

FIFTH GUAM LEGISLATURE
1960 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 295, "An Act to amend the Business Privilege Tax Law by repealing Subsection 19501.05 of Section 19501, Chapter 6, Title XX, Government Code of Guam, and to enact new Subsections 19501.05, 19501.06 and 19501.07 of Section 19501, and new Section 19508, Chapter 6, Title XX, Government Code of Guam, concerning limitations as to time for assessment and filing of claims for refund, suits for refund, and for other purposes", was on the 26th day of July, 1960, duly and regularly passed.



A. B. WON PAT
Speaker

ATTESTED:



V. B. BAMBA
Legislative Secretary

This Act was received by the Governor this 29th day
of July, 1960 at 9:30 o'clock 1 M.



MANUEL F. L. GUERRERO
Assistant Secretary of Guam

APPROVED:



JOSEPH FLORES
Governor of Guam

DATED: AUG 8 1960

3:11 P.M.

Bill No. 295

Introduced by _____
Committee on Rules,
by request

AN ACT TO AMEND THE BUSINESS PRIVILEGE
TAX LAW BY REPEALING SUBSECTION 19501.05
OF SECTION 19501, CHAPTER 6, TITLE XX,
GOVERNMENT CODE OF GUAM, AND TO ENACT NEW
SUBSECTIONS 19501.05, 19501.06 AND 19501.07
OF SECTION 19501, AND NEW SECTION 19508,
CHAPTER 6, TITLE XX, GOVERNMENT CODE OF GUAM,
CONCERNING LIMITATIONS AS TO TIME FOR ASSESS-
MENT AND FILING OF CLAIMS FOR REFUND, SUITS
FOR REFUND, AND FOR OTHER PURPOSES.

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

2 Section 1. Subsection 19501.05 of Section 19501, Chapter
3 6, Title XX, Government Code of Guam, is hereby repealed and the
4 following new Subsections 19501.05, 19501.06, and 19501.07 of
5 Section 19501, Chapter 6, Title XX, Government Code of Guam, are
6 hereby enacted to read as follows:

7 ".05. Limitation of Time. Except as otherwise
8 provided in this subsection, the amount of any tax im-
9 posed by this Chapter shall be assessed within three
10 (3) years after the return was filed (whether or not
11 such return was filed on or after the date prescribed).
12 A return filed before the last day prescribed by law for
13 the filing thereof shall be considered as filed on such
14 last day. No proceeding in court without assessment for the
15 collection of such tax shall be begun after the expiration of
16 such period.

17 .0501. False Return. In the case of a false or
18 fraudulent return with the intent to evade any tax imposed
19 by this Chapter, the tax may be assessed, or a proceeding in
20 court for the collection of such tax may be begun without
21 assessment, at any time.

22 .0502. Wilful Attempt to Evade Tax. In the case of a
23 wilful attempt in any manner to defeat or evade any tax

1 imposed by this Chapter, the tax may be assessed, or a
2 proceeding in court for the collection of such tax may be
3 begun without assessment, at any time.

4 .0503. No Return. In the case of failure to file a
5 return, the tax may be assessed, or a proceeding in court for
6 the collection of such tax may be begun without assessment, at
7 any time.

8 .0504. Extension of Time to Assess. Where, before the
9 expiration of the time prescribed in Subsection 19501.05 for
10 the assessment of any tax imposed by this Chapter, both the
11 Tax Commissioner and the taxpayer have consented in writing
12 to its assessment after such time, the tax may be assessed at
13 any time prior to the expiration of the period agreed upon.
14 The period so agreed upon may be extended by subsequent
15 agreements in writing made before the expiration of the period
16 previously agreed upon.

17 .06. Period of Limitation on Filing Claim for Refund.

18 Claim for credit or refund of an overpayment of any tax imposed by
19 this Chapter in respect of which tax the taxpayer is required to
20 file a return shall be filed by the taxpayer within three (3) years
21 from the time the return was required to be filed (determined
22 without regard to any extension of time) or two (2) years from the
23 time the tax was paid, whichever of such periods expires the later,
24 or if no return was filed by the taxpayer, within two (2) years from
25 the time the tax was paid. Provided, that any claim for credit
26 or refund of a tax imposed by this Chapter which accrued prior to
27 the effective date of this subsection shall be filed by the tax-
28 payer within three (3) years from the time the return was
29 required to be filed (determined without regard to any extension
30 of time) or two (2) years from the time the tax was paid,

1 whichever of such periods expires the later, or if no return was
2 filed by the taxpayer, within two (2) years from the time the tax
3 was paid; or within three (3) months after the effective date of
4 this subsection, whichever of such periods expires the later;
5 provided, further, that no claim shall be filed for credit or
6 refund of a tax imposed by this Chapter which was paid more than
7 four (4) years prior to the effective date of this subsection.

8 .07. Claim for Drawback; Limitation. Any claim for draw-
9 back authorized under this Chapter shall not be filed earlier than
10 the twentieth (20th) day of the month following the month in
11 which the transaction or event occurred for which a drawback is
12 authorized, and shall not be filed later than one year after the
13 date of such transaction or event."

14 Section 2. A new Section 19508 is hereby added to Subchapter A,
15 Chapter 6, Title XX, Government Code, as follows:

16 "Section 19508. Suit for Refund.

17 .01. A taxpayer may file an action in the District
18 Court of Guam, irrespective of the amount involved, for the
19 refund of any tax imposed by this Chapter, alleged to have
20 been erroneously or illegally assessed or collected, or of
21 any penalty claimed to have been illegally or erroneously
22 collected, or of any sum collected alleged to have been
23 excessive, naming the Tax Commissioner or his successor in
24 office as defendant.

25 .02. No such action shall be begun before the expiration
26 of three (3) months from the date of filing a claim for
27 refund with the Tax Commissioner unless the Tax Commissioner
28 renders a decision thereon within that time, nor after the
29 expiration of one (1) year from the date of disallowance by
30 the Tax Commissioner of the claim, or part thereof to which

1 the suit relates.

2 .03. Such suit shall be tried by the Court without a jury,
3 and the taxpayer as plaintiff shall have the burden of proof.

4 .04. When the judgment of the Court becomes final, or any
5 appeal therefrom, the Tax Commissioner shall, upon presentation
6 of a certified copy of the judgment of the Court, take action
7 in accordance with Subsection 19501.0212.

8 .05. The Court shall have authority to implement by rule
9 proceedings authorized by this section.

10 .06. This section shall apply to any claim for drawback
11 authorized by this Chapter, except that all drawbacks shall be
12 limited in amount to the tax excluding any penalty or interest
13 paid or collected."

14 Section 3. This Act shall take effect on the first day of
15 the first month following approval by the Governor.

16 Section 4. This Act is an urgency measure.