I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN

2018 (EIGHTH) Special Session

LEGISLATIVE SESSION VOTING RECORD

Bill No. 248-34 (LS)
As amended in the Committee of the Whole.

Speaker Antonio R. Unpingco Legislative Session Hall
March 15, 2018

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Thomas C. **ADA**	✓					
Senator FRANK B. **AGUON, JR.**		✓				
Senator William M. **CASTRO**	✓					
Speaker Benjamin J.F. **CRUZ**	✓					
Senator James V. **ESPALDON**	✓					
Senator Fernando Barcinas **ESTEVES**	✓	II				
Senator Régine Biscoe **LEE**		✓				
Senator Tommy **MORRISON**	✓					
Senator Louise B. **MUÑA**	✓					
Senator Telena Cruz **NELSON**		✓				
Senator Dennis G. **RODRIGUEZ, JR.**		✓				
Senator Joe S. **SAN AGUSTIN**	✓					
Senator Michael F.Q. **SAN NICOLAS**		✓				
Vice Speaker Therese M. **TERLAJE**		✓				
Senator Mary Camacho **TORRES**		✓				
TOTAL:	8	7				
	Aye	**Nay**	**Not Voting/ Abstained**	**Out During Roll Call**	**Absent**	**Excused**

CERTIFIED TRUE AND CORRECT:

Legislative Secretary

I = Pass

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

Bill No. 248-34 (LS)
As amended in the Committee of the Whole.

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Introduced by: Joe S. San Agustin

AN ACT TO *ADD* A NEW ARTICLE 7 TO CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO IMPOSING A GENERAL SALES TAX IN GUAM, AND TO DEDICATING THE REVENUE TO BE COLLECTED FROM THE EXPANDED REVENUE STREAM TO THE GUAM MEMORIAL HOSPITAL AUTHORITY (GMHA) FOR ITS OPERATIONS AND MODERNIZATION, THE DEPARTMENT OF EDUCATION TO FUND ITS CAPITAL NEEDS, AND THE GENERAL FUND OF THE GOVERNMENT OF GUAM TO ADDRESS THE TAX BASE EROSION RESULTING FROM THE PASSAGE OF THE TAX CUTS AND JOBS ACT OF 2017; TO *AMEND* § 26110(a) OF ARTICLE 1, CHAPTER 26 TITLE 11, GUAM CODE ANNOTATED; TO *ADD* A NEW CHAPTER 1A TO TITLE 5, GUAM CODE ANNOTATED; TO *REPEAL* § 4207 OF ARTICLE 2, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED; TO *REPEAL* CHAPTER 11 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO GOVERNMENT REORGANIZATION AND ESTABLISHING THE TOP PRIORITIES OF THE GOVERNMENT; TO *AMEND* SECTIONS 1 AND 2 OF CHAPTER VI, AND SECTION 1(a)(1) OF CHAPTER V, ALL OF PUBLIC LAW 34-42, RELATIVE TO REDUCING THE FY 2018 GENERAL FUND APPROPRIATIONS TO THE GUAM LEGISLATURE, THE OFFICE OF FINANCE AND BUDGET, AND THE OFFICE OF THE GOVERNOR; TO *AMEND* § 26202 OF ARTICLE 2, CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO TEMPORARILY INCREASING THE BUSINESS PRIVILEGE TAX FROM FOUR PERCENT (4%) TO FIVE PERCENT (5%); AND TO CREATING A GMHA STABILIZATION FUND.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Article 7 is *added* to Chapter 26 of Title 11, Guam Code Annotated, to read:

"**ARTICLE 7**

GENERAL SALES TAX

§ 26701. Levy.
§ 26702. Definitions.
§ 26703. Administration.
§ 26704. Electronic Filing.

§ 26701. Levy.

There is hereby levied and *shall* be assessed and collected a general sales tax on tangible personal property and any service business, excluding banking and lending services, foreign currency services, and insurance services, at the rate of two percent (2%). Provided however, that this Section *shall not* apply to the purchase of liquid or diesel fuel sold at sales outlets located in Guam.

§ 26702. Definitions.

(a) *Department* means the Department of Revenue and Taxation.

(b) *Tangible personal property* means any corporeal personal property of any nature.

