




I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 47-37 (COR)

Introduced by:

Joe S. San Agustin 
Dwayne T.D. San Nicolas
Roy A.B. Quinata 
William A. Parkinson 

AN ACT TO REPEAL ARTICLE 7 “CIGARETTE STAMP TAX LAW” AND ARTICLE 8 “STAMPING OF CIGARETTES” OF CHAPTER 6, TITLE 11, GUAM CODE ANNOTATED; TO AMEND § 26304 OF CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED; AND TO REPEAL § 26601(c) AND 26608, ALL OF ARTICLE 6, CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED; AND TO AMEND § 26305 OF ARTICLE 3, CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO EXCISE TAXES FOR ALCOHOLIC BEVERAGES AND TOBACCO PRODUCTS.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that since the enactment of the tobacco bonded warehouse provision over 60 years
4 ago the Department of Revenue and Taxation (DRT) has not adopted policies or
5 regulations for the certification or monitoring of these facilities. Untimely
6 reconciliation and lack of oversight or accountability led the OPA to sound the
7 alarm on potential underreporting of tobacco and alcohol taxes.

8 *I Liheslaturan Guåhan* further finds that, according to the according to the
9 Office of Public Accountability (OPA) Report No. 19-07, November 2019, DRT
10 lacks the adequate personnel and funding to provide control procedures to account

1 for and verify tobacco and alcohol product movement on island and has relied
2 upon voluntary compliance from wholesalers.

3 *I Liheslaturan Guåhan* further finds that without the bonded warehouse
4 provision, taxes will be collected immediately upon import from wholesalers and
5 any export or consignment will be considered a drawback. This relieves limited
6 resources and manpower at DRT and places the burden of proof upon the taxpayer:

7 **Section 2.** Articles 7 and 8 of Chapter 6, Title 11, Guam Code Annotated
8 are hereby *repealed*.

9 **ARTICLE 7**

10 **CIGARETTE STAMP TAX LAW**

11
12 ~~§ 6701. Legislative Findings and Intent.~~

13 ~~§ 6702. Supplemental Definitions.~~

14 ~~§ 6703. Proof of Taxation.~~

15 ~~§ 6704. Records to be Kept.~~

16 ~~§ 6705. Wholesaler and Retailer Requirements.~~

17 ~~§ 6706. Inspection.~~

18 ~~§ 6707. Appeals.~~

19 ~~§ 6708. Reports.~~

20 ~~§ 6709. Investigation.~~

21 ~~§ 6710. Rules and Regulations.~~

22
23 ~~§ 6701. Legislative Findings and Intent.~~

24 ~~(a) I Liheslaturan Guåhan finds that Public Law 2-43, signed into law by~~
25 ~~Governor Ford Q. Elvidge on July 22, 1953, established the tobacco tax, which~~
26 ~~includes the tax on cigarettes.~~

1 ~~(b) I Liheslatura finds that the current system of administering the tax on~~
2 ~~cigarettes relies upon voluntary compliance by the companies which sell cigarettes.~~
3 ~~While most companies will comply with the law in the course of their business,~~
4 ~~companies which do not, if not caught, would unfairly benefit.~~

5 ~~(c) I Liheslatura, therefore, finds that a system which has good mechanisms~~
6 ~~of accountability will level the playing field, putting those companies which~~
7 ~~comply with the law in a more fair competitive position.~~

8 ~~(d) I Liheslatura further finds that utilizing cigarette tax stamps will ensure~~
9 ~~that companies which comply with Guam's tobacco tax will not be unfairly~~
10 ~~disadvantaged competitively by the very act of compliance.~~

11 ~~(e) I Liheslatura finds that Guam is one (1) of only four (4) states and~~
12 ~~territories which have not authorized the use of tobacco tax stamps.~~

13 ~~(f) I Liheslatura finds that the Healthy Futures Fund is a major source of~~
14 ~~funding for government investments in public health, including support for the~~
15 ~~Guam Memorial Hospital Authority and the Department of Public Health and~~
16 ~~Social Services.~~

17 ~~(g) I Liheslatura further finds that the tobacco tax is the largest source of~~
18 ~~funding for the Healthy Futures Fund. In Fiscal Year 2016, approximately eighty-~~
19 ~~one percent (81%) of Healthy Futures Fund revenue came from the tobacco tax.~~

20 ~~(h) It is, therefore, the intent of I Liheslaturan Guahan to establish a cigarette~~
21 ~~tax stamp system to improve collections of the tobacco tax and promote fairness~~
22 ~~for businesses which comply with Guam's laws, by the establishment of new~~
23 ~~Articles 7 and 8 of this Chapter.~~

24 ~~§ 6702. Supplemental Definitions.~~

25 ~~Unless the context otherwise requires, the definitions set forth herein and in~~
26 ~~11 GCA § 6101 shall govern the construction and interpretation of this Article.~~

1 ~~(a) Attorney General means the Guam Attorney General or Assistant~~
2 ~~Attorneys General.~~

3 ~~(b) Business location or place of business means the entire premises~~
4 ~~occupied by a retail tobacco permit applicant or an entity required to hold a retail~~
5 ~~tobacco permit under this Chapter; and shall include, but is not limited to, any~~
6 ~~store, stand, outlet, vehicle, cart, location, vending machine, or structure from~~
7 ~~which cigarettes or tobacco products are sold or distributed to a consumer.~~

8 ~~(c) Cigarette means any rolled product for smoking made wholly or in part~~
9 ~~of tobacco, irrespective of size and shape and whether or not the tobacco is~~
10 ~~flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of~~
11 ~~which is made of paper or any other substance or material except tobacco.~~

12 ~~(d) Cigarette package means a sealed package of cigarettes originating from~~
13 ~~the manufacturer and bearing the health warning required by law.~~

14 ~~(e) Consumer means a person who acquires or possesses a cigarette or a~~
15 ~~tobacco product for personal consumption and not for resale or distribution.~~

16 ~~(f) Department means the Department of Revenue and Taxation.~~

17 ~~(g) Distribute, distributes, or distribution means to sell, transfer, give, or to~~
18 ~~leave, deliver to another, or exchange with another, or to offer or agree to do the~~
19 ~~same.~~

20 ~~(h) Entity means one (1) or more individuals, a company, a corporation, a~~
21 ~~partnership, an association, or any other type of legal entity.~~

22 ~~(i) Falsely alter means to change a stamp in any manner so that the altered~~
23 ~~stamp falsely appears or purports to have a value or validity that is not authorized~~
24 ~~or consented to by the Department.~~

