

*I Mina'Trentai Kuåttro Na Liheslaturan*  
**BILL STATUS**

| BILL NO.     | SPONSOR      | TITLE   | DATE INTRODUCED      | DATE REFERRED | CMTE REFERRED | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | FISCAL NOTES |
|--------------|--------------|---|----------------------|---------------|---------------|---------------------|-----------------------------|--------------|
| 244-34 (COR) | B. J.F. Cruz | AN ACT TO REPEAL § 16311 OF CHAPTER 16, TITLE 3, GUAM CODE ANNOTATED; AND TO AMEND §26602 OF CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED; AND TO AMEND SECTIONS 1 AND 2 OF CHAPTER VI OF PUBLIC LAW 34-42, RELATIVE TO REPEALING THE REFERENDUM ON TAX INCREASES; AND RAISING THE GROSS RECEIPTS TAX FROM FOUR PERCENT TO FIVE PERCENT BEGINNING APRIL 1, 2018 UNTIL JANUARY 1, 2020; AND REDUCING THE FISCAL YEAR 2018 GENERAL FUND APPROPRIATIONS TO THE GUAM LEGISLATURE, THE OFFICE OF FINANCE AND BUDGET, AND THE OFFICE OF THE GOVERNOR; AND FREEZING THE COMPETITIVE WAGE ACT OF 2014 UNTIL MARCH 1, 2019; AND TO CITE THIS ACT AS THE "FISCAL STABILIZATION ACT OF 2018." | 2/14/18<br>1:49 p.m. |               |               |                     |                             |              |

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

Bill No. 24434 (COR)

Introduced by: B.J.F. Cruz 

AN ACT TO REPEAL § 16311 OF CHAPTER 16, TITLE 3, GUAM CODE ANNOTATED; AND TO AMEND §26602 OF CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED; AND TO AMEND SECTIONS 1 AND 2 OF CHAPTER VI OF PUBLIC LAW 34-42, RELATIVE TO REPEALING THE REFERENDUM ON TAX INCREASES; AND RAISING THE GROSS RECEIPTS TAX FROM FOUR PERCENT TO FIVE PERCENT BEGINNING APRIL 1, 2018 UNTIL JANUARY 1, 2020; AND REDUCING THE FISCAL YEAR 2018 GENERAL FUND APPROPRIATIONS TO THE GUAM LEGISLATURE, THE OFFICE OF FINANCE AND BUDGET, AND THE OFFICE OF THE GOVERNOR; AND FREEZING THE COMPETITIVE WAGE ACT OF 2014 UNTIL MARCH 1, 2019; AND TO CITE THIS ACT AS THE "FISCAL STABILIZATION ACT OF 2018."

2018 FEB 14 PM 1:49



BE IT ENACTED BY THE PEOPLE OF GUAM:

**Section 1. Referendum on Tax Increases Repealed.** § 16311 of Chapter 16, Title 3 of the Guam Code Annotated is hereby *repealed*:

~~§ 16311. Referendum on Tax Increases Required.~~

~~Notwithstanding any other provision of law, no increase in real property tax, liquid fuel tax, business privilege tax or any locally enacted and administered tax on Guam shall go into effect without the approval of the voters of Guam in a referendum held during a general election. The manner in which a proposed tax increase shall be placed in referendum before the voters of Guam pursuant to this Section shall be as follows:~~

1           (a) ~~I Liheslaturan Guåhan must pass, in bill form, a proposed tax increase, the~~  
2 ~~effective date to be thirty (30) days after ratification by the voters of Guam in a~~  
3 ~~referendum, such ratification to be certified by the Guam Election Commission. The~~  
4 ~~bill must detail the amount and nature of the proposed increase and the purpose to~~  
5 ~~which such proposed increase shall be applied.~~

6           (b) ~~No more than ten (10) days after the bill is enacted into law, the full text~~  
7 ~~of the law shall be transmitted to the Guam Election Commission by the Legislative~~  
8 ~~Secretary of I Liheslaturan Guåhan. The Guam Election Commission shall place~~  
9 ~~before the voters of Guam the question of whether the voters approve or disapprove~~  
10 ~~of the proposed tax increase at the next General Election; provided, that the date of~~  
11 ~~transmittal of the proposed tax increase from I Liheslaturan Guåhan to the Guam~~  
12 ~~Election Commission is at least ninety (90) days prior to the date of the next General~~  
13 ~~Election.~~

