

*I Mina'Trentai Tres Na Liheslaturan Received*  
**Bill Log Sheet**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
<b>60-33 (COR)</b>	Michael F.Q. San Nicolas B. J.F. Cruz T. C. Ada N. B. Underwood, Ph.D. Mary Camacho Torres James V. Espaldon	AN ACT TO <i>REPEAL</i> AND <i>REENACT</i> CHAPTER 11, TITLE 2, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM TAX COMMISSION.	03/25/15 12:21 P.m.	03/25/15	Committee on Finance and Taxation, General Government Operations and Youth Development			



## COMMITTEE ON RULES

*I Mina'trentai Tres na Liheslaturan Guåhan* • The 33rd Guam Legislature

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March 25, 2015

### MEMORANDUM

**To:** **Rennae Meno**  
*Clerk of the Legislature*

**Attorney Therese M. Terlaje**  
*Legislative Legal Counsel*

**From:** **Senator Rory J. Respicio**   
*Chairperson, Committee on Rules*

**Subject: Referral of Bill No. 60-33(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 60-33(COR)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Tres Na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.







*Si Yu'os Ma'åse!*

Attachment

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

**Bill No.** 60-33 (COR)

Introduced by:

Michael F.Q. San Nicolas   
B.J.F. Cruz   
Thomas C. Ada   
N.B. Underwood, Ph.D.   
M.C. Torres   
J.V. Espaldon 

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

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

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

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5 Guam Code Annotated, *is hereby repealed and reenacted*, to read:

6 **“CHAPTER 11**  
7 **GUAM TAX COMMISSION**

8  
9 § 11101. Legislative Findings and Intent.

10 § 11102. Creation.

11 § 11103. Definitions.

12 § 11104. Membership.

13 § 11105. Subcommittees.

14 § 11106. Duties.

15 § 11107. Authority.

1 § 11108. Administration.

2 § 11109. Dissolution.

3 § 11110. Severability.

4  
5 **§ 11101. Legislative Findings and Intent.**

6 *I Liheslaturan Guåhan* finds that since 1950, under the Organic Act of  
7 Guam, the government of Guam has administered a Guam Territorial  
8 Income Tax which mirrors the U.S. Federal Income Tax (48 USC  
9 §1421i(a)). The Organic Act further provides under §1421i(a) that, in  
10 addition to the mirror tax, the Legislature of Guam is authorized to “levy a  
11 separate tax on all taxpayers in an amount not to exceed 10 per centum of  
12 their annual income tax obligation to the Government of Guam.”

13 *I Liheslaturan Guåhan* further finds that in the Tax Reform Act of  
14 1986, Public Law 99-514 §1271, the United States Congress authorized the  
15 government of Guam to “[enact] laws (which shall apply in lieu of the  
16 mirror system) with respect to income— (1) from sources within, or  
17 effectively connected with the conduct of a trade or business within, any  
18 such possession, or (2) received or accrued by any resident of such  
19 possession.” In order to implement this Section of law, an implementing  
20 agreement must be in effect between the United States and Guam. Such an  
21 agreement was drafted and signed by the Governor of Guam, the Director of  
22 Revenue and Taxation and the Assistant Secretary of the United States by  
23 April 5, 1989, but is not in effect pursuant to Public Law 20-181. Once such  
24 an agreement is entered into and a local tax code created, revenue, adjusted  
25 for inflation, shall not be less than was received by Guam the fiscal year  
26 preceding the implementation year.

1            *I Liheslaturan Guåhan* finds that the government of Guam has  
2 implemented a number of taxes to provide revenue. These taxes include the  
3 Documents Tax found in 11 GCA Chapter 20, the Annual Excise and  
4 Admission Taxes found in 11 GCA Chapter 22, Real Property Tax found in  
5 11 GCA Chapter 24, the Business Privilege Tax found in 11 GCA Chapter  
6 26 Article 2, the Alcohol Beverage Tax found in 11 GCA Chapter 26 Article  
7 3, the Liquid Fuel Tax found in 11 GCA Chapter 26 Article 4, the  
8 Automotive Surcharges found in 11 GCA Chapter 26 Article 5, the Tobacco  
9 Tax found in 11 GCA Chapter 26 Article 6, the Use Tax found in 11 GCA  
10 Chapter 28, and the Hotel Occupancy Tax found in 11 GCA Chapter 30.

