hereby**
6 **amended to read:**

7 **§24907. Same Limitation.** No refund shall be made unless written
8 application therefor is filed with the tax collector within three (3) years after payment was
9 made; Provided, however, if the refund claim is based upon an error made by the
10 government of Guam resulting in an over assessment of the real property taxes on the
11 property subject to the refund claim, the three (3) year limitation period shall begin to run
12 when the taxpayer discovers the government's error or when the taxpayer is in possession
13 of information that would put the taxpayer on notice to investigate whether the government
14 has made an error, whichever occurs first."

15 **Section 3. A new §24907.1 is hereby added to Title 11, Guam Code**
16 **Annotated to read:**

17 **§24907.1. Same: Judicial Review of Administrative Denial of Claim.**

18 In the event an administrative refund claim authorized under §24906 of this Title
19 and filed within the period provided in §24907 of this Title is denied in whole or in part by
20 the tax collector, the applicant shall have the right to commence an action against the
21 government of Guam for judicial review of the denial in the Superior Court of Guam,
22 provided that the action must be filed within one (1) year after the applicant receives notice
23 from the tax collector that the claim has been denied in whole or in part."

24 **Section 4. Appropriation.** Twenty Thousand Eight Hundred Thirty-
25 Two Dollars (\$20, 832) are appropriated from the General Fund for the specific purposes
26 of refunding real property taxess assessed to Ms. Teresita S. Wilson for the period of 1978
27 through 1991 and interest calculated at four (4%) percent annually. The Treasurer of Guam
28 is hereby directed to forthwith pay the sum to Ms. Teresita S. Wilson.

FISCAL NOTE
BUREAU OF BUDGET AND MANAGEMENT RESEARCH

APR 12 1996
 BBMR-F7

Bill Number: 347
 Amendatory Bill: Yes

Date Received: March 29, 1996
 Date Reviewed: April 8, 1996

Department/Agency Affected: Department of Revenue & Taxation
 Department/Agency Head: Joseph Duenas, Director
 Total FY Appropriation to Date: \$12,414,644

Bill Title (preamble): AN ACT TO AMEND 24907 OF TITLE 11, GUAM CODE ANNOTATED REGARDING STATUTE OF LIMITATIONS TO FILE CLAIMS FOR REFUNDS OF REAL PROPERTY TAXES, TO ADD NEW SECTION 24907.1 TO TITLE 11, GUAM CODE ANNOTATED, TO ALLOW FOR JUDICIAL REVIEW OF ADMINISTRATIVE DENIAL OF REAL PROPERTY TAX REFUND CLAIMS; AND TO APPROPRIATE EIGHTEEN THOUSAND SIX HUNDRED DOLLARS TO MS. TERESITA S. WILSON FOR REAL PROPERTY TAXES ERRONEOUSLY ASSESSED AND COLLECTED.

Change in Law: Amends the 3 year limitation period for property tax refunds.

Bill's Impact on Present Program Funding:
 Increase _____ Decrease _____ Reallocation _____ No Change XXX

Bill is for:
 Operations XXX Capital Improvement _____ Other _____

FINANCIAL/PROGRAM IMPACT

ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)			
PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
Economics & Finance	18,620.74		18,620.74

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL	18,620.74					18,620.74
OTHER						
TOTAL	18,620.74					18,620.74

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? Yes-- IF NO, ADD'L AMOUNT REQUIRED \$ N/A

AGENCY/PERSON/DATE CONTACTED: Dep't of Revenue & Taxation April 8, 1996

ESTIMATED POTENTIAL MULTI-YEAR REVENUES						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	<u>1/</u>					
OTHER						
TOTAL						

ANALYST Maerica M. Dizon

DATE 4/8/96

DIRECTOR Joseph E. Rivera, Acting

DATE APR 12 1996

FOOTNOTES: See attached.

11

Bill 347 proposes to amend the three year limitation period for a claim on a real property tax refund if the refund claim is based upon an error made by the government of Guam resulting in an over assessment of the real property taxes on the property subject to the refund claim. Then the three year limitation period shall begin to run when the taxpayer discovers the government's error or when the taxpayer is in possession of information that would put the taxpayer on notice to investigate whether the government has made an error, whichever occurs first.

