I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

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

This is to certify that **Substitute Bill No. 362-32 (COR), "AN ACT TO *ADD* A NEW § 24109, AND TO *AMEND* §§ 24204 AND 24112, ALL OF CHAPTER 24, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO EXTENDING THE DEADLINE FOR REAL PROPERTY TAX (RPT) EXEMPTIONS, TO AUTHORIZING THE USE OF THE TAXPAYER IDENTIFICATION NUMBER FOR RPT, AND TO REDUCING THE STATUTE OF LIMITATIONS ON THE COLLECTION OF RPT; AND RELATIVE TO THE PROMULGATION OF RULES AND REGULATIONS FOR TAX SOLD PROPERTY,"** was on the 3rd day of October, 2014, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this _____ day of _____, 2014, at_____ o'clock ____.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____
Public Law No. _____

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 362-32 (COR)
As substituted by the Committee on Aviation,
Ground Transportation, Regulatory Concerns,
and Future Generations; and amended on the Floor.

Introduced by: Michael F. Q. San Nicolas
FRANK B. AGUON, JR.
Judith T. Won Pat, Ed.D.
T. C. Ada
R. J. Respicio
T. R. Muña Barnes
B. J.F. Cruz
V. Anthony Ada
Chris M. Dueñas
Dennis G. Rodriguez, Jr.
Aline A. Yamashita, Ph.D.
Brant T. McCreadie
Tommy Morrison

AN ACT TO *ADD* A NEW § 24109, AND TO *AMEND* §§ 24204 AND 24112, ALL OF CHAPTER 24, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO EXTENDING THE DEADLINE FOR REAL PROPERTY TAX (RPT) EXEMPTIONS, TO AUTHORIZING THE USE OF THE TAXPAYER IDENTIFICATION NUMBER FOR RPT, AND TO REDUCING THE STATUTE OF LIMITATIONS ON THE COLLECTION OF RPT; AND RELATIVE TO THE PROMULGATION OF RULES AND REGULATIONS FOR TAX SOLD PROPERTY.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Short Title. This Act *shall* be referred to as the "Responsible Real Property Taxpayer Relief Act."

Section 2. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the Department of Revenue and Taxation is currently working toward

completing the real property tax assessment, which will update the tax valuation of real property on Guam.

I Liheslatura further finds that Guam's real property tax has tax exemptions for senior citizens and citizens with disabilities, and that once these exemptions are claimed, the valuations of such properties are fixed by law at the amount assessed in its first year of eligibility until such citizen either passes away or no longer owns and resides in the property.

I Liheslatura thus finds that if such senior citizen or citizen with a disability has not claimed such exemption, that single omission could result in a permanently higher valuation of record, contrary to the intent of the law.

I Liheslatura finds that, under Title 11 GCA § 24114, the Department of Revenue and Taxation is required to inform citizens who may qualify for these exemptions and reduced tax rates of their eligibility, and to provide written public notice of these exemptions at least annually in a newspaper and in the Mayors' offices. Despite this requirement, many qualified individuals may not have met the deadline of March 15, 2014, and thus may not fully avail of the existing exemptions prior to updated property valuations.

It is, therefore, the intent of *I Liheslaturan Guåhan* that senior citizens and citizens with a disability who qualify for tax relief under Title 11 GCA §§ 24110 and 24112, respectively, be provided with an extended deadline before which such citizen may apply for tax relief and set the valuation of their respective properties pursuant to Title 11 GCA § 24113 at the valuations set prior to the property revaluation.

I Liheslaturan Guåhan further finds that there are several other tax exemptions in Title 11 GCA §§ 24401 and 24402, respectively, including the farming and home exemption, which help to relieve farmers and homeowners of at

least a portion of their real property tax liability. The people of Guam must be afforded a fair opportunity to avail of these exemptions as well.

I Liheslatura finds that the Department of Revenue and Taxation makes use of the Taxpayer Identification Number (TIN), which is assigned to an individual by the Internal Revenue Service or the Social Security Administration, for internal purposes to make collections more efficient.

I *Liheslatura* finds that there have been reports that individuals on Guam have received tax refunds, yet found that the Department of Revenue and Taxation claims that they owe the government of Guam for the real property tax. The individual taxpayer would be better served by a system where the Department would be able to collect when there is money available, in the form of a tax refund identified through a respective property taxpayer's TIN. Furthermore, the use of the TIN would make it easier to develop statistical reports that could compare the characteristics of real property taxpayers to adjusted gross income, or other statistical information which can be retrieved through the use of the TIN.

