





*I Mina'trentai Sais Na Lihelaturan Guåhan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
5-36 (COR)	James C. Moylan V. Anthony Ada Christopher M. Duenas Frank F. Blas Jr.	AN ACT TO AMEND §§ 26202(a), (c), (d), (e), (f), (g), (h), (i), (j)(1), AND (j)(2), ALL OF ARTICLE 2, CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO REDUCING THE BUSINESS PRIVILEGE TAX FROM FIVE PERCENT (5%) TO FOUR PERCENT (4%).	1/4/21 11:05 a.m.						

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

**Bill No. 5-36 (COR)**

Introduced by:

James C. Moylan   
V. Anthony Ada   
Christopher M. Duenas   
Frank F. Blas Jr. 

**AN ACT TO AMEND §§ 26202(a), (c), (d), (e), (f), (g), (h), (i), (j)(1), AND (j)(2), ALL OF ARTICLE 2, CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO REDUCING THE BUSINESS PRIVILEGE TAX FROM FIVE PERCENT (5%) TO FOUR PERCENT (4%).**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** § 26202 of Article 2, Chapter 26, Title 11, Guam Code Annotated,  
3 is hereby *amended* to read as follows:

4 **§ 26202. Rates.**

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

7 (a) Tax on the Business of Selling Tangible Personal Property.

8 Upon every person engaging or continuing within Guam in the business  
9 of selling any tangible property whatsoever (not including however,  
10 bonds or other evidence of indebtedness or stocks), there shall be a tax  
11 equivalent to four percent (4%) ~~five percent (5%)~~ of gross proceeds of  
12 sales; except that on the gross proceeds of the operation of poker  
13 machines, there shall be a tax equivalent to eight percent (8%) on the  
14 gross proceeds of each machine, as determined by subtracting the

1 winnings, pay-outs and malfunction refunds from total receipts of each  
2 machine.

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

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

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

20 (4) Provided, that a manufacturer or producer, other than  
21 a manufacturer of alcoholic beverages, engaging in the business  
22 of selling his products to manufacturers, wholesalers, or licensed  
23 retailers, or persons actually selling the products to the United  
24 States Government, shall not be required to pay the tax imposed  
25 in this Act for the privilege of selling such products at wholesale.  
26 Nor shall any such manufacturer or producer, other than a  
27 manufacturer of alcoholic beverages, be required to pay the tax

1 imposed in this Act for the privilege of selling products for  
2 delivery to the purchaser outside of Guam. The point of delivery  
3 for a purchaser outside of Guam may be on Guam, if the  
4 product's ultimate destination or consumption is outside of  
5 Guam.

6 (b) (1) [Repealed.]

7 (2) [Repealed.]

8 (3) Tax upon boxing. The tax levied and assessed under  
9 Subsections (b)(1) and (b)(2) (repealed) of this Section shall not  
10 apply to boxing for which a tax equivalent to twelve percent  
11 (12%) of the gross income of such boxing business is hereby  
12 levied and assessed.

13 (c) Tax on service business. Upon every person engaging or  
14 continuing within Guam, in any service business or calling not  
15 otherwise specifically taxed under this Section, [there shall be] a tax  
16 equivalent to four percent (4%) ~~five percent (5%)~~ of the gross income  
17 of such business.

18 (d) Professions. Upon every person engaging or continuing  
19 within Guam in the practice of a profession, excluding those  
20 expounding the religious doctrines of any church, [there shall be] a tax  
21 equivalent to four percent (4%) ~~five percent (5%)~~ of the gross income  
22 of such practice.