Bill 347 also appropriates \$18,620.74 to Ms. Teresita S. Wilson as compensation for real property taxes overpaid by her to the Treasurer of Guam for years 1998 through 1991. It must be noted that P.L. 22-138 (1994 General Obligation Bond) limits the general fund appropriations to 95% of projected revenues for the fiscal year. Projected revenues for FY 1996 totaled \$540,046,137 therefore the 95% cap is set at \$513,043,830. As of P.L. 23-67 a total of \$513,793,975 in general fund appropriation has been allocated.



COMMITTEE ON RULES

Twenty-Third Guam Legislature
155 Hesler St., Agana, Guam 96910

August 10, 1995

MEMORANDUM

TO: Chairman, Committee on Ways and Means

FROM: Chairman, Committee on Rules

SUBJECT: Referral - Bill No. 347

The above Bill is referred to your Committee as the principal committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting. It is recommended you schedule a public hearing at your earliest convenience.



SOMNY LUJAN ORSINI

Attachment:

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No. 347

Introduced by:


SONNY L. ORSINI
CHAIRMAN, COMMITTEE ON RULES

by request of the Governor
in accordance with the
Organic Act of Guam

AN ACT TO AMEND §24907 OF TITLE 11, GUAM CODE ANNOTATED, REGARDING STATUTE OF LIMITATIONS TO FILE CLAIMS FOR REFUNDS OF REAL PROPERTY TAXES; TO ADD NEW SECTION 24907.1 TO TITLE 11, GUAM CODE ANNOTATED, TO ALLOW FOR JUDICIAL REVIEW OF ADMINISTRATIVE DENIAL OF REAL PROPERTY TAX REFUND CLAIMS; AND TO APPROPRIATE EIGHTEEN THOUSAND SIX HUNDRED DOLLARS TO MS. TERESITA S. WILSON FOR REAL PROPERTY TAXES ERRONEOUSLY ASSESSED AND COLLECTED.

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

2 **Section 1. (a) Legislative findings.** §24907 of Title 11, Guam Code Annotated,
3 establishes a statute of limitations of three (3) years in which to file an administrative
4 claim with the Department of Revenue and Taxation for a real property tax refund
5 pursuant to §24906 of Title 11, Guam Code Annotated. The three (3) year limitation
6 period begins to run when the real property tax payment for which a refund is sought is
7 paid to the Treasurer of Guam. A real property tax refund claim not made within the
8 three (3) year limitation period is barred and cannot be recovered by the taxpayer,
9 although the claim may be otherwise meritorious and the taxpayer is equitably
10 deserving of receiving a refund.

11 There have been instances when taxpayers have overpaid their real property
12 taxes in reliance upon erroneous real property tax assessments made by the government
13 of Guam but, because the errors were discovered more than three (3) years after

1 payment was made, the taxpayers have been barred from recovering otherwise
2 meritorious refunds.

3 Ms. Teresita S. Wilson, a resident of Guam, is the owner of Lot No. 10111-10-R13,
4 Dededo Suburban. Her situation illustrates some of the problems which have occurred
5 because the current statute of limitations bars claims that are older than three (3) years.
6 From 1978 through 1991, Ms. Wilson in good faith paid to the Treasurer of Guam the
7 annual amounts of real property taxes assessed against her property in reliance upon
8 the real property tax statements received by her from the Department of Revenue and
9 Taxation.

10 In 1992, Ms. Wilson discovered that her property had been over assessed by the
11 Department of Revenue and Taxation because the Department of Land Management, in
12 November 1977, accepted a survey map which erroneously stated that the size of Ms.
13 Wilson's property was 128,757 square meters when, in fact, the size of her lot is 128,757
14 square feet. The Department of Revenue and Taxation assessed the real property taxes
15 against Ms. Wilson's property from 1988 through 1991 based upon the erroneous survey
16 map accepted by the Department of Land Management.

17 In 1992, the Department of Revenue and Taxation corrected the erroneous real
18 property tax assessments against Ms. Wilson's property based upon a corrected survey
19 map of Ms. Wilson's property that was accepted by the Department of Land
20 Management in that year. Also in 1992, Ms. Wilson filed a refund claim with the
21 Department Revenue and Taxation seeking a refund of Twenty-Three Thousand Five
22 Hundred Twenty-Six Dollars and Four Cents (\$23,526.04) for her overpayment of real
23 property taxes from 1978 through 1991. Due to the present statute of limitations, the
24 Department of Revenue and Taxation and the Attorney General's Office were only able
25 to approve a refund for Ms. Wilson in the amount of Four Thousand Nine Hundred
26 Five Dollars and Thirty Cents (\$4,905.30) representing overpayment of taxes for the

1 three (3) years preceding Ms. Wilson's filing of her refund claim for erroneous taxes
2 paid.