(c) *General sales tax* means a tax assessed on the purchaser of goods and services, purchased on Guam or purchased outside of Guam for delivery to Guam, which are subject to the levy in § 26701 of this Article, and the purchaser is not specifically exempted.

§ 26703. Administration.

The Department of Revenue and Taxation *shall* be responsible for the administration of this Article.

§ 26704. Electronic Filing.

The Department of Revenue and Taxation *shall* provide for the electronic filing of monthly returns by taxpayers against whom a tax is levied under the provisions of this Article, commencing with returns submitted after the month of January 2019; provided, however, that such provision *shall not* prohibit taxpayers under this Article from opting to file non-electronic returns."

Section 2. § 26110(a) of Article 1, Chapter 26, Title 11, Guam Code Annotated, is *amended* to read as follows:

"Monthly Returns for Alcoholic Beverage Tax, Liquid Fuel Tax, Automotive Surcharges, Tobacco Tax, and General Sales Tax. Each taxpayer against whom a tax is levied by the provisions of Articles 3, 4, 5, 6, and 7 of this Chapter *shall* make and file monthly returns of taxes with the Tax Commissioner on or before the twentieth (20^{th}) day following the close of the calendar month in which the taxes shall accrue, and in the form and in accordance with the rules and regulations by the Tax Commissioner. Except as may be specifically hereinafter provided, payment covering the full amount of tax liability as evidenced by the monthly return *shall* accompany such monthly return."

Section 3. Use and Appropriation of Revenue.

The increased revenues derived from the general sales tax described in this Act *shall* be allocated accordingly:

(a) 0.75% to Guam Memorial Hospital Authority for its purposes, including, but not limited to, capital investment, operational requirements, or reserves;

(b) 0.25% to the Department of Education for its capital improvement needs; and

(c) 1.00% to the General Fund of the Government of Guam to address the erosion of the tax base resulting from the passage of Public Law 115-97, the Tax Cuts and Jobs Act of 2017.

Section 4. Approval of Voters Not Required. Notwithstanding 3 GCA §§ 16311 and 16312, the imposition of the general sales tax authorized by this Act *shall not* be subject to the approval of, or placed before, the voters of Guam.

Section 5. A new Chapter 1A is hereby *added* to Title 5 of Guam Code Annotated, to read:

"**CHAPTER 1A**

REORGANIZATION

§ 1A100. Definitions.

For the purposes of this Act:

(a) *Abolition* means the elimination of any agency of the government.

(b) *Absorption* means the transfer or consolidation of one (1) or more functions of any one (1) agency of the government to any other agency of the government.

(c) *Availability roster* means a roster of the designated displaced employees in an agency of the government that will be absorbed, outsourced, or privatized.

(d) *Displaced employee* means an employee, in graded and ungraded positions of the classified service of the government, who had been employed by an agency of the government that was outsourced or privatized or whose employment was terminated as a result of the outsourcing or privatization.

(e) *Gaining entity* means any agency to which any function has been transferred by absorption.

(f) *Outsource* means contracting with a private company to accomplish any function that has been or, were it not for the outsourcing, would be provided by any agency of the government.

(g) *Privatization* means the alienation, by sale, lease, or otherwise, of any agency or function of the government.

(h) *Reorganization* means:

(1) the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency;

(2) the abolition of all or any part of the functions of any agency;

(3) the consolidation or coordination of the whole or any part of any agency, or of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof;

(4) the consolidation or coordination of any part of any agency or the functions thereof with any other part of the same agency or the functions thereof;

(5) the authorization of any non-elective officer to appoint any individual to perform any of his/her functions;

(6) the abolition of the whole or any part of any agency which agency or part does not have any function; or

(7) the use of a person under contract to perform functions which regularly are performed or budgeted to be performed by employees appointed under the merit system.

§ 1A101. Internal Reorganization.

Internal reorganization of an entity, including reductions in force, *shall* be accomplished in accordance with the executive order(s) authorized by § 1A107.

§ 1A102. Reorganization of the Executive Branch.

Reorganization of the executive branch *shall* be accomplished in accordance with this Chapter.

§ 1A102.1. Executive Order: Reorganization of the Executive Branch.