25 ~~(j) Falsely make means to print, manufacture, or make what purports to be a~~
26 ~~stamp without the authority or consent of the Department.~~

1 ~~(k) Falsely reuse means to affix a stamp that was previously affixed to a~~
2 ~~package of cigarettes, to another package of cigarettes.~~

3 ~~(l) License means a license granted by Guam law that authorizes the holder~~
4 ~~to engage in the business of a wholesaler or retailer of cigarettes or tobacco~~
5 ~~products in Guam.~~

6 ~~(m) Licensee means the holder of a license as a wholesaler or retailer~~
7 ~~granted under this Chapter.~~

8 ~~(n) Persons means one (1) or more people, a company, a corporation, a~~
9 ~~partnership, or an association.~~

10 ~~(o) Possession means knowingly having direct physical control at a given~~
11 ~~time, or knowingly having the power and the intention at a given time, to exercise~~
12 ~~dominion or control, either directly or through another entity.~~

13 ~~(p) Retailer means an entity that engages in the practice of selling cigarettes~~
14 ~~or tobacco products to consumers, and includes the owner of a cigarette or tobacco~~
15 ~~product vending machine.~~

16 ~~(q) Retail price means the ordinary, customary, or usual price paid by the~~
17 ~~consumer for the articles taxed.~~

18 ~~(r) Retail sale or tobacco retailing means the practice of selling cigarettes or~~
19 ~~tobacco products to consumers, and includes the sale of cigarettes or tobacco~~
20 ~~through a vending machine.~~

21 ~~(s) Sale includes every act of selling, and includes any sale or act of selling~~
22 ~~that originates from any order that is placed or submitted by means of a telephonic~~
23 ~~or other method of voice transmission, the mail, or any other delivery service, or~~
24 ~~the internet or other online service.~~

25 ~~(t) Ship or causes to be shipped means to send by any means of~~
26 ~~transportation.~~

1 ~~(u) Stamp means a stamp printed, manufactured, or made by authority of the~~
2 ~~Department, as provided in this Chapter, that is issued, sold, or circulated by the~~
3 ~~Department, and by the use of which the tax levied under this Chapter is paid.~~

4 ~~(v) Wholesaler means any duly Guam licensed person who imports or causes~~
5 ~~to be imported into Guam any FDA approved or compliant cigarette products~~
6 ~~which are or will be offered for sale or used for any commercial purpose; any~~
7 ~~purchaser of warehouse receipts for such cigarettes stored in a warehouse in Guam~~
8 ~~who causes such cigarettes to be removed from such warehouse; and also any~~
9 ~~person who produces, manufactures, compounds, mixes or rolls any such cigarette~~
10 ~~products within Guam for sale.~~

11 ~~§ 6703. Proof of Taxation.~~

12 ~~(a) The payment of taxes levied by § 26602 and § 26603(a) of Chapter 26,~~
13 ~~Title 11, Guam Code Annotated, shall be demonstrated by the purchase of tax~~
14 ~~stamps in Guam, which shall be affixed to each cigarette package. Nothing herein~~
15 ~~shall be construed as to levy any additional taxes on the sale of cigarettes, unless~~
16 ~~expressly stated by law.~~

17 ~~(b) Payment for the purchasing of stamps to be affixed to a cigarette package~~
18 ~~shall be reported each month and payable no later than the twentieth (20th) day of~~
19 ~~the month following the month in which the stamps were purchased from the~~
20 ~~Department.~~

21 ~~(c) The Department is responsible for and shall effectuate the printing,~~
22 ~~distribution, and sale of tax stamps.~~

23 ~~(d) Any taxpayer under this Section may delay the payment of taxes in~~
24 ~~accordance with the provisions under 11 GCA § 26601(e) relative to cigarettes~~
25 ~~held and sold out of a bonded warehouse. SOURCE: Added by P.L. 34-055:1 (Oct.~~
26 ~~14, 2017) as § 6702, renumbered by the Compiler pursuant to the authority of 1~~

27 ~~§ 6704. Records to Be Kept.~~

1 (a) ~~Each wholesaler shall keep a record of: (1) every sale or use of cigarettes~~
2 ~~and tobacco products by the wholesaler; (2) the number and wholesale price of~~
3 ~~cigarettes; (3) the taxes payable on tobacco products sold, possessed, or used, if~~
4 ~~any; and (4) the amounts of stamps purchased and used, in a form as the~~
5 ~~Department may prescribe. The records shall be offered for inspection and~~
6 ~~examination at any time upon demand by the Department or the Attorney General,~~
7 ~~and shall be preserved for a period of five (5) years; except, that the Department~~
8 ~~and the Attorney General, in writing, shall both consent to their destruction within~~
9 ~~the five (5)-year period, or either the Department or the Attorney General may~~
10 ~~require that they be kept longer. The Department, by rule, may require the~~
11 ~~wholesaler to keep such other records as it may deem necessary for the proper~~
12 ~~enforcement of this Chapter.~~

13 (b) ~~If any wholesaler fails to keep records from which a proper~~
14 ~~determination of the taxes due under this Chapter may be made, the Department~~
15 ~~may fix the amount of the taxes for any period from the best information~~
16 ~~obtainable by it and assess the taxes as provided in this Chapter.~~

17 ~~§ 6705. Wholesaler and Retailer Requirements.~~

18 (a) ~~All wholesalers or distributors are required to pay the appropriate tax for~~
19 ~~each cigarette in its inventory, except as provided under 11 GCA § 26601(c) for~~
20 ~~inventory held in a warehouse under bond. Even though wholesalers are required~~
21 ~~to affix the stamps to cigarette packages prior to shipping to retail outlets, every~~
22 ~~cigarette retailer is responsible for inspecting their shipments upon receipt to~~
23 ~~ensure cigarette stamps have been properly affixed. Unstamped cigarette packages~~
24 ~~should be removed from inventory and set aside for return to the cigarette supplier.~~

25 (b) ~~Any cigarette retailer that fails to properly inspect and timely return any~~
26 ~~unstamped cigarette packages to the cigarette supplier within seven (7) days shall~~

1 ~~assume liability for any unstamped cigarette packages and be subject to penalties~~
2 ~~under 11 GCA § 6811.~~

