EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

January 11, 2018

The Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuåttro Na
Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Speaker Benjamin J.F. Cruz

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Dear Mr. Speaker:

Pursuant to my Organic Act authority granted under §1422 (a), Subchapter 2, transmitted herewith is legislation to end exemptions granted to wholesalers, banks, hospitals, and insurers. I ask you for your help in moving this proposed legislation through the legislative process.

Thank you for your time and consideration as we work toward improving our island's only public hospital.

Senseramente,

EDDIE BAZA CALVO
Governor of Guam

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1393

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

Bill No. _____-34

Introduced by:

Committee on Rules
By request of *I Maga'lahen Guåhan*, the Governor of Guam, in accordance with the Organic Act of Guam

AN ACT TO END THE EXEMPTIONS GRANTED TO WHOLESALERS, BANKS, HOSPITALS, AND INSURERS FROM THE PAYMENT OF TAXES ON GROSS RECEIPTS FOR THE PRIVILEGE OF DOING BUSINESS ON GUAM, AS WELL AS REDUCING THE RATE OF GRT FROM 4% TO 3% TO THOSE WHO SUPPLY MEDICAL SERVICES, SUPPLIES, HEALTH AND WELLNESS PROGRAMS, AND PHARMACEUTICALS TO THOSE EXTENDING SERVICES TO MIP AND MEDICAID PATIENTS, BY REPEALING §§26202 (a)(2), 26202(a)(4), AND 26202 (f)(1)(A THROUGH H) and 26202(f)(2), AND AMENDING 26202(f), AND ADDING A NEW 26202(j) OF CHAPTER 26, DIVISION 2 OF TITLE 11; TO REMOVE ALL TAX ABATEMENTS FROM THE BUSINESS OF INSURANCE BY AMENDING §26203 OF CHAPTER 26, DIVISION 2 OF TITLE 11; BY REPEALING § 23113, CHAPTER 23 OF TITLE 22; BY REPEALING §§ 58104(k), 58105.6, 58127.5 AND 58128.4 OF CHAPTER 58 OF TITLE 12, ALL OF GUAM CODE ANNOTATED; TO DEDICATE THE REVENUE TO BE COLLECTED FROM THE EXPANDED REVENUE STREAM TO GUAM MEMORIAL HOSPITAL, FOR ITS OPERATIONS AND MODERNIZATION.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative findings and intent. *I Liheslatura* finds that Guam Memorial Hospital (GMH) is underfunded operationally and is due for extensive capital improvement for its modernization and its viability. *I Liheslatura* further finds that GMH may be properly funded with an annual surplus remaining to pay the CIPs, whether new or modernized, by the restoration of the business privilege tax's (BPT's) initially intended

revenue stream, if such levy, assessment, and collection of revenue is no longer exempted from the gross income of wholesalers, banks, hospitals, and insurance companies.

It is *I Liheslatura's* intent to remove such exemptions and to revoke from the qualifying certificate program of the Guam Economic Development Authority the ability to rebate BPT to insurance companies following the termination of all existing contractual periods in order to generate revenue for Guam Memorial Hospital and its improvement.

It is further the intent of *I Liheslatura* to reduce the BPT rate from 4% to 3% to providers who provide medical services, supplies, pharmaceuticals, and health and wellness programs to those servicing members of the Medically Indigent Program (MIP) and the Guam Medicaid Program. In order to be eligible for this reduced rate, this Act will require a percentage of the providers' revenue be derived from the care of members of the MIP and Guam Medicaid programs. Establishing a special BPT rate for those who participate in the MIP and Medicaid programs will expand the network provider list to a greater amount of residents to seek preventative, wellness, and primary care services.

