



Office of the Governor of Guam

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Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

Office of the Speaker
Vicente (Mina) Pangelinan

DEC 31 2004

TIME: 4:30 PM
RECEIVED BY: [Signature]

31 DEC 2004

The Honorable Vicente C. Pangelinan
Speaker
Mina' Bente Siete Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 377 (COR), "AN ACT TO THE ESTABLISHMENT OF THE OFFICE OF THE TAXPAYER ADVOCATE WITHIN THE DEPARTMENT OF REVENUE AND TAXATION, WHICH SHALL PROVIDE ASSISTANCE TO GUAM TAXPAYERS BY ADDING A NEW §1113 TO DIVISION 1 OF TITLE 11, GUAM CODE ANNOTATED," now designated as **Public Law 27-139**.

Sins eru yan Magåhet,

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Tina Rose Muna-Barnes
Senator and Legislative Secretary

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

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


This is to certify that Bill No. 377 (COR), "AN ACT RELATIVE TO THE ESTABLISHMENT OF THE OFFICE OF THE TAXPAYER ADVOCATE WITHIN THE DEPARTMENT OF REVENUE AND TAXATION, WHICH SHALL PROVIDE ASSISTANCE TO GUAM TAXPAYERS, BY ADDING A NEW §1113 TO DIVISION 1 OF TITLE 11, GUAM CODE ANNOTATED," was on the 20th day of December, 2004, duly and regularly passed.

Attested:



vicente (ben) c. pangelinan
Speaker


Tina Rose Muña Barnes
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 20 day of December, 2004,
at 5:50 o'clock P.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:


FELIX P. CAMACHO
I Maga'lahen Guåhan

Date: December 30, 2004

Public Law No. 27-139

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2004 (SECOND) Regular Session

Bill No. 377 (COR)

As amended on the Floor.

Introduced by:

F. B. Aguon, Jr.
J. M.S. Brown
F. R. Cunliffe
Carmen Fernandez
Mark Forbes
L. F. Kasperbauer
R. Klitzkie
L. A. Leon Guerrero
J. A. Lujan
T. R. Muña Barnes
v. c. pangelinan
J. M. Quinata
R. J. Respicio
Toni Sanford
Ray Tenorio

AN ACT RELATIVE TO THE ESTABLISHMENT OF THE OFFICE OF THE TAXPAYER ADVOCATE WITHIN THE DEPARTMENT OF REVENUE AND TAXATION, WHICH SHALL PROVIDE ASSISTANCE TO GUAM TAXPAYERS, BY ADDING A NEW §1113 TO DIVISION 1 OF TITLE 11, GUAM CODE ANNOTATED.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds that the Internal Revenue Code requires the establishment of an Office of
4 the Taxpayer Advocate which shall be tasked with providing a critical service
5 to taxpayers in Guam, in providing direct assistance and resolving conflicts
6 and problems before they are litigated. The availability of such an office

1 would also serve as a means to minimize any unnecessary legal challenges
2 between the government of Guam and Guam taxpayers, by serving as a
3 conduit to resolve any problem experienced between the government and the
4 taxpayer. A special responsibility of the Office of the Taxpayer Advocate also
5 includes providing feedback and information to *I Liheslaturan Guåhan* for
6 potential legislative changes that may be adopted to appropriately mitigate
7 any identified problems. Therefore, this provision would provide for the
8 establishment of the Office of the Taxpayer Advocate, an office that will
9 directly benefit Guam's taxpayers, and minimize any unnecessary costs
10 associated with litigation.

11 **Section 2. Establishment of the Office of the Taxpayer Advocate**
12 **within the Department of Revenue and Taxation.** A new §1113 is hereby
13 *added* to Division 1 of Title 11, Guam Code Annotated, to read as follows:

14 **"§1113. Office of the Taxpayer Advocate.**

15 (a) **Office of the Taxpayer Advocate.** The Office of the Taxpayer
16 Advocate (hereinafter referred to as the 'OTA') is hereby established as
17 an office within the Guam Department of Revenue and Taxation. The
18 OTA shall be a separate division within the Department, and may be
19 physically located separate and apart from the primary office activities
20 of the agency. The OTA shall be governed by the provisions set forth
21 within Section 7803(c) of the Internal Revenue Code.

22 (b) **Personnel Requirements.** The Director of the Department of
23 Revenue and Taxation shall establish, through the concurrence of the
24 Civil Service Commission, appropriate positions and compensation
25 necessary for the administration and operation of the OTA. Upon the

1 approval of such positions and the appropriate compensation package,
2 the Director shall provide *I Maga'lahren Guåhan* and the Speaker of *I*
3 *Liheslaturan Guåhan* with a copy of said documents within ten (10) days
4 of its receipt."