3 ~~§ 6706. Inspection.~~

4 ~~(a) The Department and/or the Attorney General may examine all records,~~
5 ~~including tax returns and reports required to be kept or filed under this Chapter,~~
6 ~~and books, papers, and records of any person engaged in the business of~~
7 ~~wholesaling or dealing cigarettes and tobacco products, to verify the accuracy of~~
8 ~~the payment of the taxes imposed by this Chapter. Every person in possession of~~
9 ~~any books, papers, and records, and the person's agents and employees, are~~
10 ~~directed and required to give to the Department and the Attorney General the~~
11 ~~means, facilities, and opportunities for the examinations.~~

12 ~~(b) The Department and/or the Attorney General may inspect the operations,~~
13 ~~premises, and storage areas of any entity engaged in the sale of cigarettes, or the~~
14 ~~contents of a specific vending machine, during regular business hours.~~

15 ~~(1) This inspection shall include inspection of all statements, books,~~
16 ~~papers, and records in whatever format, including electronic format,~~
17 ~~pertaining to the acquisition, possession, transportation, sale, or use of~~
18 ~~packages of cigarettes and tobacco products other than cigarettes, to verify~~
19 ~~the accuracy of the payment of taxes imposed by this Chapter, and of the~~
20 ~~contents of cartons and shipping or storage containers to ascertain that all~~
21 ~~individual packages of cigarettes have an affixed stamp of proper~~
22 ~~denomination as required by this Chapter.~~

23 ~~(2) This inspection may also verify that all stamps were produced~~
24 ~~under the authority of the Department. Every entity in possession of any~~
25 ~~books, papers, and records, and the entity's agents and employees, are~~
26 ~~directed and required to give the Department and/or the Attorney General~~
27 ~~the means, facilities, and opportunities for the examinations.~~

1 ~~(3) For the purposes of this Chapter, “entity” means one (1) or more~~
2 ~~individuals, a company, a corporation, a partnership, an association, or any~~
3 ~~other type of legal entity.~~

4 ~~(c) If the Department or the Attorney General has reasonable cause to~~
5 ~~believe and does believe that cigarettes, stamps, or counterfeit stamps are being~~
6 ~~acquired, possessed, transported, kept, sold, or offered for sale in violation of this~~
7 ~~Chapter, the Department or the Attorney General may investigate or search the~~
8 ~~vehicle or premises in which the cigarettes, stamps, or counterfeit stamps are~~
9 ~~believed to be located. If cigarettes, stamps, or counterfeit stamps are found in a~~
10 ~~vehicle, premises, or vending machine in violation of this Chapter, the cigarettes,~~
11 ~~vending machine, vehicle, stamps, counterfeit stamps, or other tangible personal~~
12 ~~property containing those cigarettes, stamps, or counterfeit stamps and any books~~
13 ~~and records in possession of the entity in control or possession of the cigarettes,~~
14 ~~stamps, or counterfeit stamps may be seized by the Department or the Attorney~~
15 ~~General and are subject to forfeiture.~~

16 ~~§ 6707. Appeals.~~

17 ~~Any person aggrieved by any assessment of the taxes imposed by this~~
18 ~~Chapter may appeal from the assessment in the manner and within the time, and in~~
19 ~~all other respects as provided for by current tax protest procedures.~~

20 ~~§ 6708. Reports.~~

21 ~~On or before the twentieth (20th) day of each month, every wholesaler shall~~
22 ~~file with the Department a report showing the cigarettes and tobacco products sold,~~
23 ~~possessed, or used by the wholesaler during the preceding calendar month, and of~~
24 ~~the taxes chargeable against the taxpayer in accordance with this Chapter. Such~~
25 ~~reports are public records as defined by 5 GCA § 10102(d). The form of the report~~
26 ~~shall be prescribed by the Department and shall include:~~

1 ~~(a) a separate statement of the cigarettes imported into and sold within~~
2 ~~Guam;~~

3 ~~(b) the amount of stamps purchased and used; and~~

4 ~~(c) any other information that the Department may deem necessary for~~
5 ~~the proper administration of this Chapter.~~

6 ~~§ 6709. Investigation.~~

7 ~~(a) Any agent duly authorized by the Department to conduct any inquiry,~~
8 ~~investigation, or hearing hereunder, shall have power to administer oaths and take~~
9 ~~testimony under oath relative to the matter of inquiry or investigation.~~

10 ~~(1) At any hearing ordered by the Director, the Director or the~~
11 ~~Director's agent authorized to conduct the hearing, may subpoena witnesses~~
12 ~~and require the production of books, papers, and documents pertinent to the~~
13 ~~inquiry.~~

14 ~~(2) No witness under the subpoena authorized to be issued by this~~
15 ~~Section shall be excused from testifying or from producing books or papers~~
16 ~~on the ground that such testimony or the production of such books or other~~
17 ~~documentary evidence would tend to incriminate the witness, or subject the~~
18 ~~witness to penalty or forfeiture; but no person shall be prosecuted, punished,~~
19 ~~or subjected to any penalty or forfeiture for or on account of any act,~~
20 ~~transaction, matter, or thing concerning which the person shall, under oath,~~
21 ~~have testified or produced documentary evidence.~~

22 ~~(b) If any person:~~

23 ~~(1) disobeys such process or, having appeared in obedience thereto,~~
24 ~~refuses to answer any pertinent question put to the person by any duly~~
25 ~~authorized agent of the Department, or to produce any books and papers~~
26 ~~pursuant thereto,~~

1 ~~§ 6809. Counterfeiting Stamps.~~

2 ~~§ 6810. Sale or Purchase of Cigarette Packages Without Stamps; Fines and~~
3 ~~Penalties.~~

4 ~~§ 6811. Vending of Unstamped Cigarettes.~~

5 ~~§ 6812. Exemptions.~~

6 ~~§ 6813. Forfeiture.~~

7 ~~§ 6814. Deceptive Trade Practices.~~

8 ~~§ 6815. Public Enforcement.~~

9 ~~§ 6816. Private Enforcement.~~

10
11 ~~§ 6801. Payment of Tax Through the Use of Stamps.~~

12 ~~The tax imposed under this Chapter upon the sale or use of cigarettes shall~~
13 ~~be paid by licensees through the use of stamps.~~

14 ~~§ 6802. Affixation; Required Prior to Distribution; Method and Manner.~~

15 ~~(a) A licensee or the authorized agent or designee of a licensee shall affix a~~
16 ~~stamp to the bottom of each individual package of cigarettes prior to distribution.~~

17 ~~(b) No individual package of cigarettes may be sold or offered for sale to the~~
18 ~~general public unless affixed with the stamp required under this Section.~~