Section 2. Inclusion of wholesale business activities and banking activities in the Rates levied for Business Privilege Taxes by the repeal of §§26202 (a)(2), 26202(a)(4), and 26202 (f)(1)(A through H) and 26202(f)(2), and amendment of 26202(f), reducing rates levied on those who supply medical services, supplies, and pharmaceuticals for providers who extend services to MIP and Medicaid patients by adding a new §26202(k), all to Chapter 26, Division 2, Title 11, Guam Code Annotated. §§26202 (a)(2), 26202(a)(4), and 26202 (f)(1)(A through H) and 26202(f)(2) of Chapter 26, Division 2, Title 11, Guam Code Annotated, are repealed, and § 26202(f) is amended. Additionally, a new §26202(k) is added. The entire § 26202 shall 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 how-

ever, bonds or other evidence of indebtedness or stocks), there shall be a tax equivalent to four percent (4%) 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.~~ [Repealed]

(~~3~~2) 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~~

[‡] Author's note: [Not for the Compiler of Laws] references in the law to poker machines existed prior to the inception of this bill. Considering the illegality of casino gaming on Guam, this section is being deleted from statute.

~~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.~~ [Repealed.]

(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.

(e<u>b</u>) 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 four percent (4%) of the gross income of such business.

(~~d~~<u>c</u>) 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 four percent (4%) of the gross income of such practice. ["There shall be" added by editor, 1970 Ed. of the Government Code]

(e<u>d</u>) Tax on Contractors. There shall be levied, assessed and collected a tax rate of four percent (4%) 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; provid-

ed, 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~~g) **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 four percent (4%) of the ~~net income~~ gross proceeds 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.~~

(gf) 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 four percent (4%) 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.

(hg) 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 four percent (4%) 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~~h) Insurers. Upon every person engaged or continuing within Guam in the business of an insurer, there shall be a tax at the rate of four percent (4%) 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 four percent (4%) of any other gross income earned or derived on Guam.

(~~j~~i) 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 of four percent (4%) 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 of four percent (4%) 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.

(kj) Special Rate for Medical Services, Supplies, and Pharmaceuticals. Notwithstanding other provisions of this section, upon every person engaging or continuing within Guam in the business of providing medical services, supplies, health and wellness programs, and pharmaceuticals to providers who extend services to MIP and Medicaid patients, a tax equivalent of three percent (3%) shall be imposed. In order to obtain this rate, medical service providers shall have at least Fifteen Percent (15%) of their revenue must result from the care of MIP or Medicaid patients. Upon an assessment of the fiscal quarter most recently closed, a business can verify and attest under perjury and subject to audit that the aggregate of receipts from medical services, supplies and pharmaceutical purchases were transacted from MIP or Medicaid patients during the recently closed fiscal quarter, then for the present quarter and until the aggregate of any quarter thenceforth dips below Fifteen Percent (15%) of revenues resulting from the care of MIP or Medicaid patients, the tax equivalent of three percent 3% shall apply. Otherwise, the tax equivalent to four percent (4%) shall be imposed."

Section 3. Removal of exemptions to payment of GRT for hospitals, and wholesalers by amendment of § 26203 (e), by repeal of §§ 26203(h), 26203 (k)(22) and 26203 (k)(22)(A), and allowing hospitals to offset payment of GRT by amounts owed by the government for MIP and Medicaid payments by the addition of §26203 (k)(37), all of Chapter 26 of Division 2, Title 11, Guam Code Annotated. §26203 (e) is amended, §§ 26203(h), 26203(k)(22) and 26203(k)(22)(A) are repealed, and a new §26203(k)(37) is added, all of Chapter 26, Division 2, Title 11, Guam Code Annotated, so that §26203 reads:

"**§ 26203. Exemptions.** The provisions of this Article, and the taxes levied thereunder, shall not apply to the following persons:

(a) The government of Guam, except as authorized in § 60114.1(a) of Article 1 of Chapter 60, Title 21, Guam Code Annotated; the government of the United

States; the government of any foreign sovereignty; and any agency or instrumentality of any of the foregoing governments in regard to any activity or function engaged in.

(1) Notwithstanding this Subsection (a), taxes shall not be levied against any autonomous agency, public corporation, and other public instrumentalities of the government of Guam with existing leases where a tax levy may affect the revenue neutrality of that autonomous agency, public corporation, and other public instrumentalities of the government of Guam to the potential detriment of existing bond ratings.

(b) Fraternal benefit societies, orders or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself which provide for the payment of death, sick, accident or other benefits to the members of such fraternity and their dependents.

(c) Corporations, associations or societies organized and operated exclusively for religious, charitable, scientific or educational purposes, or the preservation of the culture historically indigenous to Guam.