5 **Section 3. Funding Requirements for the Office of the Taxpayer**
6 **Advocate.** *I Maga'lahren Guåhan* is hereby authorized to implement the
7 provisions contained within Section 2 of this Act, and identify funds necessary
8 for the proper administration and operation of the Office of the Taxpayer
9 Advocate. *I Maga'lahren Guåhan shall* utilize the funds appropriated to the
10 Guam Department of Revenue and Taxation in Fiscal Year 2005, and should
11 such funds be inadequate to meet the initial start-up costs of the OTA, he shall
12 be authorized to apply the transfer authority granted to the Chief Executive
13 within the Executive Branch budget allocation for Fiscal Year 2005.

14 **Section 4. Severability.** *If* any provision of this Act or its application to
15 any person or circumstances is found to be invalid or contrary to law, such
16 invalidity shall *not* affect other provisions or applications of this Act which
17 can be given effect without the invalid provisions or applications, and to this
18 end the provisions of this Act are severable.



FRANK B. AGUON, JR.

Vice Speaker

November 19, 2004

MEMORANDUM

The Honorable ben c. pangelinan
Speaker, *I Mina' Bente Siete Na Liheslaturan Guåhan*
155 Hesler Street
Hagåtña, Guam 96910

2004 NOV 22 14:30:19
NOMER

Via: Honorable Senator Lou Leon Guerrero, Committee on Rules & Health

Dear Speaker pangelinan:


The Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform, to which was referred, Bill No. 377 (COR) - An Act relative to the establishment of the Office of the Taxpayer Advocate, within the Department of Revenue and Taxation, which shall provide assistance to Guam Taxpayers in resolving problems with the Internal Revenue Service or the Guam Department of Revenue and Taxation, has had the same under consideration, and now wishes to report back the same with the recommendation **TO DO PASS**.

The voting record is as follows:

TO PASS	<u>5</u>
NOT TO PASS	<u>Ø</u>
TO ABSTAIN DUE TO POTENTIAL CONFLICT	<u>Ø</u>
TO PLACE IN INACTIVE FILE	<u>Ø</u>

Copies of the Committee Report and other pertinent documents are attached. Thank you for your attention to this matter. **Dangkolo' Na Si Yu'os Ma'ase.**

Respectfully,


FRANK BLAS AGUON, JR.
Vice Speaker/Senator
I Mina' Bente Siete Na Liheslaturan Guåhan

Respetu Para Todu (Respect for All)





FRANK B. AGUON, JR.

Vice Speaker

November 19, 2004

MEMORANDUM

TO: Members, Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform

FROM: Vice Speaker Frank B. Aguon, Jr.
Chairman, Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform

SUBJECT: Committee Report – Bill No. 377 (COR): An Act relative to the establishment of the Office of the Taxpayer Advocate, within the Department of Revenue and Taxation, which shall provide assistance to Guam Taxpayers in resolving problems with the Internal Revenue Service or the Guam Department of Revenue and Taxation.

Transmitted herewith for your information and action is the report on Bill No. 377 (COR) from the Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform.


This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill 377 (COR)
4. Public Hearing Sign-in Sheet
5. Notice of Public Hearing

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me. **Dangkolo' Na Si Yu'os Ma'ase.**

Respectfully,


FRANK BLAS AGUON, JR.
Vice Speaker/Senator
I Mina Bente-Siete Na Li Heshlaturan Guåhan

Respetu Para Todu (Respect for All)

I Mina Bente-Siete Na Li Heshlaturan Guåhan * Twenty-Seventh Guam Legislature
Suite 101-A * Ada's Commercial and Professional Center * 118 East Marine Drive * Hagåtña, Guam 96910
Phone (671) 479-4GUM (4486/4828) * Fax (671) 479-4827





FRANK B. AGUON, JR.

Vice Speaker

Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform VOTING SHEET

Bill 377: An Act relative to the establishment of the Office of the Taxpayer Advocate, within the Department of Revenue and Taxation, which shall provide assistance to Guam Taxpayers in resolving problems with the Internal Revenue Service or the Guam Department of Revenue and Taxation.

Committee Members	To Pass	Not to Pass	To Abstain due to potential Conflict	To place in Inactive File
 FRANK B. AGUON, JR. Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ANTOINETTE D. SANFORD Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 LOU LEON SUERRERO Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TINA R. MUÑA-BARNES Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 JOHN M. QUINATA Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RORY J. RESPICIO Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 CARMEN FERNANDEZ Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MARK FORBES Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LAWRENCE F. KASPERBAUER Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Respetu Para Todu (Respect for All)

I Mina Bente-Siete Na Liheslaturan Guåhan * Twenty-Seventh Guam Legislature
Suite 101-A * Ada's Commercial and Professional Center * 118 East Marine Drive * Hagåtña, Guam 96910
Phone (671) 479-4GUM (4486/4828) * Fax (671) 479-4827





FRANK B. AGUON, JR.