19 ~~(c) No cigarette package may be placed or stored in a vending machine~~
20 ~~unless affixed with the stamp required under Subsection (a) of this Section.~~

21 ~~(d) The Department may adopt rules regarding the method and manner of~~
22 ~~affixing stamps to a cigarette package.~~

23 ~~(e) For the purpose of allowing compensation for the costs necessarily~~
24 ~~incurred in affixing the proper tax stamps to each package of cigarettes prior to~~
25 ~~distribution, each licensee or authorized agent or a designee of a licensee~~
26 ~~purchasing stamps from the Department may purchase the stamps at a reduction of~~
27 ~~fourtenths of one percent (0.4%) of the denominated value of each stamp~~

1 purchased. The reduction shall be the only discount allowed to purchasers from the
2 Department. If a purchaser does not comply with all of the provisions of Guam
3 law, the licensee shall pay the full denominated value of the stamps purchased until
4 the licensee has complied

5 ~~§ 6803. Department to Furnish: Stamps, Their Designs, Specifications, and~~
6 ~~Denominations.~~

7 ~~The Department shall furnish stamps for sale to licensees. Stamps shall be of~~
8 ~~such designs and specifications, and the Department may prescribe denominations~~
9 ~~as it sees fit.~~

10 ~~§ 6804. Purchase of Stamps.~~

11 ~~A licensee may enter or apply to the Department to purchase stamps~~
12 ~~beginning one hundred eighty (180) days from the date of enactment of this Act. A~~
13 ~~licensee may authorize a designee to purchase stamps. Such authorization shall be~~
14 ~~in writing and shall continue until written notice revoking the designation is~~
15 ~~provided to the Department.~~

16 ~~§ 6805. Price.~~

17 ~~(a) Stamps shall be sold at their denominated values as provided for herein.~~

18 ~~(b) Payment for the stamps shall be made no later than the twentieth (20th)~~
19 ~~day of the month following the month in which the stamps were purchased from~~
20 ~~the Department~~

21 ~~(c) Any taxpayer under this Section may delay the payment of taxes in~~
22 ~~accordance with the provisions under 11 GCA § 26601(c) relative to cigarettes~~
23 ~~held and sold out of a bonded warehouse. Payment for the stamps for cigarettes~~
24 ~~held and sold out of a bonded warehouse shall be made no later than the twentieth~~
25 ~~(20th) day of the month following the month in which the stamps and associated~~
26 ~~cigarettes were issued and sold out of the bonded warehouse.~~

27 ~~§ 6806. Unused Stamps; Cancellation of Stamps.~~

1 ~~The Department shall adopt rules for a refund or credit to a licensee in the~~
2 ~~amount of the denominated values of any unused stamps. The Department may~~
3 ~~provide by rule for the cancellation of stamps.~~

4 ~~§ 6807. Transfer of Stamps. Unused stamps shall not be sold, exchanged, or~~
5 ~~in any manner negotiated or transferred by a licensee to another person. Any~~
6 ~~person who violates this Section shall be subject to a fine of not less than Five~~
7 ~~Hundred Dollars (\$500) and not more than One Thousand Dollars (\$1,000) for~~
8 ~~each violation.~~

9 ~~§ 6808. Unlicensed Possession or Use of Stamps.~~

10 ~~A person who is not licensed under this Chapter and who knowingly~~
11 ~~possesses or uses a stamp shall be guilty of a third (3rd) degree felony.~~

12 ~~§ 6809. Counterfeiting Stamps.~~

13 ~~A person shall be guilty of a third (3rd) degree felony if the person:~~

14 ~~(a) intentionally or knowingly makes, alters, or reuses a stamp; or~~

15 ~~(b) knowingly possesses or distributes a stamp that has been falsely made,~~
16 ~~unauthorized, altered, or reused.~~

17 ~~§ 6810. Sale or Purchase of Cigarette Packages Without Stamps; Fines and~~
18 ~~Penalties.~~

19 ~~(a) A person shall be guilty of a third (3rd) degree felony if the person:~~

20 ~~(1) is not a licensee, and knowingly possesses, keeps, stores, acquires,~~
21 ~~or transports three thousand (3,000) or more cigarettes that do not have~~
22 ~~stamps affixed to the cigarette packages as required by this Article; or~~

23 ~~(2) knowingly sells one thousand (1,000) or more cigarettes that do~~
24 ~~not have stamps affixed to the cigarette packages as required by this Article.~~

25 ~~(b) A person shall be guilty of a misdemeanor if the person:~~

1 ~~(1) is not a licensee, and knowingly possesses, keeps, stores, acquires,~~
2 ~~or transports one thousand (1,000) or more cigarettes that do not have~~
3 ~~stamps affixed to the cigarette packages as required by this Article; or~~

4 ~~(2) knowingly sells less than one thousand (1,000) cigarettes that do~~
5 ~~not have stamps affixed to the cigarette packages as required by this Article.~~

6 ~~(c) In addition to any other authorized disposition, a person found in~~
7 ~~violation of:~~

8 ~~(1) Subsection (a) is subject to a fine in an amount not to exceed Fifty~~
9 ~~Thousand Dollars (\$50,000); and~~

10 ~~(2) Subsection (b) is subject to a fine in an amount not to exceed~~
11 ~~Twenty-five Thousand Dollars (\$25,000).~~

12 ~~§ 6811. Vending of Unstamped Cigarettes.~~

13 ~~(a) Any person who knowingly places for sale in a cigarette vending~~
14 ~~machine any cigarettes not contained in cigarette packages to which are affixed~~
15 ~~stamps as required by this Article shall be guilty of a third (3rd) degree felony.~~

16 ~~(b) In addition to any other authorized disposition, a person found in~~
17 ~~violation of Subsection (a) may be fined in an amount not to exceed Fifty~~
18 ~~Thousand Dollars (\$50,000).~~

19 ~~§ 6812. Exemptions.~~

20 ~~(a) No cigarette tax stamp shall be required to be paid upon cigarettes that~~
21 ~~are sold for personal use at sales outlets operated under the regulations of the~~
22 ~~armed services of the United States; provided, that it shall be unlawful for any~~
23 ~~person, including members of the armed services of the United States, to purchase~~
24 ~~such tax-exempt cigarettes for purposes of resale.~~

25 ~~(1) Any person who intentionally, knowingly, or recklessly resells, or~~
26 ~~offers for resale, tax-exempt cigarettes purchased at sales outlets operated~~
27 ~~under the regulations of the armed services of the United States shall be~~