(d) Business leagues, chambers of commerce, boards of trade, civic leagues, public schools, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare, provided that no profit accrues to the benefit of the private stockholder or individual.

(e) ~~Hospitals, i~~ Infirmaries and sanitariums.

(f) Totally blind, with respect to the first Three Thousand Dollars ($3,000.00) of gross income for each tax year.

(g) Agricultural producers and fisheries.

~~(h) Manufacturers, producers or importers, who shall have paid the taxes levied by Articles 3 or 6 of this Chapter on the manufacture, production or importation of alcoholic beverages, and tobacco; provided that any such taxpayer claiming exemption under this Section may claim it only to the extent of the~~

~~gross proceeds of sales accruing to him from the sale to a wholesaler or retailer of the product taxes under such other sections; provided further, that a person claiming exemption under this Section shall keep accounts of such sales separately and support them by sales receipts for each separate transaction which is taxable under Articles 3 or 6 of this Chapter.~~ [REPEALED]

(~~i~~h) Any person doing business as home industry and holding a business license issued pursuant to § 72157 of 11 GCA.

(~~j~~i) The exemption of § 26203(b), (c), (d) and (e), shall apply only to the gross income of any person included in any such subsection received:

(1) from the regular activities of such person, or

(2) from a lottery authorized under 9 GCA, Chapter 64, or

(3) from a carnival, fiesta, dance, athletic performance, or other similar entertainment, sponsored by such person, the profits of which are to be used exclusively for, or in furtherance of, the regular activities of such person, and shall not accrue in whole or in part to the benefit of any stockholder or individual. Such exemptions shall be allowed only upon application to the Tax Commissioner in accordance with § 26117. The within Subsection (j) shall not be construed to exempt from the taxes levied by this Article any person having a concession or contract from an exempt person for the furnishing or sale of any tangible property, or the furnishing of any service, from which gross income accrues to such person.

(~~k~~j) The provisions of this Article and the taxes levied hereunder, shall not apply to the following gross income or gross proceeds of sale:

(1) Amounts received under life insurance policies and contracts paid by reason of the death of the insured.

(2) Amounts received (other than amounts paid by reasons of death of the insured) under life insurance, endowment or annuity, or upon surrender of the contract.

(3) Amounts received by any persons under any accident insurance or health insurance policy or contract, or under worker's compensation acts or employer's liability acts, as compensation for personal injuries, death or sickness, including also the amount of any damages or other compensation received, whether as a result of action or by private agreement between the parties on account of such personal injuries, death or sickness.

(4) The value of all property of every kind and sort acquired by any person by gift, bequest or devise, and the value of all property acquired by any person by descent or inheritance.

(5) Amounts received by any person as compensatory damages for any tort injury to him, or to his character or reputation, or received by any person as compensatory damages for any tort injury to or destruction of property, whether as the result of action or by private agreement between the parties; provided, however, that amounts received by any person as punitive damages for tort injury or breach of contract injury shall be included in gross income.

(6) Amounts received as salaries or wages for services, rendered by an employee to an employer.

(7) Amounts received as alimony and other similar payments and settlements.

(8) Amounts received by a distributor from the sale of liquid fuel when the tax levied by Article 4 of this Chapter has been paid thereon by the distributor. A distributor for purposes of this Section excludes all retailing activities of any business entity. This exemption shall not apply to

the sale by a retailer or a retailing subdivision of a distributor of any liquid fuel on which a tax is levied under Article 4 of this Chapter.

(9) The first Forty Thousand Dollars ($40,000) earned or received per taxable year by any person as rental income from real property whose gross annual rental income from real property is less than Fifty Thousand Dollars ($50,000) during the most recent tax year. The exemption shall apply annually, commencing at the first day of the month of the new tax year, based on the gross annual rental income of a person during the most recent year, and shall end on the last day of the last month of the same tax year.

(10) All of the gross proceeds received by contractors for the construction of residential buildings developed, owned, and operated by non-profit corporations or associations, which construction is pursuant to a program approved by the Secretary of Housing and Urban Development pursuant to § 221 (d)(3) of the Housing Act, as amended.

(11) The amounts collected by persons required to collect taxes imposed under Chapter 30.