3 In the case of errors made by the government of Guam resulting in over
4 assessments of real property taxes, the bar of the statute of limitations could be
5 ameliorated by amending §24907 of Title 11, Guam Code Annotated, to provide that the
6 statute of limitations for the filing of real property tax refund claims shall begin to run
7 when the taxpayer discovers the government's error, or when the taxpayer is in
8 possession of information that would put the taxpayer on notice to investigate whether
9 the government has made an error, whichever occurs first.

10 Presently amending §24907 cited above, however, will not assist Ms. Wilson for
11 the injustice suffered by her and separate compensation in the amount of Eighteen
12 Thousand Six Hundred Twenty Dollars and Seventy-Four Cents (\$18,620.74) must be
13 appropriated.

14 It has also come to the attention of the Legislature that the real property tax law
15 does not provide for judicial review of timely filed real property refund claims that are
16 denied by the Department of Revenue and Taxation. The Legislature determines that
17 this oversight should be corrected by adding a new Section to Article 9, Division 2 of
18 Title 11, Guam Code Annotated, to provide for judicial review of the administrative
19 denial of such claims and to establish a statute of limitations within which to file an
20 action in the Superior Court of Guam.

21 (b) Amendment of §24907 of Title 11, Guam Code Annotated. §24907, Title 11,
22 Guam Code Annotated, is amended to read:

23 "§24907. Same: Limitation. No refund shall be made unless
24 written application therefor is filed with the tax collector within three (3)
25 years after payment was made; Provided, however, if the refund claim is
26 based upon an error made by the government of Guam resulting in an
27 over assessment of the real property taxes on the property subject to the

1 refund claim, the three (3) year limitation period shall begin to run when
2 the taxpayer discovers the government's error or when the taxpayer is in
3 possession of information that would put the taxpayer on notice to
4 investigate whether the government has made an error, whichever occurs
5 first."

6 (c) **Adding of new §24907.1 to Title 11, Guam Code Annotated.** A new
7 §24907.1, is added to Title 11, Guam Code Annotated, to read:

8 "§24907.1. Same: Judicial Review of Administrative Denial of
9 Claim. In the event an administrative refund claim authorized under
10 §24906 of this Title and filed within the period provided in §24907 of this
11 Title is denied in whole or in part by the tax collector, the applicant shall
12 have the right to commence an action against the government of Guam for
13 judicial review of the denial in the Superior Court of Guam, provided that
14 the action must be filed within one (1) year after the applicant receives
15 notice from the tax collector that the claim has been denied in whole or in
16 part."

17 (d) **Appropriation of Compensation to Ms. Teresita S. Wilson.** Eighteen
18 Thousand Six Hundred Twenty Dollars and Seventy-Four Cents (\$18,620.74) are
19 appropriated to Ms. Teresita S. Wilson as compensation for real property taxes overpaid
20 by her to the Treasurer of Guam for years 1988 through 1991, and the Treasurer of
21 Guam is directed to forthwith pay the sum to Ms. Teresita S. Wilson.





CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Date: 8/8/95
 Time: 1:35 P
 Received By: [Signature]
 Print Name: WANS LOURDE

AUG 08 1995

The Honorable Don Parkinson
Speaker
Twenty-Third Guam Legislature
424 West O'Brien Drive
Julale Center - Suite 222
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY
 ACKNOWLEDGMENT RECEIPT
 Received By [Signature]
 Time 5:05
 Date 8/8/95

Dear Speaker Parkinson:

Enclosed please find a draft bill entitled: "AN ACT TO AMEND §24907 OF TITLE 11, GUAM CODE ANNOTATED, REGARDING STATUTE OF LIMITATIONS TO FILE CLAIMS FOR REFUNDS OF REAL PROPERTY TAXES; TO ADD A NEW §24907.1 TO TITLE 11, GUAM CODE ANNOTATED, TO ALLOW FOR JUDICIAL REVIEW OF ADMINISTRATIVE DENIAL OF REAL PROPERTY TAX REFUND CLAIMS; AND TO APPROPRIATE EIGHTEEN THOUSAND SIX HUNDRED DOLLARS TO MS. TERESITA S. WILSON FOR REAL PROPERTY TAXES ERRONEOUSLY ASSESSED AND COLLECTED".