Vice Speaker

I MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN

Committee on Appropriations and Budgeting,
General Governmental Operations,
Reorganization and Reform

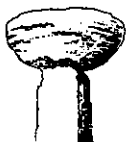
**VICE SPEAKER FRANK B. AGUON, JR.
CHAIRMAN**

Committee Report
On
Bill No. 377 (COR)

"AN ACT RELATIVE TO THE ESTABLISHMENT OF THE OFFICE OF THE TAXPAYER ADVOCATE, WITHIN THE DEPARTMENT OF REVENUE AND TAXATION, WHICH SHALL PROVIDE ASSISTANCE TO GUAM TAXPAYERS IN RESOLVING PROBLEMS WITH THE INTERNAL REVENUE SERVICE OR THE GUAM DEPARTMENT OF REVENUE AND TAXATION."

Respetu Para Todu (Respect for All)

I Mina Bente-Siete Na Liheslaturan Guåhan * Twenty-Seventh Guam Legislature
Suite 101-A * Ada's Commercial and Professional Center * 118 East Marine Drive * Hagåtña, Guam 96910
Phone (671) 479-4GUM (4486/4828) * Fax (671) 479-4827



I. Overview

The Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform held a public hearing on Bill No. 377 (COR) at 9:00 a.m. on Friday, November 19, 2004 in the Public Hearing Room, *I Liheslaturan Guåhan*. Public notice for this hearing was made on: Friday, November 12, 2004 and Thursday, November 18, 2004 in the Pacific Daily News in the form of a paid advertisement.

Senators present at the public hearing were:

Vice Speaker Frank B. Aguon, Jr., Chairman
Senator Toni Sanford, Vice-Chair
Senator Carmen Fernandez, Member
Speaker ben pangelinan
Senator Robert Klitzkie

II. Summary of testimony

Deputy Attorney General Charles Troutman appeared before the Committee as Consumer Counsel, and provided written testimony (Attachment A). In additional comments, he stated that he did not think that the local government should legislate on this matter, for the following reasons:

- (a) Guam's tax code is a mirror image of federal law.
- (b) Federal law specifies the duties and responsibilities of Taxpayer Advocate. A local law may conflict with federal law.
- (c) The Governor currently delegates this existing statutory authority, through an Executive Order, and
- (d) Local funding would be needed to fund a separately authorized local position.

Chairman Aguon asked Mr. Troutman about an IRS letter to the Governor requesting local legislation. He said it is the committee's perspective that local jurisdictions were asked to set up local taxpayer advocate offices.

The Director of Revenue & Taxation Artemio Ilagan subsequently submitted written testimony (Attachment B). Included in the testimony is an explicit request by Revenue and Taxation to establish the Office of Taxpayer Advocate.

III. Recommendation

The Committee on Appropriations and Budgeting, General Governmental Operations, Reorganization and Reform, to which Bill No. 377 (COR) was referred does hereby submit to *I Mina' Bente Siete Na Liheslaturan Guåhan* **TO DO PASS** Bill No. 377 (COR):
"An Act relative to the establishment of the Office of the Taxpayer Advocate, within the Department of Revenue and Taxation, which shall provide assistance to Guam Taxpayers in resolving problems with the Internal Revenue Service or the Guam Department of Revenue and Taxation".

DOUGLAS B. MOYLAN
ATTORNEY GENERAL



CHARLES H. TROUTMAN
CONSUMER COUNSEL

OFFICE OF THE ATTORNEY GENERAL

November 18, 2004

Honorable Frank Blas Aguon, Jr.
Vice Speaker
27th Guam Legislature
Hagåtña, Guam

Re: Bill No. 377

Dear Senator Aguon

I wish to testify regarding Bill No. 377 relative to establishing a Tax Advocate with the Department of Revenue & Taxation. According to the District Court of Guam, the mirror image of the IRC Code as it applies to Guam requires that we have a Tax Advocate in place if we are to collect any taxes a taxpayer might protest. I Maga'lahaen Guahan [the Governor] has already created that office by Executive Order. In this particular instance, I believe that I Maga'lahaen Guahan [I Maga'lahaen Guahan [the Governor]] should make the Order permanent and that this bill is unnecessary.

With respect to the administration of the Guam Income Tax, the Organic Act says:
48 U.S.C. §1421i (c) **Enforcement of Tax.** The administration and enforcement of the Guam Territorial Income Tax shall be performed by or under the supervision of the Governor. Any function needful to the administration and enforcement of the income tax laws in force in Guam pursuant to subsection (a) of this section shall be performed by any officer or employee of the government of Guam duly authorized by I Maga'lahaen Guahan [the Governor] (either directly, or indirectly by one or more redelegations of authority) to perform such function.