(12) All the gross proceeds received by those persons selling goods, arts or crafts in the Guam and Micronesian Cultural Village established by 12 GCA § 9302 for a period of ten (10) years commencing on the date that any business privilege tax would otherwise be required to be paid to the government of Guam.

(13) Amounts received from the sales of liquid fuel to the United States of America, to the government of Guam or for commercial aviation purposes.

(14) Amounts received from the sale of residual fuel for marine purposes. As used in this Subsection, residual fuel means that liquid which is the heaviest grade petroleum product used in marine oil-burning boil-

ers. It consists of the residue of certain crude oils after the lighter fractions such as benzine, kerosene, gas-oils and lubricating oils have been removed by distillation.

(15) Amounts received from the sales of personal property to the government of Guam.

(16) Amounts received as contributions or received from fund raising activities by political candidates, committees, parties, corporations, associations, organizations or funds and which are expended for political campaign purposes and reported to the Election Commission pursuant to the laws of Guam.

(17) (A) Amounts received from the sale or resale of products processed or manufactured at the Guam Rehabilitation Workshop Center by registered clients of the Center, or certified as disabled worker products, and products processed and manufactured independently by registered clients of the Center where fifty percent (50%) of the value of the product is added by the client.

(B) The Director of the Department of Vocational Rehabilitation shall certify that such products were processed or manufactured at the Guam Rehabilitation Workshop Center by registered clients of the Center, or certified as disabled worker products, or else processed and manufactured independently by registered clients of the Center where fifty percent (50%) of the value of the product is added by the client.

(18) Export Trading companies as defined by § 26101(d) of this Title and goods and services exported by them.

(19) All of the foreign trade income of a FSC, as defined in 12 GCA § 60101 (b).

(20) All of the investment income of a FSC as defined in 12 GCA § 60101(f) and carrying charges as defined in 12 GCA § 60101(g).

(21) Amounts received from the sale of liquid fuel to vessels engaged in commercial fishing.

~~(22) Amounts received from engaging or continuing in business as a wholesaler, except that if such persons are, in addition, engaging or continuing in business as a retailer, the provisions of this Subchapter and the taxes levied thereunder shall apply to that part of the businesses of such persons that involve retail.~~

~~(A) Amounts received from engaging or continuing in business as a wholesaler shall include the sales of tangible personal property to contractors.~~ [REPEALED]

(2~~3~~2) The amount of winnings, payouts or malfunction refunds reported pursuant to § 26110(g) of this Title.

(2~~4~~3) Amounts paid by the contractor out of the contract gross proceeds to individual clients or to the rehabilitation center or workshop pursuant to the provisions of 17 GCA § 41106.

(2~~5~~4) Amounts received by a participant in the Guam- Micronesia Island Fair from sales of goods or services at the Fair.

(2~~6~~5) Amounts received from the sale of betelnut (pugua), pepper tree leaf (pupulu), and lime (afok) for use with pugua.

(2~~7~~6) All of the gross income of a Foreign Sales Corporation (FSC) from sources without Guam, as determined under 12 GCA § 60102(c)

(2~~8~~7) The first Forty Thousand Dollars ($40,000) earned or received per taxable year by any person as income from retailing whose gross annual retail income is less than Fifty Thousand Dollars ($50,000) during the most recent tax year. The exemption shall apply annually, commencing at the first day of the month of the new tax year, subject to the

gross annual retail income of a person during the most recent year, and shall end on the last day of the last month of the same tax year.

A) Fifty percent (50%) of the amounts received from the retail sale of local produce, as defined in this Subdivision.

(B) Local produce as used in this Subdivision shall mean the following: locally produced crops, including, but not limited to, plants and plant products collectively grown or cared for and used for food and other useful purposes; locally raised livestock, including but not limited to, cattle, carabao, swine, sheep, goats, equine and poultry raised for food or other purposes; and locally caught fish to include any aquatic animal life, including, but not limited to, oysters, clams, mollusks, mussels, crustaceans and other shellfish.

