I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
177-36 (LS)	James C. Moylan Frank Blas Jr. V. Anthony Ada Christopher M. Dueñas	AN ACT TO *ADD* A NEW § 26203.3 TO CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO CREATING A TEMPORARY LIMITED EXEMPTION OF BUSINESS PRIVILEGE TAXES FOR CERTAIN SMALL BUSINESSES BY INCREASING THE GROSS THRESHOLD OF EXEMPTIONS FROM TWO HUNDRED FIFTY THOUSAND DOLLARS ($250,000) TO FIVE HUNDRED THOUSAND DOLLARS ($500,000).	8/12/21 12:54 p.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 177-36 (LS)

Introduced by: James C. Moylan
Frank Blas Jr.
V. Anthony Ada
Christopher M. Dueñas

AN ACT TO *ADD* A NEW § 26203.3 TO CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO CREATING A *TEMPORARY LIMITED EXEMPTION* OF BUSINESS PRIVILEGE TAXES FOR CERTAIN SMALL BUSINESSES BY INCREASING THE GROSS THRESHOLD OF EXEMPTIONS FROM TWO HUNDRED FIFTY THOUSAND DOLLARS ($250,000) TO FIVE HUNDRED THOUSAND DOLLARS ($500,000).

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. *I Liheslaturan Guåhan* finds that a recent study was conducted by the University of Guam to outline the impact of COVID-19 on Guam's Private Businesses and Tourism. While there were no surprises with most of what was reported, what was evidently clear is that more needs to be done to support small businesses, inclusive of those in the tourism industry.

According to the study, 89% of businesses on Guam employ less than 20 employees, and this number has increased since 2017. Interestingly, 95% of tourism related business employ less than 20 employees (in 2020). While the Governor's Executive Orders associated with identifying "essential businesses" detailed that around 50% of businesses were not qualified to open their doors through most of

2020, 65% of tourism related businesses were deemed as “non-essential”. When comparing the revenue generating performances in 2020, tourism related businesses had a 32% small capacity.

Nearly half (48%) of tourism related businesses temporarily furloughed most or all their employees, with reduced hours and wages leading the realities. 36% of these businesses had laid off their employees due to Covid 19, and while only 12% were able to pay their employees who were not working during the pandemic. To add to this, 25% of ALL businesses who were surveyed were temporarily or permanently closed, with 55% being non construction related entities.

When asked on what liability challenges tourism related businesses faced, delayed payments for rent, vendors, and bank loans were the top three in ranking. Unfortunately, only 42% of these businesses obtained the federal Paycheck Protection Program (PPP) loan, 33% the Economic Injury Disaster Loan (EIDL), and 43% the Small Business Pandemic Assistance Grant (SBPA). The realities are that not every business in Guam availed federal assistance program, and most businesses in Guam are small businesses.

A May 25, 2021 edition of the Guam Daily Post notes a statement from Dafne Shimizu, the Director of Department of Revenue and Taxation, where she notes that 90% of businesses on Guam benefit from the Dave Santos Act. Bill 74-36, which was recently passed by the 36th Guam Legislature proposes to make permanent a temporary incentive program for small businesses who earn between $50,000 and $500,000, where they would only pay 3% of Business Privilege taxes on the first $250,000 of annual income.

According to Director Shimizu, 5% of the 15,000 BPT filers on Guam earn between $250,000 and $500,000. If this Act were to be enacted, around 750 small businesses in Guam would earn a savings of an additional $5,000 annually. This would create an adverse impact of around $3.75 million for the government in terms

of BPT collections. However, with the economic activity which this investment would create the impact would lessen. Plus, the government can still anticipate the nearly $60 million in Earned Income Tax Credit (EITC) reimbursements to help cover this shortfall.

This Act creates a temporary, four-year, incentive plan to help small businesses. The results of the study from the University of Guam further justifies the need to provide additional assistance for small entities, which represents a substantial percentage of those who contribute towards our economy.

Section 2. A new § 26203.3 is hereby *added* to Chapter 26 of Title 11, Guam Code Annotated, to read as follows:

"§ 26203.3. Temporary Limited Exemption for Certain Small Businesses.

Notwithstanding any provision of law, the taxes levied under this Article in excess of those generated from three percent (3%) of the gross proceeds of business privilege tax referenced in § 26202 *shall not* apply to the first Five Hundred Thousand Dollars ($500,000) earned or received per taxable year by any person from real property rentals, rental others, profession, retailing, service income, commission income, licensed insurance premium, and/or farming, whose gross annual income is in excess of Fifty Thousand Dollars ($50,000) but not more than Five Hundred Thousand Dollars ($500,000) during the most recent tax year; provided, however, that such person(s) *shall* be fully subject to three percent (3%) of the gross proceeds of business privilege tax referenced in § 26202, subject to the existing requirements and exemptions referenced elsewhere in this Article. The exemption set forth in this Section *shall* apply annually, commencing on the first day of the month of the new tax year, based on the gross annual 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."

Section 3. Appropriation. *I Maga'hagan Guahan* is hereby authorized to transfer an amount which is equal to the difference in the total shortage established

by this Act in Fiscal Year 2021 and the total revenue generated by Public 35-90 in Fiscal Year 2020, from the Earned Income Tax Credit Reimbursements transmitted from the U.S. Government to the Government of Guam, pursuant to Section 9625 of U.S. Public Law 117-2 to the General Fund. These transfers *shall* take place in Fiscal Years 2021, 2022, 2023, and 2024, and *shall* be used to offset any revenue shortages created by the passage of this Act.

Section 4. 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.

Section 5. Effective Date. This Act *shall* be effective upon enactment and shall apply retroactively to January 1, 2021 and *shall* expire four (4) years from the date of enactment.