1 ~~guilty of a violation of this Article, and punishable as provided in § 6810 or~~
2 ~~§ 6811 of this Article.~~

3 ~~(2) For the purposes of this Section, “person” means one (1) or more~~
4 ~~people, a company, a corporation, a partnership, or any combination of~~
5 ~~individuals.~~

6 ~~(b) No cigarette tax stamp shall be required to be paid upon cigarettes that~~
7 ~~are sold outside of Guam, including cigarettes sold for export outside of Guam and~~
8 ~~cigarettes sold through duty free outlets located at the A.B. Won Pat International~~
9 ~~Airport Guam which are intended to be transported outside of Guam by outgoing~~
10 ~~travelers; provided, that it shall be unlawful for any person to purchase such tax-~~
11 ~~exempt cigarettes for purposes of resale on Guam.~~

12 ~~(c) Unless otherwise exempt from taxes by this Chapter, it shall be presumed~~
13 ~~that all cigarettes are subject to the tax imposed by this Chapter, unless the contrary~~
14 ~~is established, and the burden of proof that they are not taxable shall be upon the~~
15 ~~person having possession of them.~~

16 ~~§ 6813. Forfeiture.~~

17 ~~Any cigarette, package of cigarettes, carton of cigarettes, or container of~~
18 ~~cigarettes unlawfully possessed, kept, stored, acquired, transported, sold, imported,~~
19 ~~offered, received, or distributed in violation of this Chapter may be seized and~~
20 ~~confiscated by any order of the Attorney General, and ordered forfeited.~~

21 ~~§ 6814. Deceptive Trade Practices.~~

22 ~~Any violation of this Chapter shall constitute an unfair method of~~
23 ~~competition, and unfair and deceptive acts or practices in the conduct of any trade~~
24 ~~or commerce under 5 GCA § 32101 et seq., and shall be subject to a civil penalty~~
25 ~~as provided in Guam law. Each package of cigarettes sold in violation of this~~
26 ~~Chapter shall constitute a separate violation.~~

27 ~~§ 6815. Public Enforcement.~~

1 ~~(a) Public enforcement of this Article is under the jurisdiction of the~~
2 ~~Attorney General. The Attorney General may seek assistance in the enforcement of~~
3 ~~this Article from other law enforcement agencies. This includes:~~

4 ~~(1) any peace officer as defined by 8 GCA § 5.55; and~~

5 ~~(2) a Citizen Assisted Police Enforcement (CAPE) volunteer as~~
6 ~~provided pursuant to 10 GCA § 77302.~~

7 ~~(b) The Attorney General and the Guam Police Department may seize and~~
8 ~~confiscate any cigarette, package of cigarettes, or carton of cigarettes that is~~
9 ~~possessed, kept, stored, retained, held, owned, received, transported, imported, or~~
10 ~~caused to be imported, acquired, distributed, sold, or offered for sale in violation of~~
11 ~~this Article.~~

12 ~~(c) Any cigarette, package of cigarettes, or carton of cigarettes unlawfully~~
13 ~~possessed, kept, stored, received, held, owned, acquired, retained, transported,~~
14 ~~imported, or caused to be imported, distributed, sold, or offered for sale, in~~
15 ~~violation of this Article, shall be forfeited as contraband and may be seized through~~
16 ~~any legal process available to the Attorney General. Any cigarette, package of~~
17 ~~cigarettes, or carton of cigarettes forfeited as provided in this Section shall be~~
18 ~~ordered destroyed.~~

19 ~~(d) Notwithstanding the existence of other remedies at law, the Attorney~~
20 ~~General may apply for a temporary or permanent injunction restraining any person~~
21 ~~from violating or continuing to violate this Article. The injunction shall be issued~~
22 ~~without bond.~~

23 ~~§ 6816. Private Enforcement.~~

24 ~~(a) A person may bring a civil action for violation of this Article on behalf of~~
25 ~~the person and the government of Guam to enforce the fines contained herein. The~~
26 ~~action shall only be dismissed if the court and the Attorney General give written~~
27 ~~consent to dismissal and the reasons for the dismissal.~~

1 ~~(1) A copy of the complaint and written disclosure of substantially all~~
2 ~~material evidence and information shall be served on the government of~~
3 ~~Guam pursuant to the Guam Rules of Civil Procedure. The complaint shall~~
4 ~~be filed in camera, shall remain under seal for sixty (60) days, and shall not~~
5 ~~be served on the named defendant until ordered by the Superior Court. The~~
6 ~~government may elect to intervene and prosecute the action within sixty (60)~~
7 ~~days after service of the complaint.~~

8 ~~(2) The government is entitled to a one (1) time extension of thirty~~
9 ~~(30) days to evaluate the complaint filed.~~

10 ~~(b) If the government elects to intervene and proceed with the action, it shall~~
11 ~~have primary responsibility for prosecuting the action and shall not be bound by an~~
12 ~~act of the person bringing the action unless there is an exception enumerated in this~~
13 ~~law.~~

14 ~~(1) Upon the government's assumption of the complaint, the person~~
15 ~~who filed the complaint has no further participation, except as described~~
16 ~~herein, and the government may:~~

17 ~~(A) dismiss the action notwithstanding the objection of the~~
18 ~~person bringing the complaint as long as the person bringing the~~
19 ~~complaint has an opportunity to respond in writing;~~

20 ~~(B) settle the action notwithstanding the objection of the person~~
21 ~~bringing the complaint as long as the Guam Superior Court finds the~~
22 ~~settlement to be fair, adequate and reasonable;~~

23 ~~(C) pursue its claim through an alternate remedy available to~~
24 ~~the government in including any administrative proceeding to~~
25 ~~determine a civil money penalty. If any such alternate remedy is~~
26 ~~pursued in another proceeding, the person initiating the action shall~~

1 have the same rights in such proceeding as such person would have
2 had if the action had continued under this Section;

3 ~~(D) if the government proceeds with an action brought by a~~
4 ~~person under this law, such person shall receive at least fifteen percent~~
5 ~~(15%) but no more than twenty-five percent (25%) of the proceeds of~~
6 ~~the action or settlement of the claim plus their reasonable costs and~~
7 ~~attorney fees incurred in filing the complaint;~~

8 ~~(E) if the government does not proceed with an action, the~~
9 ~~person bringing the action or settling the claim shall receive an~~
10 ~~amount which the Guam Superior Court decides is reasonable for~~
11 ~~collecting the civil penalty and damages. The amount shall not be less~~
12 ~~than twenty-five percent (25%) and not more than thirty percent~~
13 ~~(30%) of the proceeds of the action or settlement. Such person shall~~
14 ~~also in addition receive an award for their reasonable costs, fees, and~~
15 ~~attorney fees; or~~

16 ~~(F) if the government does not proceed with the action and the~~
17 ~~person bringing the action does not prevail on the claim, the defendant~~
18 ~~is entitled to its reasonable attorney fees if the court finds in its~~
19 ~~discretion that the action was clearly frivolous, vexatious, or brought~~
20 ~~for purposes of harassment.~~

21 ~~(c) All civil penalties and fines awarded by the court in excess of the~~
22 ~~reasonable amount awarded by the court to any private individual(s) who bring a~~
23 ~~private enforcement action of this law shall be deposited in the Healthy Futures~~
24 ~~Fund.~~

25 **Section 3.** Article 1A of Chapter 2, Division 1, of Title 30, Guam
26 Administrative Rules and Regulations, is hereby *repealed*.