11            *I Liheslaturan Guåhan* finds that Governor Ricardo J. Bordallo  
12 established a Guam Tax Advisory Committee pursuant to Executive Order  
13 1986-09, that Governor Joseph F. Ada established the Guam Tax Reform  
14 Commission in Executive Order 87-6, and that Governor Felix P. Camacho  
15 established the Tax Conversion and Reform Commission in Executive Order  
16 2003-04. Each of these commissions were formed to review and propose  
17 changes to Guam’s tax structure and/or policies.

18            *I Liheslaturan Guåhan* further finds that the *I Liheslatura* has  
19 established a number of Commissions to review and make recommendations  
20 on tax policy, including the Guam Tax Code established by Public Law 20-  
21 181, the Guam Finance Commission established by Public Law 22-74, and  
22 the Legislative Tax Review Commission established by Public Law 27-56.

23            *I Liheslaturan Guåhan* finds that the Legislative Tax Review  
24 Commission and the previous commissions served a useful role in allowing  
25 policy makers and interested members of the community to review the tax  
26 structure and policies on Guam and develop proposals for their reform.  
27 Efforts at reforming Guam’s tax system must continue. Systematically

1 reviewing the major components of Guam's tax code with members of the  
2 community can grant policy makers the ability to focus on the larger picture  
3 of what a reformed tax code can deliver for the people of Guam. A  
4 systematic review would cover not only provisions that narrowly affect a  
5 few businesses or a particular industry but also how the code is structured to  
6 promote economic efficiency, equity, simplicity, enforceability,  
7 accountability, and social responsibility.

8 It is therefore the intent of *I Liheslaturan Guåhan* to establish the  
9 Guam Tax Commission to improve Guam's tax structure and policies,  
10 promoting economic efficiency, equity, simplicity, enforceability,  
11 accountability, and social responsibility.

12 **§ 11102. Creation.**

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

15 **§ 11103. Definitions.**

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

18 (a) 'Commission' means the Guam Tax Commission.

19 (b) 'Chairperson' means the chairperson of the Commission.

20 **§11104. Membership.**

21 (a) Members. There shall be ten (10) members of the Commission,  
22 which are:

23 (1) The chairperson of the committee in *I Liheslaturan Guåhan*  
24 with jurisdiction over tax policy matters or his/her designee from  
25 among the members of *I Liheslatura*, who shall serve as Chairperson  
26 of the Commission;

1 (2) the chairperson of the committee in *I Liheslatura* with  
2 jurisdiction over budgetary matters or, if such chairperson also has  
3 jurisdiction over tax policy matters, then the Speaker of *I Liheslatura*  
4 shall designate a member of the majority to serve, who shall serve as  
5 vice chairperson;

6 (3) the minority leader in *I Liheslatura* or his/her designee;

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

11 (5) a Certified Public Accountant selected by the Chairperson,  
12 from among three (3) names submitted by the Guam Society of  
13 Certified Public Accountants of currently licensed Certified Public  
14 Accountants in good standing with the Guam Board of Accountancy;

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

17 (7) a business owner selected by the Chairperson from among  
18 three (3) names submitted by the Chamber of Commerce;

19 (8) a business owner selected by the Chairperson from among  
20 three (3) names submitted by the Women's Chamber of Commerce;

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

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

25 (b) Ex Officio Members. The Commission shall have ex officio  
26 members, which are:

27 (1) the Speaker of *I Liheslatura*;

- 1 (2) the Public Auditor;
- 2 (3) the Attorney General;
- 3 (4) the Director of the Department of Revenue and Taxation;
- 4 (5) the Director of the Department of Administration;
- 5 (6) the Director of the Bureau of Budget Management and
- 6 Research;
- 7 (7) the Administrator of the Guam Economic Development
- 8 Authority;
- 9 (8) the Chief Economist of the Guam Department of Labor
- 10 and/or the Bureau of Statistics and Plans; and
- 11 (9) additional individuals appointed by the Chairperson who
- 12 may provide expertise and knowledge relative to the Commission's
- 13 duties.