14           (c) ~~The Guam Election Commission shall cause to appear in a daily periodical~~  
15 ~~of mass publication on Guam a full text of the proposed tax increase to be submitted~~  
16 ~~to the voters in referendum pursuant to this Section, at a date no less than thirty (30)~~  
17 ~~days prior to the General Election during which the referendum shall be held. I~~  
18 ~~Liheslaturan Guåhan shall make such provisions as are deemed necessary to provide~~  
19 ~~the public with information necessary to arrive at an informed position with respect~~  
20 ~~to the proposal.~~

21           (d) ~~Any submission to the voters made pursuant to this Section shall be treated~~  
22 ~~as an initiative for the purpose of determining the number of votes needed to ratify~~  
23 ~~a proposal placed before the voters pursuant to this Section.~~

24           ~~This Section shall not be interpreted as requiring voter ratification of a tax~~  
25 ~~imposed by the government of the United States of America, provided that this~~  
26 ~~Section shall apply upon de-linkage of the Guam income tax from the Federal~~  
27 ~~Internal Revenue Code.~~

1       **Section 2.       Increase of the Business Privilege Tax.** § 26602 of Chapter 26,  
2 Title 11 of the Guam Code Annotated is hereby amended to read:

3       **“§ 26202. Rates.**

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

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

14       (1) Provided, that gross proceeds of export sales of tangible property in  
15 foreign commerce shall not constitute a part of the measure of the tax  
16 imposed. Although not constituting a part of the measure of the tax imposed,  
17 all such sales shall be reported in the manner provided for the reporting of  
18 the tax imposed by § 26202(a).

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

23       (3) Provided, that a manufacturer or producer engaging in the business  
24 of selling his manufactured products at retail in Guam shall be required to  
25 make returns of the gross proceeds of such retail sales and pay the tax

1 imposed by this Chapter for the privilege of engaging in the business of  
2 selling such products at retail in Guam; and

3 (4) Provided, that a manufacturer or producer, other than a manufacturer  
4 of alcoholic beverages, engaging in the business of selling his products to  
5 manufacturers, wholesalers, or licensed retailers, or persons actually selling  
6 the products to the United States Government, shall not be required to pay  
7 the tax imposed in this Act for the privilege of selling such products at  
8 wholesale. Nor shall any such manufacturer or producer, other than a  
9 manufacturer of alcoholic beverages, be required to pay the tax imposed in  
10 this Act for the privilege of selling products for delivery to the purchaser  
11 outside of Guam. The point of delivery for a purchaser outside of Guam may  
12 be on Guam, if the product's ultimate destination or consumption is outside  
13 of Guam.

14 (b) (1) [Repealed.]

15 (2) [Repealed.]

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

20 (c) Tax on service business. Upon every person engaging or continuing  
21 within Guam, in any service business or calling not otherwise specifically taxed  
22 under this Section, [there shall be] a tax equivalent to ~~four~~ five percent (45%) of  
23 the gross income of such business.

24 (d) Professions. Upon every person engaging or continuing within Guam in  
25 the practice of a profession, excluding those expounding the religious doctrines

1 of any church, [there shall be] a tax equivalent to ~~four~~ five percent (45%) of the  
2 gross income of such practice.

3 (e) Tax on Contractors. There shall be levied, assessed and collected a tax  
4 rate of ~~four~~ five percent (45%) measured against the gross income of any  
5 contractor; provided, that there shall be deducted from the gross income of the  
6 taxpayer so much thereof as has been included in the gross income earned from  
7 another taxpayer who is a contractor as defined in § 26101(b) and who has  
8 already paid the tax levied under this Subsection for goods and services that  
9 include the deductible gross income of the taxpayer who is a contractor;  
10 provided, that any person claiming a deduction under this Subsection *shall* be  
11 required to show in the person's return either the name and the contractor's  
12 license number issued by the Guam Contractors License Board, or the Guam  
13 business license number, or the registration number for a professional engineer,  
14 architect or land surveyor, or the Certificate of Authorization (COA) number for  
15 a business authorized to provide engineering, architecture or land surveying  
16 services by the Guam Board of Registration for Professional Engineers,  
17 Architects, and Land Surveyors of the person paying the tax on the amount  
18 deducted by the person.