(29~~8~~) The first Forty Thousand Dollars ($40,000) earned or received per taxable year by any person as income service, which includes, but is not limited to, legal; medical; dental; accounting; consulting and engineering fees; commissions on real estate sales or property management; fees charged by barbershops, beauty parlors, shoe shining parlors, dry cleaning and laundry establishments; and automobile, appliance, electronics and computer repair shops, whose gross annual service income is less than Fifty Thousand Dollars ($50,000.00) during the most recent tax year. This exemption shall apply annually, commencing at the first day of the month of the new tax year, subject to the gross annual service income of the person during the most recent tax year, and shall end on the last day of the month of the same tax year.

(30~~3~~29) The first Forty Thousand Dollars ($40,000) earned or received taxable year by person as rental income whose gross annual rental income is less than Fifty Thousand Dollars ($50,000.00) during the most

recent tax year. This exemption shall apply annually, commencing at the first day of the month of the new tax year, based on the gross annual rental income of a person during the most recent year, and shall end on the last day of the last month of the same tax year.

(3~~1~~0) The first Forty Thousand Dollars ($40,000.00) earned or received per taxable year by a person, partnership or corporation as commission income whose gross annual commission income is less than Fifty Thousand Dollars ($50,000.00) during the most recent tax year. This exemption shall apply annually, commencing at the first day of the month of the new tax year, subject to the gross annual income of the during the most recent tax year, and shall end on the last day of month of the same tax year.

(3~~2~~1) The first Forty Thousand Dollars ($40,000) earned or received taxable year by a licensed insurance company as insurance premium income whose gross annual insurance premium income is less than Fifty Thousand Dollars ($50,000.00) during the most recent tax year. This shall apply annually, commencing at the first day of the month of the new tax year, subject to the gross annual income of the person during the most recent tax year, and shall end on the last day of the month of the same tax year.

(3~~3~~2) Any amounts received by businesses participating in the Performance of BOS Activities, defined in 12 GCA § 58128.7, as a BOS Contractor, or Subcontractors of the BOS Contractor, provided that such business is a 'Guam-based Contractor or Guam-based Subcontractor' for purposes of 12 GCA § 58128.7.

~~(34) [Repealed.]~~

(353) Amounts received from the sale of telecommunication services including telephony, internet, data transmission line, wired/wireless/cable television and satellite service, two-way radios, paging and wired and wireless data communications and related services to customers outside of Guam.

(364) All the gross proceeds received by child care facilities and group care homes which are duly licensed pursuant to Article 4 – Child Welfare Services Act, of Chapter 2, Division 1 of Title 10, Guam Code An-notated, commencing on the date that any business privilege tax would otherwise be required to be paid to the government of Guam. This Item shall continue to be effective beyond its initial expiration date of November 17, 2016.

(35) Fifteen Percent (15%) of amounts paid on the gross proceeds of hospitals may be offset against amounts claimed and not paid by the government for MIP and Medicaid claims.

(~~j~~k) The amounts collected on behalf of the government as tipping fees imposed under Chapter 51 of Title 10 of the Guam Code Annotated.

(~~k~~l) A Subcontractor as defined pursuant to § 26101(b)(1)."

Section 4. Repeal of tax exemption on captive insurance companies. §23113 of Chapter 23, Title 22, Guam Code Annotated is repealed in its entirety:

~~"§ 23113. Tax on Premiums Collected.~~

~~No taxes on qualified captive insurers. Each captive insurance company to which is issued a Special Qualifying Certificate pursuant to the provisions of Chapter 58, Title 12, Guam Code Annotated, shall pay no taxes to the government of Guam on its premium or other insurance income except ad valorem taxes on real and personal property used in the production of income, and to the extent that it is first required to pay its Guam income tax liability thereon before the same is rebated in full, pursuant to its Special Qualifying Certificate."~~

Section 5. Same: Repeal of statutory allowance of insurance companies in the qualifying certificate program. §58104(k) of Chapter 58, Title 12, Guam Code Annotated is hereby repealed and § 58104 to read as follows:

"**§ 58104. Eligibility Defined.**

A Qualifying Certificate shall only be issued to the following entities: Any trust, partnership, sole proprietorship, Limited Liability Partnership (LLP), Limited Liability Company (LLC), or corporation formed under the laws of Guam, or possessions corporation as defined in § 58106 of this Chapter, engaged, or about to engage in any of the following activities, and in the following order of priority:

(a) The establishment of industries and activities that support current initiatives associated with the preservation and protection of Guam's natural resources, also known as green technology. Such industries and activities shall include, but not be limited to, energy efficiency, renewable energy and environmental cleanup. For the purposes of this Section, "renewable energy" is energy which comes from natural resources such as sunlight, wind, rain, tides, and geothermal heat, and other forms of electrical power generation which are renewable (naturally replenished);

(b) The manufacture, distribution and sale of non-petroleum based fuels that include, but are not limited to, biofuels such as biodiesel and ethanol and hydrogen fuels.