27

1 ARTICLE 1A

2 CIGARETTE TAX STAMPS

3 ~~§ 21A01. Definitions.~~

4 ~~§ 21A02. Conformity with Statute(s).~~

5 ~~§ 21A03. Collection of Taxes Imposed on Licensees Purchasing and~~
6 ~~Importing Cigarettes into Guam.~~

7 ~~§ 21A04. Preparation and Sale of Cigarette Tax Stamps.~~

8 ~~§ 21A05. Method and Manner of Affixing Stamps.~~

9 ~~§ 21A06. Adherence of Stamps.~~

10 ~~§ 21A07. Purchase of Stamps, Refund, or Credit for Unused Stamps.~~

11 ~~§ 21A08. Cigarettes Shipped Outside of Guam for Sale or Use Outside of~~
12 ~~Guam.~~

13 ~~§ 21A09. Refund or Credit for Mutilated Stamps.~~

14 ~~§ 21A10. Refund or Credit for Stamps Destroyed.~~

15 ~~§ 21A11. Claim Forms. § 21A12. Unsalable Cigarettes.~~

16 ~~§ 21A13. Authorization of Designee to Purchase Stamps for Licensee;~~
17 ~~Revocation of Authorization.~~

18 ~~§ 21A14. Reporting Requirement for Missing Shipment of Stamped~~
19 ~~Cigarettes and Damaged or Otherwise Unusable Stamps.~~

20

21 ~~§ 21A01. Definitions.~~

22 ~~(a) Cigarette package means an individually sealed pack of cigarettes~~
23 ~~originating from the manufacturer and bearing the health warning required by law.~~

24 ~~(b) Department means the Department of Revenue and Taxation.~~

25 ~~(c) License means a license granted by Guam law that authorizes the holder~~
26 ~~to engage in the business of a wholesaler or retailer of cigarettes or tobacco~~
27 ~~products in Guam.~~

1 ~~(d) Licensee means the holder of a license granted as a wholesaler or retailer~~
2 ~~under 11 GCA Chapter 6.~~

3 ~~(e) Minor means a person under the age of twenty-one (21).~~

4 ~~(f) Sale includes every act of selling and includes any sale or act of selling~~
5 ~~that originates from any order that is placed or submitted by means of a telephonic~~
6 ~~or other method of voice transmission, the mail or any other delivery service, or~~
7 ~~the internet or other online service.~~

8 ~~(g) Stamp means a stamp printed, manufactured, or made by authority of the~~
9 ~~Department, as provided in 11 GCA Chapter 6, that is issued, sold, circulated, or~~
10 ~~authorized to be issued, sold, or circulated by the Department, that is placed on the~~
11 ~~bottom of a cigarette package wrapping up to the front of the package, and by the~~
12 ~~use of which designates that the tax levied under 11 GCA §§ 26602 and 26603(a)~~
13 ~~has been paid.~~

14 ~~(h) Traffic means importing and exporting for commercial purposes or the~~
15 ~~business of bartering or buying and selling.~~

16 ~~§ 21A02. Conformity with Statute(s).~~

17 ~~(a) These rules and regulations are in conjunction with 11 GCA §§ 26601~~
18 ~~through 26609, and all other rules and regulations of tobacco products. These rules~~
19 ~~and regulations are passed into law by the Legislature. Any discrepancy between~~
20 ~~these rules and regulations and the statutes they interpret should be resolved in~~
21 ~~favor of the statute(s). To the extent these rules and regulations contain~~
22 ~~discrepancies with other regulations, the discrepancies should be harmonized to~~
23 ~~give the broadest possible effect to the relevant rules and regulations evidencing a~~
24 ~~discrepancy.~~

25 ~~(b) The Department may amend or adopt additional rules and regulations in~~
26 ~~accordance with the Administrative Adjudication Law.~~

1 ~~§ 21A03. Collection of Taxes Imposed on Licensees Purchasing and~~
2 ~~Importing Cigarettes into Guam.~~

3 ~~(a) The Department shall aggressively seek to collect all tobacco taxes~~
4 ~~imposed by Article 6 of Chapter 26, 11 GCA, and use the information submitted in~~
5 ~~the reports filed with the Department pursuant to 11 GCA § 6708; and the~~
6 ~~Department shall make all reasonable efforts to collect all taxes due under 11 GCA~~
7 ~~Chapter 26. To administer the cigarette tax stamp system codified at Article 7 of~~
8 ~~Chapter 6, 11 GCA, the Department shall either partner with a stamp provider and~~
9 ~~purchase stamps or, within ninety (90) days of enactment of these rules and~~
10 ~~regulations, issue a Request for Proposal (RFP), in compliance with the Guam~~
11 ~~Procurement Law, for the purpose of a local company procuring stamps to be sold.~~

12 ~~(b) The Department, or its agent, shall, every six (6) months, submit a report~~
13 ~~to the Speaker of the Legislature on the steps taken to enforce this Section and the~~
14 ~~amounts collected pursuant to collection activities mandated by this Section. The~~
15 ~~amounts collected from each individual licensee shall be public records as defined~~
16 ~~by 5 GCA § 10102(d).~~

17 ~~§ 21A04. Preparation and Sale of Tax Stamps.~~

18 ~~Within ninety (90) days of enactment of these rules and regulations, the~~
19 ~~Department shall prescribe, prepare, and furnish stamps, or procure a company to~~
20 ~~do so, of such design, specifications, denominations, and quantities as may be~~
21 ~~necessary for the payment of the tax imposed by 11 GCA §§ 26602 and 26603(a),~~
22 ~~and may provide for the issuance and exclusive use of stamps of a new design and~~
23 ~~forbid the use of stamps of any other design.~~