The Governor by executive order(s) may direct the reorganization of the various entities of the executive branch and may implement the Priority Placement Procedure as listed in Appendix C of Chapter 1, Division 1, Title 2, Guam Administrative Rules and Regulations, relative to the Personnel Rules and Regulations of the Department of Administration as the standard policy and uniform guideline to address employees affected by adverse effects such as, but not limited to, consolidation, transfer of functions, lack of work or funds, position classification or reduction in force; or executive branch reorganization, restructuring, reform, modernization, streamlining, innovation or transformation initiatives.

§ 1A102.2. Table 1.

Table 1 sets out three (3) groups of various entities of the executive branch and assigns a priority number (PN) to each entity. Group I, PN 100, *et seq.*, is composed of entities that provide services that are the government's top priorities: education, health and public safety. Group II, PN 200, *et seq.*, is composed of entities that provide services that are involved in support, enforcement, regulation, adjudication or administration. Group III, PN 300, *et seq.*, is composed of other entities. Any entity of the executive branch otherwise not listed in Table 1 is deemed listed in Group III of Table 1.

Table 1

Group I

PN 100 Education:

101E Guam Department of Education

102E University of Guam

103E	Guam Community College
104E	Guam Public Library
	Health:
101H	Guam Memorial Hospital Authority
102H	Guam Behavioral Health and Wellness Center
103H	Department of Public Health and Social Services
	Public Safety:
101S	Guam Police Department
102S	Guam Fire Department
103S	Department of Corrections
104S	Department of Law (prosecution division)
105S	Customs and Quarantine Agency
106S	Department of Youth Affairs (custodial; corrections related)
107S	Guam Homeland Security; Office of Civil Defense
108S	Public Defender Service Corporation (criminal defense)
	Group II
	PN 200
201	Department of Revenue and Taxation
202	Department of Public Works
203	Department of Labor
204	Department of Land Management
205	Department of Administration
206	Department of Military Affairs
207	A.B. Won Pat International Airport Authority
208	Government of Guam Retirement Fund
209	Guam Veterans Affairs Office
210	Guam Visitors Bureau

211	J.D. Leon Guerrero Port Authority of Guam
212	Department of Chamorro Affairs

Group III

PN 300

301	Agency for Human Resources Development
302	Ancestral Lands Commission
303	Bureau of Budget and Management Research
304	Bureau of Statistics and Plans
305	Civil Service Commission
306	Chamorro Land Trust Commission
307	Commission on Decolonization
308	Department of Agriculture
309	Department of Integrated Services for Individuals with Disabilities (DISID)/Division of Vocational Rehabilitation
310	Department of Parks and Recreation
311	Department of Youth Affairs (non-custodial; non-corrections related)
312	General Services Agency - Department of Administration
313	Guam Council on the Arts and Humanities
314	Guam Commission for Educator Certification
315	Guam Contractors License Board
316	Guam Developmental Disabilities Council
317	Guam Economic Development Authority
318	Guam Educational Telecommunications Corporation (KGTF/PBS Guam)
319	Guam Election Commission
320	Guam Energy Office
321	Guam Environmental Protection Agency

322 Guam Housing and Urban Renewal Authority
323 Guam Housing Corporation
324 Guam Museum
325 Guam Regional Transit Authority
326 *Hagåtña* Restoration and Redevelopment Authority
327 Office of the Governor
328 Office of Post-Mortem Examinations (Chief Medical Examiner)
329 Office of Technology
330 Professional Engineers, Architects, Land Surveyors (PEALS) Board

§ 1A103. Same: Absorption of Functions.

The Governor by executive order(s) may direct the absorption of any or all of the functions of any one (1) agency of the government listed in Table 1 with a Priority Number (PN) of 201 or higher by any agency(ies) of the government with a lower priority number. Any agency in Group I may absorb any of the functions of any other agencies in Groups II and III, and any agencies within Groups II and III may absorb the functions of any other agencies within Group II or Group III.

§ 1A104. Same: Abolition of Government Entities.

The Governor by executive order(s) may abolish any agency of the government listed in Table 1 with a PN of 301 or higher.

§ 1A105. Transfer Authority.

The Governor is authorized to transfer the appropriation, and any cost savings, unspent appropriation, or excess spending authority, of any agency of the government which is abolished or any function which is absorbed to any other agency(ies) of the government with a PN of 101E-108S.

§ 1A106. Same. Outsourcing and Privatization.

No more than ninety percent (90%) of the appropriation for personnel services for a function that is outsourced or privatized may be transferred by the Governor to

the contractual category to fund the contract arising from the outsourcing or privatization.