It is, therefore, the intent of *I Liheslaturan Guåhan* that real property taxpayers be required to report their Taxpayer Identification Number to the Department for internal use.

I Liheslatura further finds that the thirty (30) year statute of limitations of Guam's real property tax may impose an undue burden on taxpayers because it would be difficult for a taxpayer to prove that a tax had been duly paid up to thirty (30) years prior. Further, if the tax record from up to thirty (30) years ago is in error, and the taxpayer does not have records, then it would be an injustice to make a taxpayer bear the burden of the government's mistake. Such errors would be further exacerbated if TINs are used to erroneously garnish refunds rightfully owed, against property tax assessment mistakes. It is overly burdensome on the

individual taxpayer to expect that property tax records shall be maintained for thirty (30) years.

Therefore, it is the intent of *I Liheslatura* to reduce the statute of limitations on the real property tax to ten (10) years, which is consistent with other taxes administered by the Department of Revenue and Taxation, pursuant to the Internal Revenue Code, so that any tax garnishment errors resulting from the use of the Taxpayer Identification Number for the real property tax will be reduced.

Section 3. Real Property Tax Exemption Filing Deadline Extension. Notwithstanding any other provision of law, rule, or regulation to the contrary, residents of Guam who qualify for reduced tax rates pursuant to Title 11 GCA §§ 24110, 24112, 24401, and 24402 as of March 15, 2014, and who have not already availed themselves of permanent exemptions, may file with the assessor's office on or before December 31, 2014. Any application for reduced tax rates filed after March 15, 2013, and on or before December 31, 2014 pursuant to the provisions affected by this Section, *shall* be effective as though it were filed on or before the March 15, 2013, with respect to both the rates of tax provided under Title 11 GCA § 24110 or § 24112, as applicable, and the fixed level of the valuation of the applicant's residential property pursuant to Title 11 GCA § 24113, for U.S. citizens who qualify under Title 11 GCA §§ 24110 and 24112.

Section 4. A new § 24109, Article 1, Chapter 24, Title 11, Guam Code Annotated, is hereby *added* to read:

"**§ 24109. Failure to Supply Identifying Number.**

Every person required to pay property taxes *shall* provide his taxpayer identification number to the Department. *If* any person fails to comply with such requirement, such person *shall*, unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of One Hundred Dollars ($100.00) for each failure. The Department may make use

of the taxpayer identification number for internal purposes only, to include, but *not* be limited to, the assessment and collection of taxes."

Section 5. Removal of the Real Property Tax Lien. § 24204 of Article 2, Chapter 24, Title 11, Guam Code Annotated, hereby *amended* to read:

"**§ 24204. Same: Removal.**

After ten (10) years succeeding the time, heretofore or hereafter, when any tax becomes a lien, if the lien has *not* been otherwise removed, then the lien ceases to exist and the tax is conclusively presumed to have been paid. The tax collector *shall* mark the tax paid in the records."

Section 6. Effect upon Enactment: Payments Made Prior to Enactment for Liens Ten (10) Years or Older. No payment made prior to the date of enactment of this Act to the government of Guam shall be held invalid due to the provisions of Section 5 of this Act.

Section 7. Extended Administrative Timeline. Notwithstanding any other provision of law to the contrary, for the 2014 Real Property Tax Year *only,* the Preliminary Assessment Roll *shall* be issued on or before February 2, 2015, appeals may be filed from February 16, 2015 to March 16, 2015, the Board of Equalization *shall* certify the 2014 Assessment Roll on or before March 31, 2015, the first installment of taxes *shall* be paid on or before April 20, 2015, the second installment of taxes *shall* be paid on or before May 20, 2015, any late payment *shall* be subject to the penalties under §§ 24701 and 24702 of Chapter 24, Title 11, Guam Code Annotated, and the publication of the delinquent list pursuant to §§ 24801 and 24802 of Chapter 24, Title 11, Guam Code Annotated, *shall* be on or before June 8, 2015.

Section 8. Public Notice of the Extension of Exemptions Filing Deadline. The Department of Revenue and Taxation *shall* publish notice of the extended filing deadline for the exemptions pursuant to Section 3 of this Act *not*

later than fifteen (15) days following the enactment of this Act in a newspaper of general circulation, and post a copy of such notice at each Mayor's office.

Section 9. Any rules and regulations promulgated by the Director of the Department of Revenue and Taxation governing the process of the sale of tax sold property by operation of law *shall* be promulgated pursuant to the Administrative Adjudication Law.

Section 10. 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 which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.