24 ~~§ 21A05. Method and Manner of Affixing Stamps.~~

25 ~~(a) Stamps shall be securely affixed to the bottom of each cigarette package~~
26 ~~in such a manner that the stamps are clearly visible from at least five (5) feet away,~~
27 ~~legible, and complete. How the stamps become affixed shall be the concern of the~~

1 ~~persons importing the cigarettes so long as they adhere to these rules and~~
2 ~~regulations.~~

3 ~~(b) It shall be illegal to sell cigarettes on Guam after one (1) year from~~
4 ~~enactment of this Act without a stamp as contemplated by these rules and~~
5 ~~regulations.~~

6 ~~§ 21A06. Adherence of Stamps.~~

7 ~~Stamps shall be affixed in such manner as to adhere securely to the bottom~~
8 ~~of each cigarette package. If the cigarette packages are wrapped in or covered by~~
9 ~~some substance to which the stamps do not readily adhere, such wrapper or~~
10 ~~covering must be roughened or treated so that stamps will adhere securely thereto.~~

11 ~~§ 21A07. Purchase of Stamps, Refund, or Credit for Unused Stamps.~~

12 ~~(a) Cigarette stamps for packages of twenty (20) or fewer cigarettes shall be~~
13 ~~sold in rolls of fifteen thousand (15,000) or thirty thousand (30,000) or sheets of~~
14 ~~one hundred fifty (150) with a minimum order of one thousand five hundred~~
15 ~~(1,500) stamps. Cigarette stamps for packages of twenty five (25) cigarettes are~~
16 ~~sold in rolls of three thousand six hundred (3,600) or sheets of one hundred fifty~~
17 ~~(150) with a minimum order of one thousand two hundred (1,200) stamps. The~~
18 ~~total amount of tax, postage, and handling charges must be submitted with each~~
19 ~~purchase order.~~

20 ~~(b) The Department, or its agent, will refund or credit to a licensee who~~
21 ~~purchased stamps the denominated value of any unused stamps which are returned~~
22 ~~to the Department; provided, that the stamps were lawfully purchased, and the~~
23 ~~licensee provides a receipt for the purchase of the stamps.~~

24 ~~§ 21A08. Cigarettes Shipped Outside of Guam for Sale or Use Outside of~~
25 ~~Guam.~~

26 ~~(a) All claims for tax exemption on any shipment of unstamped, cartoned~~
27 ~~cigarettes consigned for export from Guam shall be presented to the Director of the~~

1 Department in a monthly report. The report shall be on a form and in the manner
2 prescribed by the Director. This monthly report is a public record as defined by 5
3 GCA § 10102(d).

4 (b) All invoices or delivery tickets supporting the export claims shall be
5 preserved by the wholesale cigarette dealer for three (3) years. Each invoice or
6 delivery ticket shall detail the following information:

7 (1) the name and address of the consignee;

8 (2) the date of sale;

9 (3) the quantity of cigarettes sold; and

10 (4) if the invoice or delivery ticket includes other merchandise, a
11 separate list of the cigarettes sold by brand at the top or bottom of the
12 invoice or delivery ticket. The invoices or delivery tickets filed for
13 preservation shall be signed by the consignee to whom delivery was made or
14 by the common carrier making the delivery.

15 (c) If sealed cartons of cigarettes have not been stamped and are not detailed
16 on invoices or delivery tickets showing them to be consigned to out-of-territory
17 dealers or authorized persons or a government military post, each wholesale
18 cigarette dealer shall furnish the driver of the vehicle transporting these sealed
19 cartons of cigarettes with a memorandum detailing the quantity of unstamped,
20 cartoned, and not consigned cigarettes to be transported.

21 (d) The driver of the vehicle transporting the cartons of cigarettes that have
22 not been stamped or consigned shall have in the driver's possession at all times the
23 quantity of cigarettes outlined in the memorandum or receipted invoices or
24 delivery tickets showing to whom the cigarettes were sold, delivered, or disposed
25 of, so that the total number of cartons of cigarettes shown by the signed invoices
26 and delivery tickets and the number of cartons of cigarettes on hand balance with
27 the memorandum described. All claims for the tax exemption on any sales or

1 ~~deliveries made in this manner shall be procured as outlined in these rules and~~
2 ~~regulations.~~

3 ~~§ 21A09. Refund or Credit for Mutilated Stamps.~~

4 ~~The Department, or its agent, will refund or credit to a licensee who~~
5 ~~purchased stamps the denominated value of any stamps when the stamps have~~
6 ~~become no longer legible or recognizable as stamps issued by the Department;~~
7 ~~provided, that the stamps were lawfully purchased, and the licensee provides a~~
8 ~~receipt for the purchase of the stamps.~~

9 ~~§ 21A10. Refund or Credit for Stamps Destroyed.~~

10 ~~(a) The Department, or its agent, will refund or credit to a licensee the~~
11 ~~denominated value of any stamps when the stamps have been destroyed by fire,~~
12 ~~flood, or other casualty prior to the affixation of the tax stamps to packages of~~
13 ~~cigarettes.~~

14 ~~(b) The licensee must establish by clear and convincing evidence that the~~
15 ~~stamps were destroyed by fire, flood, or other casualty, and the denominated value~~
16 ~~of the stamps.~~

17 ~~(1) Theft or mysterious disappearance of unaffixed stamps shall not~~
18 ~~constitute a casualty for which refund or credit will be given.~~

19 ~~(2) However, theft or mysterious disappearance of unaffixed stamps~~
20 ~~must be reported to the police, and the Department must be notified in~~
21 ~~writing within forty eight (48) hours of the discovery that the unaffixed~~
22 ~~stamps were stolen or mysteriously disappeared.~~

23 ~~§ 21A11. Claim Forms.~~

24 ~~A claim for refund or credit made pursuant to §§ 21A09 and 21A10 of these~~
25 ~~rules and regulations must be made on a form prescribed by and filed with the~~
26 ~~Department.~~

27 ~~§ 21A12. Unsellable Cigarettes.~~

1 ~~(a) The Department, or its agent, will refund or credit to a licensee the~~
2 ~~denominated value, less the purchase discount, of identifiable stamps affixed to~~
3 ~~packages of cigarettes which have become unfit for use or unsellable before~~
4 ~~distribution, or after distribution if the cigarettes have been returned for credit or~~
5 ~~have been replaced and proof is submitted to the Department showing that the~~
6 ~~cigarettes have not been used for smoking in Guam.~~