Since the Tax Advocate is found in federal law and is necessary for the enforcement of the Guam Income Tax, it is within the Governor's power and responsibility to appoint such a person. If a separate position needs to be created, the Governor may do so in the same manner as other positions are created, but the Legislature needs to provide whatever additional funding is required.

Sincerely yours,

Charles H. Troutman

CHARLES H. TROUTMAN
Deputy Attorney General



Dipattamenton Kontribusion yan Adu'ana
DEPARTMENT OF
REVENUE AND TAXATION
GOVERNMENT OF GUAM Gubetnamenton Guahan

FELIX P. CAMACHO, Governor Maga'lahi
KALEO S. MOYLAN, Lt. Governor Tinent Gubetnadot

ARTEMIO B. ILAGAN, Director
Direktor
JOHN P. CAMACHO, Deputy Director
Segundo Direktor

19 NOV 2004

Frank B. Aguon, Jr.
Vice Speaker/Senator
Chairman, Committee on Appropriations and Budgeting, General Governmental
Operations, Reorganization and Reform
Mina Bente Siete Na Liheslaturan Guahan
Suite 101-A
Ada Commercial and Professional Center

In re: BILL NO. 377(COR)

AN ACT RELATIVE TO THE ESTABLISHMENT OF THE OFFICE OF THE TAXPAYER ADVOCATE, WITHIN THE DEPARTMENT OF REVENUE AND TAXATION, WHICH SHALL PROVIDE ASSISTANCE TO GUAM TAXPAYERS IN RESOLVING PROBLEMS WITH THE INTERNAL REVENUE SERVICE OR THE GUAM DEPARTMENT OF REVENUE AND TAXATION.

Dear Vice Speaker Aguon:

The Department of Revenue and Taxation (DRT) fully supports Bill No. 377(COR) with respect to the establishment of the Office of the Taxpayer Advocate. DRT affirms that there is a need to provide a critical service to Guam taxpayers as mandated by the Guam Territorial Income Tax laws (GTIT) § 7803(c), and assist them in resolving problems with DRT. DRT, however, has the following concerns with this proposed legislation:

- *The Office of the Taxpayer Advocate should only be established to resolve problems with Guam taxpayers and DRT, not with the Internal Revenue Service (IRS). Guam taxpayers who have problems with the IRS are directed to contact the IRS Taxpayer Advocate Office in Puerto Rico.
- *DRT does not object to providing feedback and information to I Liheslaturan Guahan regarding issues of concern with the Office of the Taxpayer Advocate, however, only Congress can enact legislation to change the laws in the Internal Revenue Code, which the GTIT mirrors.
- *DRT requests that a special appropriation be made by I Liheslaturan Guahan to fund the Office of the Taxpayer Advocate since this office will perform a new and separate function from DRT.

It should be noted that the Office of the Taxpayer Advocate is not a substitute for established DRT procedures or the formal Appeals process afforded under the GTIT laws and the Internal Revenue Code. The Taxpayer Advocate cannot reverse legal or technical tax determinations. However, the Taxpayer Advocate can help if, as a result of the administration of the tax laws, taxpayers:

- *Are suffering or are about to suffer, a significant hardship;
- *Are facing an immediate threat of adverse action;

PAGE 2

- *Will incur significant cost (including fees for professional representation);
- *Will suffer irreparable injury or long-term adverse impact;
- *Have experienced a delay of more than 30 days to resolve an issue; or
- *Have not received a response or resolution by the date promised.

The Department appreciates your support in formulating this necessary legislation to effectively administer and enforce the GTIT laws equitably to all Guam taxpayers. Feel free to contact my office if you have any concerns or questions.

Sincerely,


Artemio B. Ilagan
Director



Committee on Appropriations and Budgeting, General Governmental Operations,
Reorganization and Reform

Vice Speaker Frank B. Aguon, Jr., Chairman

Public Hearing: Friday, November 19, 2004 • 9:00 a.m.

I Liheslaturan Guahan, Hagatna

Witness sign in sheet

Bill 377: An Act relative to the establishment of the Office of the Taxpayer Advocate, within the Department of Revenue and Taxation, which shall provide assistance to Guam Taxpayers in resolving problems with the Internal Revenue Service or the Guam Department of Revenue and Taxation.

NAME (Please print)	AGENCY/ ORGANIZATION	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	NOT IN FAVOR	CONTACT NUMBER
Charles H. Trouman	AG		✓	?		45-3309