§ 1A107. Executive Order(s).

(a) The reorganization(s) directed by executive order(s) authorized by § 1A109 *shall* be accomplished in accordance with the procedures for promulgating rules set out in 5 GCA §§ 9301 and 9303.

(b) The rules promulgated by executive order(s) authorized by § 1A109 *shall* be promulgated in accordance with 5 GCA §§ 9301, 9303 and 9304.

(c) The executive order(s) *shall* recognize, where applicable, employees' rights of representation in accordance with 4 GCA § 10106.

(d) Nothing contained herein shall be construed to prevent the Attorney General from approving such executive order(s) as to form, content and compliance with law.

§ 1A108. Same: Availability Roster.

When executive orders authorized by § 1A109 issue, the person in charge of the entities to be abolished or the functions of which are to be absorbed *shall* submit an availability roster to the gaining entity, if any. The person in charge of the gaining entity may, in accordance with the applicable executive order, employ those employees on the availability roster in such number, if any, as required to accomplish the function(s) of the gaining agency if necessary.

§ 1A109. Implementing Executive Order.

The Governor *shall* by executive order(s) promulgate rules to accomplish the following:

(a) prioritization in force;

(b) outsourcing;

(c) absorption;

(d) abolition;

(e) reorganization;

(f) availability rosters;

(g) the designation of functions to be absorbed; or

(h) the designation of entities to be abolished.

§ 1A109.1. Furloughs and layoffs *shall* be conducted pursuant to existing Personnel Rules and Regulations.

§ 1A110. Transition - Files and Equipment.

(a) All files and reports held by an abolished entity *shall* be transmitted by the person in charge of such entity to such custodian as is designated by the Governor within sixty (60) days following the designation of the entity as an abolished entity.

(b) All property of the abolished entity, or property leased by it, when the lease cannot be cancelled or will not expire upon the abolition of the entity, *shall* be turned over to the custodian designated by the Governor within sixty (60) days following the designation of the entity as an abolished entity.

§ 1A111. Abolished Entity.

An abolished entity *shall* be closed and all remaining personnel terminated within sixty (60) days of the date of implementation of the executive order effectuating the abolition.

§ 1A112. Same: Boards and Commissions of Entities Listed in Group III.

Boards and Commissions of entities listed in Group III may be assigned for logistical support to entities in Groups I and II when the entity supported or directed by the Board or Commission is abolished.

§ 1A113. Special Provision for Elected Officials.

The provisions of §§ 1A101, 1A102, 1A103, 1A104, 1A110, or 1A111 *shall not* apply to an office or department under the supervision of an elected official.

§ 1A114. Special Provision for the University of Guam and the Guam Community College.

The provisions of § 1A101 *shall not* apply to the University of Guam and the Guam Community College."

Section 6. Restraint on Alienation. No office, department, agency, institution, board, bureau, commission, council, authority, committee of territorial government, branch, or the Guam Visitors Bureau, of the government of Guam may sell or transfer any real property of the government of Guam without the approval of *I Liheslaturan Guåhan*, which, by statute, may amend, approve, or disapprove the plan or the action taken within sixty (60) days, or said plan or action shall be deemed approved. Any attempted alienation of any interest in the sale, lease, or property covered thereby, without such prior consent shall be void, and shall have no effect in law.

Section 7. Repeal of Reduction in Force Provision. § 4207 of Article 2, Chapter 4, Title 4, Guam Code Annotated, is hereby *repealed.*

Section 8. Repeal of Chapter on Reorganization. Chapter 11 of Title 5, Guam Code Annotated, is hereby *repealed*.

Section 9. General Repealer. All laws, rules, regulations, and policies dealing with the subject matter of this Act which are inconsistent herewith are repealed effective on the date of issue of the executive order(s) authorized by 5 GCA §§ 1A107 and 1A109, as enacted by Section 5 of this Act, unless a different date is specified in said executive order(s).

Section 10. Transition. Nothing contained herein shall be construed to affect proceedings begun or action taken prior to the effective date of this Act; provided, however, that the executive order(s) issued pursuant to §§ 1A107 and

1A109, as enacted by Section 5 of this Act may be made applicable to pending proceedings if the executive order(s) so state.

Section 11. Ongoing Proceedings. Any reorganization authorized by this Act *shall not* affect any ongoing administrative or judicial proceeding involving any agency, instrumentality, or public corporation.

