

I Mina Trentai Kuåttro Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
263-34 (COR)	Fernando B. Esteves	AN ACT TO AMEND § 26702 OF SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO ADDING DEFINITIONS TO THE SAME; TO ADD A NEW § 26705 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO COLLECTIONS OF THE GENERAL SALES TAX; TO ADD A NEW § 26706 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO ESTABLISHING FURTHER EXEMPTIONS TO THE GENERAL SALES TAX; TO ADD A NEW § 26707 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO EXEMPT GOODS PURCHASED OUTSIDE OF GUAM FOR DELIVERY TO GUAM FOR NON-BUSINESS PURPOSES FROM THE USE TAX; AND TO ADD A NEW § 26708 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO BUNDLED TRANSACTIONS OF TAXABLE AND UNTAXABLE SALES.	3/19/18 3:03 p.m.	3/26/18	Committee on Appropriations and Adjudication			Fiscal Note Request 3/26/18	
				3/28/18	Committee on Education, Finance and Taxation			Fiscal Note 4/13/18	

Senator Thomas C. Ada,
Vice Chairperson

Speaker Benjamin J.F. Cruz,
Member

Vice Speaker Therese M. Terlaje,
Member

Senator Frank B. Aguon, Jr.,
Member

Senator Telena C. Nelson,
Member



COMMITTEE ON RULES
SENATOR RÉGINE BISCOE LEE, CHAIR

SIKRITARIAN LIHESLATURAN GUAHAN
I MINA' TRENTAI KUATTRO NA LIHESLATURAN GUÅHAN
LEGISLATIVE SECRETARY • 34TH GUAM LEGISLATURE

Senator Dennis G. Rodriguez, Jr.,
Member

Senator Joe S. San Agustin,
Member

Senator Michael F.Q. San Nicolas,
Member

Senator James V. Espaldon,
Member

Senator Mary Camacho Torres,
Member

April 13, 2018

MEMO

To: Rennae Meno
Clerk of the Legislature

From: Senator Régine Biscoe Lee
Chairperson, Committee on Rules

Re: Fiscal Notes

Buenas yan Håfa adai.

Attached, please find the fiscal notes for the following bills:

Bill No. 263-34 (COR)

Bill No. 265-34 (COR) As amended by the Prime Sponsor

Bill No. 267-34 (COR)

Please forward the same to Management Information Services (MIS) for posting on our website.

For any questions or concerns, please feel free to contact Jean Cordero, Committee on Rules Director, at 472-2461.

Thank you for your attention to this important matter.



**Bureau of Budget & Management Research
Fiscal Note of Bill No. 263-34 (COR)**

AN ACT TO AMEND § 26702 OF SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO ADDING DEFINITIONS TO THE SAME; TO ADD A NEW § 26705 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO COLLECTIONS OF THE GENERAL SALES TAX; TO ADD A NEW § 26706 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO ESTABLISHING FURTHER EXEMPTIONS TO THE GENERAL SALES TAX; TO ADD A NEW § 26707 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO EXEMPT GOODS PURCHASED OUTSIDE OF GUAM FOR DELIVERY TO GUAM FOR NON-BUSINESS PURPOSES FROM THE USE TAX; AND TO ADD A NEW § 26708 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO BUNDLED TRANSACTIONS OF TAXABLE AND UNTAXABLE SALES.

Department/Agency Appropriation Information	
Dept./Agency Affected: Department of Revenue and Taxation	Dept./Agency Head: John Camacho, Director
Department's General Fund (GF) appropriation(s) to date:	10,943,191
Department's Other Fund (Specify) appropriation(s) to date:	3,196,935
Total Department/Agency Appropriation(s) to date:	\$14,140,126