23 (e) Tax on Contractors. There shall be levied, assessed and  
24 collected a tax rate of four percent (4%) ~~five percent (5%)~~ measured  
25 against the gross income of any contractor; provided, that there shall be  
26 deducted from the gross income of the taxpayer so much thereof as has  
27 been included in the gross income earned from another taxpayer who is

1 a contractor as defined in § 26101(b) and who has already paid the tax  
2 levied under this Subsection for goods and services that include the  
3 deductible gross income of the taxpayer who is a contractor; provided,  
4 that any person claiming a deduction under this Subsection shall be  
5 required to show in the person's return either the name and the  
6 contractor's license number issued by the Guam Contractors License  
7 Board, or the Guam business license number, or the registration number  
8 for a professional engineer, architect or land surveyor, or the Certificate  
9 of Authorization (COA) number for a business authorized to provide  
10 engineering, architecture or land surveying services by the Guam Board  
11 of Registration for Professional Engineers, Architects, and Land  
12 Surveyors of the person paying the tax on the amount deducted by the  
13 person.

14 (f) Tax on banks, banking institutions, small lenders and building  
15 and loan associations. Upon every person engaging or continuing  
16 within Guam in the business of operating any bank, banking  
17 institutions, building and loan association, small lending business, or  
18 lending institutions, there shall be a tax equivalent to four percent (4%)  
19 ~~five percent (5%)~~ of the net income received from business.

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

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

25 (B) Interest or discount paid.

26 (C) Rents paid.

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

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

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

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

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

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

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

1 (g) Dealing in foreign currency. Upon every person engaging or  
2 continuing within Guam in the business of purchasing and selling  
3 foreign money, there shall be a tax equivalent to four percent (4%) ~~five~~  
4 ~~percent (5%)~~ of the gross profit of such business represented by the  
5 difference between the cost and selling price of the foreign currency  
6 measured in United States dollars.

7 (h) Tax on other business. Upon every person engaging or  
8 continuing within Guam in any business, trade, activity, occupation or  
9 calling not specifically included in any other provision of this Article,  
10 there shall likewise be a tax equivalent to four percent (4%) ~~five percent~~  
11 ~~(5%)~~ of the gross income of such business. This Section shall apply to  
12 the gross income of persons taxable under other provisions of this  
13 Chapter, but which gross income is not derived from the exercise or  
14 privilege taxable thereunder.

15 (i) Insurers. Upon every person engaged or continuing within  
16 Guam in the business of an insurer, there shall be a tax at the rate of  
17 four percent (4%) ~~five percent (5%)~~ of gross income received as  
18 premium for the writing of insurance, less returned premiums and less  
19 all commissions attributable to the sale and purchase of an insurance  
20 policy or policies of the insurer paid by said insurer to agents of the  
21 same, and four percent (4%) ~~five percent (5%)~~ of any other gross  
22 income earned or derived on Guam.

23 (j) Tour Agencies.

24 (1) Upon every person engaging or continuing within  
25 Guam in the business of a tour agency or travel agency, where  
26 tourism-related services are furnished to consumers by  
27 independent vendors through arrangements made by a travel

1 agency, or tour packager, and the gross income is divided  
2 between the provider of the services on the one hand and the  
3 travel agency or tour packager on the other hand, a tax equivalent  
4 to four percent (4%) ~~five percent (5%)~~ shall be imposed on each  
5 person with respect to such person's respective portion of the  
6 proceeds, and no more.

7 (2) Where transient accommodations are furnished  
8 through arrangements made by a travel agency or tour packager,  
9 the gross income is divided between the provider of the transient  
10 accommodations on the one hand and the travel agency, or tour  
11 packager, on the other hand, a tax equivalent to four percent (4%)  
12 ~~five percent (5%)~~ shall be imposed on each person with respect  
13 to such person's respective portion of the proceeds, and no more.

14 (A) As used in this Subsection, tourism related  
15 services shall mean dinner cruises, transportation included  
16 in a tour package, sightseeing tours, dinner shows,  
17 extravaganzas, cultural and educational facilities, and  
18 other services rendered directly to the customer or tourist.

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

23 **Section 2. Severability.** If any provision of this Act or its application to any  
24 person or circumstance is found to be invalid or contrary to law, such invalidity *shall*  
25 *not* affect other provisions or applications of this Act that can be given effect without  
26 the invalid provision or application, and to this end the provisions of this Act are  
27 severable.



1           **Section 3. Effective Date.** This Act *shall be* effective retroactively to  
2 January 1, 2021.