19 (f) Tax on banks, banking institutions, small lenders and building and loan  
20 associations. Upon every person engaging or continuing within Guam in the  
21 business of operating any bank, banking institutions, building and loan  
22 association, small lending business, or lending institutions, there shall be a tax  
23 equivalent to ~~four~~ five percent (45%) of the net income received from business.

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

1 (A) Salaries or bonuses paid and other compensation from personal  
2 services.

3 (B) Interest or discount paid.

4 (C) Rents paid.

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

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

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

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

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

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

19 (2) A person liable for the payment of taxes levied under this Section  
20 shall be required to file an annual return, and shall not be required to file  
21 monthly returns. The tax year shall be calendar year except that the taxpayer  
22 may use his annual accounting period when prior permission is obtained  
23 from the Tax Commissioner. The annual return under this Subsection shall

1 be filed not later than ninety (90) days following the close of the taxpayer's  
2 tax year.

3 (g) Dealing in foreign currency. Upon every person engaging or continuing  
4 within Guam in the business of purchasing and selling foreign money, there shall  
5 be a tax equivalent to ~~four~~ five percent (45%) of the gross profit of such business  
6 represented by the difference between the cost and selling price of the foreign  
7 currency measured in United States dollars.

8 (h) Tax on other business. Upon every person engaging or continuing within  
9 Guam in any business, trade, activity, occupation or calling not specifically  
10 included in any other provision of this Article, there shall likewise be a tax  
11 equivalent to ~~four~~ five percent (45%) of the gross income of such business. This  
12 Section shall apply to the gross income of persons taxable under other provisions  
13 of this 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 Guam in the  
16 business of an insurer, there shall be a tax at the rate of ~~four~~ five percent (45%)  
17 of gross income received as premium for the writing of insurance, less returned  
18 premiums and less all commissions attributable to the sale and purchase of an  
19 insurance policy or policies of the insurer paid by said insurer to agents of the  
20 same, and ~~four~~ five percent (45%) of any other gross income earned or derived  
21 on Guam.

22 (j) Tour Agencies. Upon every person engaging or continuing within Guam  
23 in the business of a tour agency or travel agency, where tourism-related services  
24 are furnished to consumers by independent vendors through arrangements made  
25 by a travel agency, or tour packager, and the gross income is divided between  
26 the provider of the services on the one hand and the travel agency or tour



1 packager on the other hand, a tax equivalent of ~~four~~ five percent (45%) shall be  
2 imposed on each person with respect to such person's respective portion of the  
3 proceeds, and no more.

4 Where transient accommodations are furnished through arrangements made  
5 by a travel agency or tour packager, the gross income is divided between the  
6 provider of the transient accommodations on the one hand and the travel agency,  
7 or tour packager, on the other hand, a tax equivalent of ~~four~~ five percent (45%)  
8 shall be imposed on each person with respect to such person's respective portion  
9 of the proceeds, and no more.

10 (1) As used in this Subsection tourism-related services shall mean dinner  
11 cruises, transportation included in a tour package, sight seeing tours, dinner  
12 shows, extravaganzas, cultural and educational facilities, and other services  
13 rendered directly to the customer or tourist.

14 (2) As used in this Subsection 'transient accommodations' shall mean  
15 hotel, lodging facility, or similar facility located on Guam and subject to the  
16 provisions of 11 GCA § 30101."

17 **Section 3. Ten Percent (10%) Reduction in the Fiscal Year 2018**  
18 **General Fund Appropriations to the Guam Legislature, the Office of Finance**  
19 **and Budget, and the Office of the Governor.**

20 (a) Sections 1 and 2, Chapter VI of Public Law 34-42 is hereby *amended* to  
21 read:

22 **"Section 1. Appropriation.** The sum of ~~Eight Million Four~~  
23 ~~Hundred Ninety-six Thousand Five Hundred Sixty-four~~ Seven Million  
24 Six Hundred Forty Six Thousand Nine Hundred Eight Dollars  
25 ~~(\$8,496,564~~ 7,646,908) is appropriated from the General Fund to I

*Liheſlaturan Guåhan* (the Guam Legislature) for its operations, including personnel services, for Fiscal Year 2018.