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2017 Unreserved Fund Balance		\$0	\$0
FY 2018 Adopted Revenues	\$0	\$0	\$0
FY 2018 Appro. (P.L. 34-42 thru)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2018 (if applicable)	FY 2019	FY 2020	FY 2021	FY 2022
General Fund 1/	(\$10,676,338)	\$0	(\$10,676,338)	(\$10,676,338)	(\$10,676,338)	(\$10,676,338)
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	(\$10,676,338)	\$0	(\$10,676,338)	(\$10,676,338)	(\$10,676,338)	(\$10,676,338)

- | | | | |
|---|------------|-------------------------------|--------------------------------|
| 1. Does the bill contain "revenue generating" provisions?
If Yes, see attachment | | / / Yes | / X / No |
| 2. Is amount appropriated adequate to fund the intent of the appropriation?
If no, what is the additional amount required? \$ _____ | / X / N/A | / / Yes | / / No |
| 3. Does the Bill establish a new program/agency?
If yes, will the program duplicate existing programs/agencies?
Is there a federal mandate to establish the program/agency? | / X / N/A | / / Yes
/ / Yes
/ / Yes | / X / No
/ / No
/ X / No |
| 4. Will the enactment of this Bill require new physical facilities? | | / / Yes | / X / No |
| 5. Was Fiscal Note coordinated with the affected dept/agency? If no response, indicate reason:
/ X / Requested agency comments not received by due date | / / Other: | / X / Yes | / / No |

Analyst: <u>Jared N.C. Perez</u> Date: <u>4/11/18</u>	Director: <u>Lester L. Carlson, Jr.</u> Date: <u>APR 12 2018</u>
Jared Perez, Budget and Management Analyst I	Lester L. Carlson, Jr., Acting Director

Footnotes:
1/ See attached for comments on fiscal impact.

**Bureau of Budget & Management Research
Attachment to Fiscal Note No. 263-34 (COR)
(for revenue generating provisions)**

Projected Multi-Year Revenues					
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
General Fund 1/	\$0	(\$10,676,338)	(\$10,676,338)	(\$10,676,338)	(\$10,676,338)
Other Fund:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Total	\$0	(\$10,676,338)	(\$10,676,338)	(\$10,676,338)	(\$10,676,338)

Comments:

1/ See attached comments for details on the potential fiscal impact to revenues.

Comments on Bill No. 263-34 (COR)

The intent of Bill 263-34 (COR) is to make exemptions to the General Sales Tax. The Bill proposes to exempt the following items, some of which will be grouped together for simplicity's sake:

1. Uncooked food - food products as defined in the Bill
 - a. §26706 (a) Food or drink
 - b. §26706 (b) Food products
 - c. §26706 (c) Meals provided free of charge
2. Casual sales – sales made by a person not regularly engaging in business with the exception of motor vehicles, boats, etc.
3. Trade-ins – transactions involving the trading of an automobile for the purchase of a new automobile
4. Federal Exemptions – items prohibited from being taxed by the Constitution or laws of the U.S.
5. Construction Materials for the Government of Guam
 - a. §26706 (g) Personal property used to develop property which the Territory of Guam is under contract to purchase through long term financing, requiring a certificate
 - b. §26706 (h) Personal property to be incorporated into the demolition or construction relative to capital improvement projects for the Territory, requiring a certificate
6. Real property – sale of property above \$400,000
7. Pharmaceuticals
 - a. §26706 (j) Drugs as defined in the Bill
 - b. §26706 (k) Syringes and needles by prescription
8. Wholesalers – with the caveat that sales tax shall be paid should business also participate in retail sales that retail sales be subject to the sales tax
9. Baby products
10. Feminine hygiene products
11. Adult incontinence products

Additionally, the Bill seeks to provide guidance to “Bundled Transactions” which will simply be considered administrative in nature as well as more broad exemptions on the Use Tax, which will be discussed in a later part of this fiscal note.