(c) agriculture;

(d) aquaculture;

(e) mariculture;

(f) manufacturing;

(g) commercial fishing; (h) services;

(i) tourism;

j) improvement of real property for purposes which are specifically determined by the Authority to be beneficial, desirable, and necessary for the economic development of Guam;

~~(k) insurance issuance, either by commercial insurers, reinsurers, or captive insurers which meet the requirements of Title 22, GCA, Chapter 15, Article 3;~~

(~~l~~k) export trading company, as defined in Title 11, GCA, § 26101 (d), if the main office of the export trading company is established on Guam;

(~~ml~~l) producing water or disposing of wastewater, or both, jointly with the Guam Waterworks Authority;

(~~nm~~m) operating on a military base on Guam a Base Operating Service Contract;

(~~o~~n) a small business entity operating on a military base on Guam, a Base Operating Service contract, or as a subcontractor to a BOS Contractor; and

(~~p~~o) a global internet infrastructure services company(ies) providing internet connectivity and co-location facilities, and its/their tenant-sellers in the sales of goods, services and information over the internet; provided that:

(1) the seller is legally established in and operates from Guam;

(2) the sale does not include the local sale of goods, services and information;

(3) the sale is conducted exclusively through the internet; and

(4) the seller does not sell or distribute in any fashion material that is harmful to minors, as that term is defined in the Internet Tax Freedom Act, a part of the Omnibus Appropriations Act of 1998, Public Law Number 105-277. For the purposes of this Subsection, a "minor" is a person under the age of eighteen (18) years."

Section 6. Same: Removal of insurance qualification from list of qualifications for tax abatement. §58105.6 of Chapter 58, Title 12, Guam Code Annotated is hereby repealed:

~~"**§ 58105.6. Insurance.**~~

~~Establishment of Guam as a financial/insurance center for the Pacific, and increasing the availability and lowering the cost of insurance in Guam."~~

Section 7. Same: Removal of statutory exemption of insurance premiums from the Business Privilege Tax. §58127.5 of Chapter 58, Title 12, Guam Code Annotated hereby is repealed:

~~"§ 58127.5. Insurance Premiums.~~

~~All taxes now levied by virtue of Article 2, Chapter 26, Title 11, Guam Code Annotated, known as business privilege taxes, shall be abated for a period of up to twenty (20) years from the effective date of the Qualifying Certificates therefor, for those gross receipts derived from underwriting insurance risks either in or out of Guam, including gross receipts derived from investing funds generated from insurance underwriting in Guam by an insurance company that has qualified and continues to qualify for a Qualifying Certificate. Such insurance Qualifying Certificates may be renewed for additional periods for twenty (20) years at the conclusion of the first or later periods so long as the Beneficiary remains in good standing under the laws of Guam and under the rules and regulations of the Authority."~~

Section 8. Same: Removal of statutory abatement of income taxes by insurance companies. §58128.4 of Chapter 58 of Title 12, Guam Code Annotated hereby is repealed:

~~"§58128.4. One Hundred Percent Rebate on Certain Insurance Income.~~

~~(a) One Hundred Percent Rebate on Certain Insurance Income. A rebate of one hundred percent (100%) of all income tax paid to the government of Guam by a Beneficiary on all income received from insurance underwriting either inside or outside of Guam, including all income derived from investing funds derived from operating an insurance underwriting business on Guam, may be issued for a period not to exceed twenty (20) consecutive years from the effective date of a Qualifying Certificate therefor; provided, that as to Guam risks and policy holders the Beneficiary does not issue a policy directly to the policy holder but only issues the same through a licensed Guam insurance broker. Such insurance Qualifying Certificates may be renewed for additional periods of twenty (20) years at the conclusion of the~~