**Section 2. Appropriations to the Office of Finance and Budget.** The sum of ~~Four Hundred Seventy Thousand~~ Four Hundred Twenty Three Thousand Dollars (~~\$470,000~~ 423,000) is appropriated from the General Fund to *I Liheſlaturan Guåhan* for the Office of Finance and Budget for its operations, including personnel services, for Fiscal Year 2018.”

(b) Section 1(a)(1), Chapter V of Public Law 34-42 is hereby *amended* to read:

“(1) **Appropriation.** The sum of ~~Eight Million One Hundred Twenty five Thousand Two Hundred Thirty one~~ Seven Million Three Hundred Forty Two Thousand Nine Hundred Twenty Four Dollars (~~\$8,125,231~~ 7,342,924) is appropriated to the Office of *I Maga'låhen Guåhan* (Governor of Guam) for its operations for Fiscal Year 2018. This sum is composed of ~~Seven Million Eight Hundred Twenty three Thousand Sixty seven~~ Seven Million Forty Thousand Seven Hundred Sixty Dollars (~~\$7,823,067~~ 7,040,760) from the General Fund and Three Hundred Two Thousand One Hundred Sixty-four Dollars (~~\$302,164~~) from the Indirect Cost Fund.

#### **SUMMARY OF APPROPRIATION FUNDING SOURCE**

|                    |  |
|--------------------|--|
| GENERAL FUND       | \$7,823,067 <u>7,040,760</u>                   |
| INDIRECT COST FUND | <u>\$302,164</u>                               |
| <b>TOTAL</b>       | <b><del>\$8,125,231</del> <u>7,342,924</u></b> |

For information purposes only:

|                                |      |
|--------------------------------|------|
| FEDERAL MATCHING GRANTS-IN-AID | \$0” |
|--------------------------------|------|

1       **Section 4. Competitive Wage Act of 2014 Frozen.** Notwithstanding any  
2 other provision of law, rule, or regulation, effective March 5, 2018, there is hereby put  
3 into effect a freeze on any and all salary increases effectuated by the enactment of the  
4 Government of Guam Competitive Wage Act of 2014, and any amendments thereto.  
5 The freeze authorized in this Section shall remain in effect through March 1, 2019,  
6 and shall be applicable to all positions within every branch of government, to include  
7 all government of Guam departments, bureaus, agencies, instrumentalities, public  
8 corporations, and/or entities or sub-entities of the executive, legislative, and judicial  
9 branches, the Mayor's Council of Guam and mayoral offices.

10       **Section 5. Above-step Recruitment and Reclassification Moratorium.**  
11 Notwithstanding any other provision of law, rule, or regulation, effective March 5,  
12 2018, there is hereby put into effect a government-wide moratorium on  
13 reclassifications and above-step recruitment, except for teachers in the Guam  
14 Department of Education, licensed and allied health care professionals, and positions  
15 determined by the Civil Service Commission, as difficult to recruit, which shall  
16 remain in effect through March 1, 2019, and shall be applicable to all positions within  
17 every branch of the government of Guam, to include all departments, bureaus,  
18 agencies, instrumentalities, public corporations, and/or entities or sub-entities of the  
19 executive, legislative, and judicial branches, as well as the Mayor's Council of Guam  
20 and mayoral offices.

21       **Section 6. Filling of Certain FTEs Prohibited.** Notwithstanding any other  
22 provision of law, rule, or regulation, effective April 1, 2018, the filling of approved  
23 classified positions with unclassified appointments is hereby prohibited.

24       **Section 7. Retroactive pay prohibited.** The freeze authorized in Section 4  
25 of this Act *shall* not entitle any person affected by the same to any form of monetary  
26 compensation whatsoever.

27       **Section 8. Effective Date and Sunset.** The increase to the business privilege

1 tax authorized by this Act *shall* take effect on April 1, 2018, and *shall* be *repealed* on  
2 January 1, 2020. The rate of Business Privilege Tax *shall* thereafter *revert* to the tax  
3 rate levied *prior* to the passage of this Act. All other Sections of this Act *shall* be  
4 effective upon enactment, unless otherwise stated.