Exemptions to the General Sales Tax will be explored first. Absent feedback from the DRT, data from the Bureau of Statistics and Plans’ (BSP) 2016 Statistical Yearbook is used to extrapolate the potential revenue loss as a result of these exemptions. These statistics will be measured against various other values, one of them being the Gross Domestic Product (GDP) in 2016. GDP is the measure of all goods and services from the island. A specific subset of the GDP provided by BSP known as Personal Consumption Expenditures for Goods is also utilized. This statistic measures all goods purchased specifically by consumers. All retail business purchases are assumed to be purchased from wholesalers and thus be exempt from this tax. The total retail number for that activity is \$1,726,000,000. Other statistics will include the value of Building Permits and various population statistics.

The first proposed exemption is for uncooked food. To calculate the potential revenue loss, the percentage of imports to Guam will be used as a starting point. The BSP estimates the total cost of goods imported into Guam was \$124,699,000. Of that amount, \$30,794,000 was for

food and non-alcoholic beverages. This means that this category accounts for 24.7% of goods imported to the island. This number is now applied to GDP. The reasoning behind this is that the vast majority of all goods sold on island are imported. Thus it stands to reason that the vast majority of goods purchased on island is imported. See the calculations below:

GDP Personal Expenditures for Goods	\$1,726,000,000
Percentage of Imports (Food)	x 24.7%
Estimated GDP from Food	\$426,188,390
General Sales Tax rate	x 2.0%
Estimated loss of revenue for uncooked foods	\$8,523,768

Pharmaceuticals, the next proposed exemption to be explored, are listed as \$2,053,000. This makes pharmaceuticals 1.6% of goods imported. The same methodology as was used for uncooked foods will be used here. See calculations below:

GDP Personal Expenditures for Goods	\$1,726,000,000
Percentage of Imports (Pharmaceuticals)	x 1.6%
Estimated GDP from Pharmaceuticals	\$27,616,000
General Sales Tax rate	x 2.0%
Estimated loss of revenue for pharmaceuticals	\$552,320

The next exemption analyzed, is construction materials. It should be noted that the interpretation of this exemption is that any and all construction materials purchased for the purpose of working on Government of Guam (GovGuam) projects would be exempted from the sales tax. To that end, the total value of all construction permits issued for GovGuam projects in FY 2016 on Guam was \$145,564,000. Using this value, it is assumed that a 40% material cost be applied. This means that the remaining 60% is for labor and profit margin. See calculations below:

Value of Building Permits for GovGuam projects	\$145,564,000
Assumed material costs	x 40%
Projected expenditures for construction materials	\$58,225,600
General Sales Tax	x 2.0%
Projected loss of revenue for construction materials for GovGuam	\$1,164,512

The fourth exemption for review is Baby Products. For the purpose of this exemption, statistics from the U.S. Department of Agriculture (USDA) report "Expenditures on Children by Families, 2015" (Lino, Kuczynski, Rodriguez, & Schap, 2017) is used. To start, the average of annual expense for raising a child is \$12,350 to \$13,900 (average of \$13,125) for families with an average household income of less than \$59,200. Given that, per the BSP Statistical Yearbook, the average annual income for all occupations on Guam in 2016 was \$34,790, this figure is used. This cost will then be applied to the population of children under 5 years old (2010 census data). The reason for this is that the Bill proposes to exempt clothing up to the size 5T which is commonly for children up to age 5. This methodology will provide the base economic activity for raising a child on Guam. See the calculations on the following page.

Average cost of raising a child		\$13,125
Population under 5 years 2010	x	14,289
Projected expenditures for raising a child		\$187,543,125

The same USDA report cites that clothing accounts for 6% of this cost. The study defines clothing expenses as diapers, shirts, pants, etc. This will figure will be used for this entire exemption to include all items defined in the Bill. This will be applied to the projected expenditures for raising a child and then be multiplied by the General Sales Tax to get the estimated loss of revenue for this exemption. See the calculations below:

Projected expenditures for raising a child		\$187,543,125
Clothing Expenses percentage	x	6%
Projected economic activity for baby products		\$11,252,588
General Sales Tax	x	2%
Projected loss of revenue for baby products		\$225,052

Feminine hygiene products will be the next exemption. An article found on Women in the World entitled "Women-led companies offer cost-efficient alternatives to traditional female hygiene products" (2017) states that the average woman spends \$150 to \$300 (\$225 average) per year on disposable feminine hygiene products. The average age a woman will experience menstruation is 12 to 51. This will be limited to 10 to 49 since the census categorizes ages in 5 year intervals. The population of females in this age range in 2010 was 46,819. The same methodology used earlier, cost multiplied by population multiplied by tax rate, will be utilized.