Section 12. Ten Percent (10%) Reduction in Fiscal Year 2018 General Fund Appropriation to the Guam Legislature, the Office of Finance and Budget, and the Office of the Governor.

(a) Sections 1 and 2 of Chapter VI of Public Law 34-42 are hereby *amended* to read:

"**Section 1. Appropriation.** The sum of Seven Million Six Hundred Forty-six Thousand Nine Hundred Eight Dollars **($7,646,908)** is appropriated from the General Fund to *I Liheslaturan Guåhan* (the Guam Legislature) for its operations, including personnel services, for Fiscal Year 2018.

Section 2. Appropriations to the Office of Finance and Budget. The sum of Four Hundred Twenty-three Thousand Dollars **($423,000)** is appropriated from the General Fund to *I Liheslaturan Guåhan* for the Office of Finance and Budget for its operations, including personnel services, for Fiscal Year 2018."

(b) Section 1(a)(1) of Chapter V of Public Law 34-42 is hereby *amended* to read:

"**(1) Appropriation.** The sum of Seven Million Three Hundred Forty-two Thousand Nine Hundred Twenty-four Dollars **($7,342,924)** is appropriated to the Office of *I Maga'låhen Guåhan* (Governor of Guam) for its operations for Fiscal Year 2018. This sum is composed of Seven Million Forty Thousand Seven Hundred Sixty Dollars **($7,040,760)** from the General

Fund and Three Hundred Two Thousand One Hundred Sixty-four Dollars **($302,164)** from the Indirect Cost Fund.

SUMMARY OF APPROPRIATION FUNDING SOURCE

GENERAL FUND	$7,040,760
INDIRECT COST FUND	$302,164
TOTAL	**$7,342,924**

For information purposes only:

FEDERAL MATCHING GRANTS-IN-AID	$0"

Section 13. § 26202 of Article 2, Chapter 26, Title 11, Guam Code Annotated, is hereby *amended* to read as follows:

"**§ 26202. Rates**.

The following rates *shall* apply in computing, assessing and collecting the business privilege tax:

(a) Tax on the business of selling tangible personal property. Upon every person engaging or continuing within Guam in the business of selling any tangible property whatsoever (not including however, bonds or other evidence of indebtedness or stocks), there *shall* be a tax equivalent to five percent (5%) of gross proceeds of sales; except that on the gross proceeds of the operation of poker machines, there shall be a tax equivalent to eight percent (8%) on the gross proceeds of each machine, as determined by subtracting the winnings, pay-outs and malfunction refunds from total receipts of each machine.

(1) Provided, that gross proceeds of export sales of tangible property in foreign commerce *shall not* constitute a part of the measure of the tax imposed. Although not constituting a part of the measure of the tax imposed, all such sales *shall* be reported in the manner provided for the reporting of the tax imposed by § 26202(a).

(2) Provided, that any person engaging or continuing in business as a retailer and a wholesaler *shall* pay the tax required solely on the gross proceeds of sales of the retail business, and his books must be kept so as to show separately the gross proceeds of sale of each business.

(3) Provided, that a manufacturer or producer engaging in the business of selling his manufactured products at retail in Guam *shall* be required to make returns of the gross proceeds of such retail sales and pay the tax imposed by this Chapter for the privilege of engaging in the business of selling such products at retail in Guam; and

(4) Provided, that a manufacturer or producer, other than a manufacturer of alcoholic beverages, engaging in the business of selling his products to manufacturers, wholesalers, or licensed retailers, or persons actually selling the products to the United States Government, *shall not* be required to pay the tax imposed in this Act for the privilege of selling such products at wholesale. Nor shall any such manufacturer or producer, other than a manufacturer of alcoholic beverages, be required to pay the tax imposed in this Act for the privilege of selling products for delivery to the purchaser outside of Guam. The point of delivery for a purchaser outside of Guam may be on Guam, if the product's ultimate destination or consumption is outside of Guam.

(b) (1) [Repealed.]

(2) [Repealed.]

(3) Tax upon boxing. The tax levied and assessed under Subsections (b)(1) and (b)(2) (repealed) of this Section *shall not* apply

to boxing for which a tax equivalent to twelve percent (12%) of the gross income of such boxing business is hereby levied and assessed.