~~first or later periods so long as the Beneficiary remains in good standing under the laws of Guam and under the rules and regulations of the Authority.~~

~~(b) Rebates on Dividends to Shareholders of Qualified Insurance Underwriters. A rebate of one hundred percent (100%) of the income tax withheld from the shareholders of an insurance underwriting business on the dividends from such business may be issued for a period not to exceed twenty (20) consecutive years from the effective date of the Qualifying Certificate therefor; provided, that:~~

~~(1) the insurance underwriting business paying the dividends is the Beneficiary of a Qualifying Certificate;~~

~~(2) the dividends are paid from the insurance or investment earnings of such business as identified in its Qualifying Certificate, which dividends were received, on a cash basis, during the original or an extended period of the Qualifying Certificate; and~~

~~(3) the dividends were subject to a withholding tax thereon pursuant to those provisions of the Territorial Income Tax Law requiring the withholding as income tax thereon of a fixed percentage of any dividends paid to non-residents of Guam. If the shareholder is a resident of Guam then such shareholder may be granted a Qualifying Certificate on dividends pursuant to § 58130 of this Chapter. Such Qualifying Certificates for non-resident insurance shareholders may be renewed for additional periods of twenty (20) years at the conclusion of the first or later periods so long as the Beneficiary remains a shareholder of an insurance underwriting business that is the holder of its own Qualifying Certificate and is in good standing under the laws of Guam and under the rules and regulations of the Authority."~~

Section 9. Effective date of changes to insurance QC: Contractual compliance with existing qualifying certificates in force and effect. Insomuch as the Legislature has bound, by contract and in accordance with §58107 of Chapter 58, Title 12, Guam Code Annotated, the abatement of certain taxes as contained in the several qualifying certificates currently in force and effect with insurance companies, the statutory

changes mandated in the foregoing Sections 4 through 8 of this Act shall take effect upon the rightful termination of the qualifying certificate issued an insurance company that, on the date of the passage of this Act, expires last among all other such certificates; provided however, that the Guam Economic Development Authority shall not issue any further qualifying certificate or otherwise cause the abatement of any tax as authorized in this Chapter 58 of Title 12, Guam Code Annotated, and shall not renew any qualified holder of a qualifying certificate for tax abatement upon insurance premiums and all other insurance-type receipts and income described in the foregoing Sections 4 through 8 of this Act. If, upon the effective date of this Act, GEDA is considering the application for qualifying certificate of an insurance company, or the renewal of such certificate, all such considerations and applications shall be null and void, such nullity constituting rejection of any such application.

Section 10. Application of updated BPT code. Those businesses which were exempted from paying the BPT prior to this act shall commence paying such tax in accordance with the foregoing sections no later than the first payment period for the BPT of the quarter immediately following the enactment of this Act.

Section 11. Use, pledge, and appropriation of revenue. Revenues derived from the no longer exempted or rebated and now levied upon and collected from those companies (wholesalers, banks, insurers) described in this Act that are collected out of the levy of three percentage points (3%) out of the total percentage points levied from time to time, of the business privilege tax pledged (the "Pledged BPT") under that certain Indenture, dated December 1, 2011, by and among the government of Guam, Bank of Guam, as trustee, and U.S. Bank National Association, as co-trustee, as amended or supplemented from time to time in accordance with its terms (the "BPT Indenture"), shall constitute "Business Privilege Tax Revenues" under the BPT Indenture, and shall be applied to pay debt service on any bonds issued under the BPT Indenture, including, but not limited to, bonds authorized in Bill No. 141-34. Any revenues derived solely from such increase of Pledged BPT collections in Sections 2 and 3 of this Act released to the government of Guam in accordance with Section 5.02(E) of the BPT Indenture and shall be allocated to

the Guam Memorial Hospital Authority for its purposes, including but not limited to, capital investment, operational requirements or reserves.

Revenues derived from the no longer exempted or rebated and now levied upon and collected from those companies (wholesalers, banks, insurers) described in this Act that are collected out of the levy of the currently remaining percentage point or points, out of the total percentage points levied from time to time, of the business privilege tax not pledged under the BPT Indenture, shall be allocated to Guam Memorial Hospital Authority for its purposes, including but not limited to, capital investment, operational requirements or reserves.

Section 12. Severability. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.