14 (c) The Chairperson shall within thirty (30) days, solicit the selection  
15 of three (3) names from each organization listed in items (5), (6), (7), (8),  
16 and (9) of subsection (a) of this section to serve on the Commission. The  
17 Chairperson shall appoint an individual from the three (3) names provided  
18 by each such organization at his/her earliest convenience.

19 (d) Commission members shall receive no compensation but may be  
20 reimbursed by *I Liheslatura* for actual expenses incurred in the performance  
21 of their duties, subject to submission of documentation by the Chairperson  
22 and approval by the Chairperson of Committee on Rules of *I Liheslatura*.

23 (e) Each member appointed to serve in the Commission shall serve  
24 from the date of appointment until the Commission is dissolved pursuant to  
25 §11109 of this Chapter. If any vacancy occurs in the appointed membership  
26 of the Commission prior to the dissolution of the Commission pursuant to



1 §11109 of this Chapter, the Chairperson shall appoint such replacement  
2 members in accordance with this Section.

3 **§11105. Subcommittees.**

4 The Chairperson shall establish such subcommittees as deemed  
5 appropriate to facilitate the work of the Commission. The Chairman shall  
6 select members and appoint a chairperson to any subcommittee formed  
7 pursuant to this section.

8 **§11106. Duties.**

9 The Commission shall:

10 (a) compile the records and work products of previous commissions,  
11 to include to the commissions formed under Executive Orders 1986-09,  
12 1987-06, and 2003-04 and Public Laws 20-181, 22-74, and 27-56;

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

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

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

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

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

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

4 **§11107. Authority.**

5 Government of Guam agencies and departments, including  
6 autonomous entities, shall make available to the Commission in a timely  
7 manner such data and technical support as is necessary for it to perform its  
8 duties as provided in this Chapter. The Commission shall be authorized to:

9 (a) receive and compile the records and work products of previous  
10 commissions from agencies and instrumentalities of the government of  
11 Guam, to include to the commissions formed under Executive Orders 1986-  
12 09, 1987-06, and 2003-04 and Public Laws 20-181, 22-74, and 27-56;

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

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

22 (d) communicate with the U.S. Federal Government regarding  
23 Guam's tax system, relevant domestic and international tax laws, tax  
24 treaties, and agreements which may bear upon the present and future  
25 relationship between the United States and Guam relative to taxes, and  
26 propose modifications of such tax laws, tax treaties, and agreements which  
27 may benefit Guam's economy and/or government;

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

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

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

15 (h) to issue subpoenas, to compel attendance of witnesses and the  
16 production of electronic and/or physical books, records, papers, accounts,  
17 reports, and documents, as necessary to achieve the mandates of the  
18 Commission;

19 (i) administer oaths relative to testimony and documents provided to  
20 the Commission;

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

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

27 **§ 11108. Administration.**

1 For administrative purposes, clerical support and necessary funding,  
2 the Commission shall be accommodated as necessary by *I Liheslaturan*  
3 *Guåhan*. Should data and technical support necessary to accomplish its  
4 duties as provided in this Chapter be unavailable from government of Guam  
5 entities and/or personnel, *I Liheslatura* may enter into contractual  
6 agreements with private consultants as it deems necessary to perform those  
7 duties, giving preference to those currently licensed to do business in Guam.  
8 *I Liheslatura* shall approve the funding of the Commission consistent with  
9 its standing rules.

10 **§ 11109. Dissolution.**

11 The Commission shall dissolve at the end of each legislative term, to  
12 be reconstituted and reconvened by the chairperson in the following  
13 legislative term, pursuant to §11104 of this Chapter.

14 **§ 11110. Severability.** If any provision of this Chapter or its application to  
15 any person or circumstance is found to be invalid, or contrary to law, such  
16 invalidity shall not affect other provisions or applications of this Chapter which  
17 can be given effect without the invalid provision or application, and to this end the  
18 provisions of this Chapter are severable.”

19 **Section 3. Effective Date.** This Act shall be effective upon enactment,  
20 except that, for the current Guam Legislature, the chairperson of the committee in *I*  
21 *Liheslaturan Guåhan* with jurisdiction over tax policy matters shall designate the  
22 Chairperson of the Commission pursuant to 2 GCA §11104(a)(1) as reenacted in  
23 §2 of this Act within ninety (90) days of the enactment of this Act.