Average cost of feminine hygiene products yearly		\$225
Population under 10 to 49 years 2010	x	46,819
Projected economic activity for feminine hygiene		\$10,534,275
General Sales Tax	x	2%
Projected loss of revenue for feminine hygiene		\$210,686

Now to explore real property sales. According to the BSP Statistical Yearbook, the Guam real estate sales volume in 2016 was \$559,300,000. According to the magazine CasaGuam (February 2017), the average sale price of single family homes for calendar year 2016 was \$319,731 (323 sold) and for condominiums/townhomes the average price was \$213,055 (177 sold). With these numbers, the average will be multiplied by units sold. This will be used to estimate the total amount to be exempted by this tax. See calculations below:

Avg cost of Single Family Homes	\$319,791	Avg cost of Single Condos/Townhomes	\$213,055
Units sold	x 323	Units sold	x 171
Proj. sales for homes	\$103,292,493	Proj. sales condo/townhome	\$36,432,405
General Sales Tax	x 2%	General Sales Tax	x 2%
Proj. loss of single family homes	\$2,065,850	Proj. loss of condos/townhomes	\$728,648

With the projections above, the estimated projected revenue loss from the exemption of real property sales below \$400,000 is \$2,794,498. It should be noted that the sale of land without a home is not included in this calculation. It should also be noted that the initial projections of the general sales tax were always made using the BPT as a base. This means that the sale of

private property by individuals was never considered to be part of the expected revenue. As a result, this will not be accounted for in the final number provided later.

The next exemption is that of wholesalers. This exemption is similar to an one found on the BPT. Per the Office of Accountability, the BPT tax exemptions claimed as a result of wholesale for 2016 was \$953,786,248. This means that this exemption, after applying the 2% general sales tax, would result in a loss of \$19,075,725. As with the statement on real property sales, the same applies to that of wholesale exemptions. As a result, this will not be added to the total impact given by this fiscal note.

For the remainder of the exemptions to the general sales tax, all will be considered to be of minimal impact with the exception of the federal exemptions. For federal exemptions, absent feedback from the Department of Revenue and taxation, these will not be calculated with the assumption that the Department would not have collected these in the first place. This section may also be in an attempt to ensure that items that could be taxed by the general sales tax also not be taxed through the Use Tax.

Finally, this Bill also seeks to provide an exemption on the Use Tax for goods purchased outside of Guam for non-business purposes. There is currently an exemption similar to this in §28106 (c) of Chapter 28, Title 11 Guam Code Annotated that caps this exemption at a maximum of \$5,000 per year. Given that the use tax currently collected \$3,169,503 in FY 2017, according to the October 2017 CRER, this is assumed to not have a significant impact to tax revenues. While it could potentially exclude larger items such as cars, the assumption is that items such as those will not be frequent in occurrence.

The total estimated revenue loss as a result of the proposed exemptions, specifically food, baby products, feminine hygiene, pharmaceuticals, and construction materials for GovGuam, comes to an estimated \$10,676,338. It should be noted that this estimate does not include exemptions such as the wholesale and real property exemption for reasons mentioned above. These calculations only account for one year of activity and there is no calculation for any additional economic factors. Additionally, the number stated here as the projected sales tax revenue does not utilize the same assumptions the Office of Finance and Budget used during the Special Economic Session held on February 13, 2018 and was solely based on P.L. 34-42. The passage of this Bill would have a definite impact on Government of Guam operations as less tax revenues would require that additional budget cuts take place for FY 2019 in addition to those already undertaken by the federal Tax Cuts and Jobs Act of 2017.