(c) Tax on service business. Upon every person engaging or continuing within Guam, in any service business or calling not otherwise specifically taxed under this Section, [there shall be] a tax equivalent to five percent (5%) of the gross income of such business.

(d) Professions. Upon every person engaging or continuing within Guam in the practice of a profession, excluding those expounding the religious doctrines of any church, [there shall be] a tax equivalent to five percent (5%) of the gross income of such practice

(e) Tax on Contractors. There *shall* be levied, assessed and collected a tax rate of five percent (5%) measured against the gross income of any contractor; provided, that there *shall* be deducted from the gross income of the taxpayer so much thereof as has been included in the gross income earned from another taxpayer who is a contractor as defined in § 26101(b) and who has already paid the tax levied under this Subsection for goods and services that include the deductible gross income of the taxpayer who is a contractor; provided, that any person claiming a deduction under this Subsection *shall* be required to show in the person's return either the name and the contractor's license number issued by the Guam Contractors License Board, or the Guam business license number, or the registration number for a professional engineer, architect or land surveyor, or the Certificate of Authorization (COA) number for a business authorized to provide engineering, architecture or land surveying services by the Guam Board of Registration for Professional Engineers, Architects, and Land Surveyors of the person paying the tax on the amount deducted by the person.

(f) Tax on banks, banking institutions, small lenders and building and loan associations. Upon every person engaging or continuing within Guam in the business of operating any bank, banking institutions, building and loan association, small lending business, or lending institutions, there *shall* be a tax equivalent to five percent (5%) of the net income received from business.

(1) Net Income. For the purpose of this Section, net income *shall* mean the gross income of such taxpayer received from all sources less the following deductions therefrom:

(A) Salaries or bonuses paid and other compensation from personal services.

(B) Interest or discount paid.

(C) Rents paid.

(D) Ordinary operating expenses such as supplies, utility services, insurance premiums other than for life insurance, provided that any deductible insurance expense *shall* be allowable only to the extent that such a premium is applicable to the tax period against which it is claimed.

(E) Loans or obligations charged off the books of the bank as losses unless charged against reserves then in existence.

(F) Losses other than loan losses, such as those occasioned by fire or other casualty, theft, embezzlement, and the like, but only to the extent not covered by insurance proceeds collected.

(G) Transfers from earnings to reserve for bad debts or other contingencies provided for.

(H) Miscellaneous direct expenses such as legal, advertising, auditing, and the like.

(I) Loss on property sold and depreciation on property owned.

(2) A person liable for the payment of taxes levied under this Section *shall* be required to file an annual return and *shall not* be required to file monthly returns. The tax year *shall* be calendar year except that the taxpayer may use his annual accounting period when prior permission is obtained from the Tax Commissioner. The annual return under this Subsection *shall* be filed not later than ninety (90) days following the close of the taxpayer's tax year.

(g) Dealing in foreign currency. Upon every person engaging or continuing within Guam in the business of purchasing and selling foreign money, there *shall* be a tax equivalent to five percent (5%) of the gross profit of such business represented by the difference between the cost and selling price of the foreign currency measured in United States dollars.

(h) Tax on other business. Upon every person engaging or continuing within Guam in any business, trade, activity, occupation or calling not specifically included in any other provision of this Article, there *shall* likewise be a tax equivalent to five percent (5%) of the gross income of such business. This Section *shall* apply to the gross income of persons taxable under other provisions of this Chapter but which gross income is not derived from the exercise or privilege taxable thereunder.

(i) Insurers. Upon every person engaged or continuing within Guam in the business of an insurer, there *shall* be a tax at the rate of five percent (5%) of gross income received as premium for the writing of insurance, less returned premiums and less all commissions attributable to the sale and purchase of an insurance policy or policies of the insurer paid by

said insurer to agents of the same, and five percent (5%) of any other gross income earned or derived on Guam.

(j) Tour Agencies. Upon every person engaging or continuing within Guam in the business of a tour agency or travel agency, where tourism-related services are furnished to consumers by independent vendors through arrangements made by a travel agency, or tour packager, and the gross income is divided between the provider of the services on the one hand and the travel agency or tour packager on the other hand, a tax equivalent to five percent (5%) *shall* be imposed on each person with respect to such person's respective portion of the proceeds, and no more.