7 ~~(b) A claim for refund or credit must be made on a form prescribed by the~~
8 ~~Department and shall be accompanied by a properly executed receipt and a copy of~~
9 ~~the credit memorandum of the manufacturer for returned stock, or by proof of~~
10 ~~destruction of the cigarettes with the tax stamps thereon in the presence of an~~
11 ~~employee of the Department authorized to witness the destruction.~~

12 ~~§ 21A13. Authorization of Designee to Purchase Stamps for Licensee;~~
13 ~~Revocation of Authorization.~~

14 ~~(a) The Department, or its agent, shall sell stamps only to persons holding~~
15 ~~licenses as required by the wholesaler or their designee. A designee may purchase~~
16 ~~stamps, provided that:~~

17 ~~(1) written authorization is made naming the designee and identifying~~
18 ~~the designee by means of a signature or any other means of identification the~~
19 ~~Department or designated bank may require;~~

20 ~~(2) the written authorization and means of identification as required in~~
21 ~~Subsection (a)(1) is delivered by certified mail or hand delivery to the stamp~~
22 ~~sales location at which the designee will be purchasing the stamps; and~~

23 ~~(3) only a person who is not a minor is eligible to be a designee to~~
24 ~~purchase the stamps.~~

25 ~~(b) The written authorization shall continue in effect until written notice of~~
26 ~~revocation of the authority by the licensee is delivered by certified mail or by hand~~

1 delivery to the stamp sales location at which the designee has been purchasing the
2 stamps.

3 ~~§ 21A14. Reporting Requirement for Missing Shipment of Stamped~~
4 ~~Cigarettes and Damaged or Otherwise Unusable Stamps.~~

5 ~~(a) Licensees must, within twenty-four (24) hours, report to the Office of the~~
6 ~~Attorney General and the Department, and its agent, if any, information on missing~~
7 ~~shipments of stamped cigarettes and damaged stamps or stamps which have~~
8 ~~become unusable, within twenty-four (24) hours of the discovery that the~~
9 ~~shipments are missing, or the stamps have been damaged or have become~~
10 ~~unusable.~~

11 ~~(b) Licensees shall report the following information to the appropriate~~
12 ~~division of the Attorney General's Office, which is responsible for investigating~~
13 ~~missing shipments of stamped cigarettes and damaged or otherwise unusable~~
14 ~~stamps:~~

15 ~~(1) name and address of licensee;~~

16 ~~(2) serial numbers of the stamps involved;~~

17 ~~(3) number of stamps involved, and the dollar amount of the stamps~~
18 ~~involved;~~

19 ~~(c) in the case of missing shipments, the name and address of the entity to~~
20 ~~whom the stamped cigarettes were shipped to; and~~

21 ~~(d) any other information the Department or the Attorney General may~~
22 ~~require.~~

23 **Section 4.** § 26304 of Chapter 26, Title 11, Guam Code Annotated, is
24 hereby *amended* to read:

25 **“§ 26304. Alcoholic Beverages to Which Excise Tax Not Applicable.**

26 The tax is not imposed upon any alcoholic beverages specifically mentioned in

1 Subsections ~~(a)~~(b) to (f), inclusive, of § 26303, nor to any alcoholic beverage
2 manufactured in Guam.”

3 **Section 5.** § 26601(c) of Article 6, Chapter 26, Title 11, Guam Code
4 Annotated, is hereby *repealed*:

5 ~~“(c) Bonding. Any taxpayer holding an Annual Wholesaler License pursuant
6 to Title 11 GCA § 6201 and against whom taxes are levied under this Article with
7 respect to tobacco products may, by complying with the rules and regulations
8 promulgated by the Tax Commissioner, and by placing such tobacco products in a
9 warehouse under bond, delay the payment of said taxes until the due date of the
10 monthly tax return for the month in which the tobacco products are withdrawn
11 from the warehouse and no interest shall commence to run thereon until such due
12 date.~~

13 ~~(1) Relief from tax upon export. When the taxes levied under this
14 Article have not been paid with respect to any tobacco products because said
15 tobacco products were placed in a warehouse under bond, the taxpayer may
16 export such tobacco products from Guam without payment of the taxes
17 levied under this Article and, subject to the conditions set forth in §§
18 26604(a), 26604(b) and 26605(d), be relieved of liability therefor upon
19 submission of a claim for relief to the Tax Commissioner not later than the
20 twentieth (20th) day of the month following the month in which the tobacco
21 products are withdrawn from the warehouse.”~~

22 **Section 6.** § 26608 of Article 6, Chapter 26, Title 11, Guam Code
23 Annotated, is hereby *repealed*:

24 ~~“Where tobacco products which have been placed in a bonded warehouse
25 without payment of the taxes levied under this Article, upon a satisfactory
26 showing, under the rules and regulations promulgated by the Tax Commissioner,
27 that such tobacco products have been incapable of use as such for human~~

1 ~~consumption due to spoilage and have been destroyed under the supervision of the~~
2 ~~Tax Commissioner or his representative, and that the taxpayer is not indemnified~~
3 ~~by insurance or otherwise in respect of the tax, the taxpayer manufacturing,~~
4 ~~producing or importing such tobacco products may be relieved of his tax liability~~
5 ~~with regard to such tobacco products upon submission of a claim for relief to the~~
6 ~~Tax Commissioner not later than the twentieth (20th) day of the month following~~
7 ~~the month in which such tobacco products have been destroyed under the~~
8 ~~supervision of the Tax Commissioner or his representative.”~~

9 **Section 7.** § 26305 of Article 3, Chapter 26, Title 11, Guam Code
10 Annotated, is hereby *amended* to read:

11 “**§ 26305. General Provisions.** The preceding general provisions are
12 restricted in application to this Article, and are in addition to the general provisions
13 of Article 1 and by rules and regulations promulgated under authority of law by the
14 Tax Commissioner.

15 Time of attachment. The tax levied hereunder shall attach at the time the
16 product enters the economy of Guam, at the time the article is discharged from its
17 carrier when brought into Guam.”

18 **Section 8. Severability.** If any provision of this Act or its application to
19 any person or circumstance is found to be invalid or contrary to law, such
20 invalidity *shall not* affect other provisions or applications of this Act that can be
21 given effect without the invalid provision or application and to this end, the
22 provisions of this Act are severable.

23 **Section 9. Effective Date.** This Act shall be effective on October 1, 2023.