This bill is submitted to be introduced by request of the Governor in accordance with the Organic Act of Guam.

The intent of the bill is to provide for redress of property taxes collected erroneously by allowing the Statute of Limitations to be extended to run from the time when the taxpayer becomes aware of the erroneous overpayment, or has information that would put the taxpayer on notice that there is an erroneous overpayment. Property tax invoices are prepared totally by government officials, unlike income tax returns and Gross Receipt Tax returns, which are computed and prepared by the taxpayer.

Very truly yours,



 Carl T. C. Gutierrez

Attachment
230579

received
[Signature]
 8/9
 320

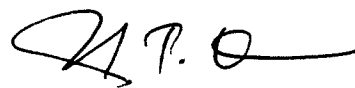
The Honorable Francis E. Santos
Chairperson
Committee on Ways & Means
Twenty-Third Guam Legislature
155 Hessler Street
Agana, Guam 96910

Dear Senator Santos (and members of the Committee):

My name is Joseph T. Duenas and I am the Director of the Department of Revenue and Taxation. I am providing written testimony on Bill No. 347 which is an act to amend §24907 Title 11 Guam Code Annotated, regarding statute of limitations to file claims for refunds of real property taxes; to add new section 24907.1 to Title 11 Guam Code Annotated to allow for judicial review of administrative denial of real property refund claims; and to appropriate Eighteen Thousand Six Hundred Twenty Dollars and Seventy-Four Cents (\$18,620.74) as compensation to Ms. Teresita S. Wilson for erroneous payments of real property taxes.

With the exception of correcting Section (d) to reflect tax years "1978 through 1988," the Department of Revenue and Taxation supports the passage of Bill No. 347 in its entirety. Thank you for allowing me to testify on Bill No. 347.

Sincerely,



JOSEPH T. DUENAS

Committee on Ways and Means

Thursday, April 4, 1996 1:00 p.m.

Re: Bill #347 An act to amend §24907 of Title 11, Guam Code Annotated regarding the statute of limitations to file claims for refunds of real property taxes...to appropriate \$18,600 to Teresita S. Wilson.

Name:	Representing	Testimony Oral/Written	For /Against
JOSEPH T. DUEWAS	REV & TAX	BOTH	FOR
FRANK P. TORRES JR.	Don & Terry Wilson	Oral	FOR
TERESITA S. WILSON	SELF	ORAL	FOR
RONALD E. WILSON	WIFE	ORAL	FOR

AUG 17 1995

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No. 347 (LS)

Introduced by:

SONNY L. ORSINO
CHAIRMAN, COMMITTEE ON RULES



by request of the Governor
in accordance with the
Organic Act of Guam

AN ACT TO AMEND §24907 OF TITLE 11, GUAM CODE ANNOTATED, REGARDING STATUTE OF LIMITATIONS TO FILE CLAIMS FOR REFUNDS OF REAL PROPERTY TAXES; TO ADD NEW SECTION 24907.1 TO TITLE 11, GUAM CODE ANNOTATED, TO ALLOW FOR JUDICIAL REVIEW OF ADMINISTRATIVE DENIAL OF REAL PROPERTY TAX REFUND CLAIMS; AND TO APPROPRIATE EIGHTEEN THOUSAND SIX HUNDRED DOLLARS TO MS. TERESITA S. WILSON FOR REAL PROPERTY TAXES ERRONEOUSLY ASSESSED AND COLLECTED.

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CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE SPEAKER

Date: 8/8/95
Time: 1:35 P
Received By: [Signature]
Print Name: WANS LOANIE

AUG 08 1995

The Honorable Don Parkinson
Speaker
Twenty-Third Guam Legislature
424 West O'Brien Drive
Julale Center - Suite 222
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT
Received By [Signature]
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Date 8/8/95

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Very truly yours,

[Signature]
Carl T. C. Gutierrez

Attachment
230579

received
[Signatures]