Where transient accommodations are furnished through arrangements made by a travel agency or tour packager, the gross income is divided between the provider of the transient accommodations on the one hand and the travel agency, or tour packager, on the other hand, a tax equivalent to five percent (5%) *shall* be imposed on each person with respect to such person's respective portion of the proceeds, and no more.

(1) As used in this Subsection, tourism-related services *shall* mean dinner cruises, transportation included in a tour package, sight seeing tours, dinner shows, extravaganzas, cultural and educational facilities, and other services rendered directly to the customer or tourist.

(2) As used in this Subsection 'transient accommodations' *shall* mean hotel, lodging facility, or similar facility located on Guam and subject to the provisions of 11 GCA § 30101."

Section 14. Exemption to the Business Privilege Tax Increase and General Sales Tax.

(a) The implementation of the business privilege tax increase and the general sales tax, effective upon enactment of this Act, *shall not* apply to income generated from the following contracts:

(1) contracts entered into or awarded prior to enactment of this Act, which were based upon bid awards made prior to passage of this Act and that cannot be amended or renegotiated to accommodate the business privilege tax increase and the general sales tax; and

(2) contracts entered into or awarded after enactment of this Act, which were based upon bids or proposals submitted prior to enactment of this Act and that cannot be amended or renegotiated to accommodate the business privilege tax increase and the general sales tax.

(b) For purposes of this Section, each taxpayer claiming an exemption under this Section *shall* provide to the Department of Revenue and Taxation a copy of its bid contract or award under which any claimed exempt income was generated and *shall* segregate in their tax filings, relative to the business privilege tax increase and the general sales tax, said exempt income from any other income generated by the taxpayer.

(c) The Director of the Department of Revenue and Taxation *shall* create an affidavit form to be completed and submitted concurrently with monthly tax filings by businesses or individuals claiming an exemption from the business privilege tax increase and the general sales tax that took effect upon enactment as provided for in this Act. Said affidavit *shall* request from the filing entity, properly licensed to conduct business in Guam, all relevant information necessary to properly execute the law as provided in this Act.

Section 15. GMHA Stabilization Fund, Created. There is hereby created, separate and apart from other funds of the government of Guam, a fund known as

the "GMHA Stabilization Fund" (Fund). The Fund *shall not* be commingled with the General Fund, any current funds maintained by the GMHA, or any other fund of the government of Guam. The Fund *shall* be held in an account or accounts at a Guam financial institution or institutions separate and apart from all other accounts and funds of the government of Guam. Those revenues received by or on behalf of the government of Guam resulting from the general sales tax that are dedicated to the GMHA *shall* be deposited in the GMHA Stabilization Fund, and *shall* be accounted for and used periodically only for the following purposes:

(a) procurement of supplies, materials, equipment, and services essential to patient care; and

(b) capital improvement projects.

Section 16. SNAP Exemption. The Supplemental Nutrition Assistance Program (SNAP), formerly known as the "Food Stamp Program" is exempt from all general sales tax. Purchases made with SNAP for the purposes of this provision *shall* refer to purchases of "eligible foods" as defined in 7 CFR § 271.2.

Section 17. General Sales Tax Visible as a Receipt Line Item. For a business responsible for collecting the general sales tax established in § 26701 of Article 7, Chapter 26, Title 11, Guam Code Annotated, at the point of sale the general sales tax *shall* be illustrated as a receipt line item.

Section 18. Effective Date of General Sales Tax. The general sales tax provisions of this Act *shall* be effective on October 1, 2018.

Section 19. Effective Date and Sunset of Business Privilege Tax Increase. Notwithstanding any other provision of law, rule or regulation, beginning on April 1, 2018, the business privilege tax rate *shall* be five percent (5%), and *shall* remain in effect until September 30, 2018. During the effective period when the business privilege tax rate is five percent (5%), the Department of Revenue and Taxation *shall*

adopt rules and regulations for the implementation and administration of the general sales tax established by this Act.

Section 20. Effective Date. This Act *shall* be effective upon submission of a fiscal realignment plan by *I Maga'låhen Guåhan* to the Speaker of *I Liheslaturan Guåhan* for Fiscal Year 2018 that reduces net appropriations for Fiscal Year 2018 by not less than Thirty Million Dollars ($30,000,000) as compared to Public Law 34-42.

Section 21. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid, or contrary to law, such invalidity *shall not* affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.