

*I Mina Trentai Kuattro Na Liheslaturan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
263-34 (COR)	Fernando B. Esteves	AN ACT TO AMEND § 26702 OF SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO ADDING DEFINITIONS TO THE SAME; TO ADD A NEW § 26705 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO COLLECTIONS OF THE GENERAL SALES TAX; TO ADD A NEW § 26706 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO ESTABLISHING FURTHER EXEMPTIONS TO THE GENERAL SALES TAX; TO ADD A NEW § 26707 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO EXEMPT GOODS PURCHASED OUTSIDE OF GUAM FOR DELIVERY TO GUAM FOR NON-BUSINESS PURPOSES FROM THE USE TAX; AND TO ADD A NEW § 26708 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO BUNDLED TRANSACTIONS OF TAXABLE AND UNTAXABLE SALES.	3/19/18 3:03 p.m.						

*I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN*  
2018 (SECOND) Regular Session

Bill No. 263-34 (COR)  
(LS)

Introduced by:

Fernando Barcinas Esteves F.B.E.

AN ACT TO *AMEND* § 26702 OF SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO ADDING DEFINITIONS TO THE SAME; TO *ADD* A NEW § 26705 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO COLLECTIONS OF THE GENERAL SALES TAX; TO *ADD* A NEW § 26706 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO ESTABLISHING FURTHER EXEMPTIONS TO THE GENERAL SALES TAX; TO *ADD* A NEW § 26707 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO EXEMPT GOODS PURCHASED OUTSIDE OF GUAM FOR DELIVERY TO GUAM FOR NON-BUSINESS PURPOSES FROM THE USE TAX; AND TO *ADD* A NEW § 26708 TO SECTION 1 OF PUBLIC LAW 34-87, RELATIVE TO BUNDLED TRANSACTIONS OF TAXABLE AND UNTAXABLE SALES.

2018 MAR 19 PM 3:03



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

2 **Section 1.** To amend § 26702 of Section 1 of Public Law 34-87, to read:

3 **“§ 26702. Definitions.**

4 (a) *Department* means the Department of Revenue and Taxation.

5 (b) *Tangible personal property* means any corporeal personal property of  
6 any nature.

1 (c) *General sales tax* means a tax assessed on the purchaser of goods and  
2 services, purchased on Guam or purchased outside of Guam for delivery to  
3 Guam, which are subject to the levy in § 26701 of this Article, and the purchaser  
4 is not specially exempted.

5 (d) *Retail* means the sale of tangible personal property, other than by a  
6 wholesaler, for consumption or use by the purchaser and not for resale.

7 (e) *Retail sale* means the sale in any quantity of any tangible personal  
8 property or service, including any such sales of which § 26701 of this Article  
9 applies to. These terms mean all sales of tangible personal property to any person  
10 for any purpose other than those in which the purpose of the purchaser is to resell  
11 the property so transferred in the form in which the same is, or is to be, received by  
12 him, or to use or incorporate the property so transferred as a material or part of  
13 other tangible personal property to be produced for sale by manufacturing,  
14 assembling, processing, or refining.

15 (f) *Retailer* means any person licensed to do business under the provisions of  
16 11 GCA §72108, inclusive of persons engaged in the business of making retail  
17 sales at auction of tangible personal property owned by the person or others.

18 (g) *Wholesale* means the sale of tangible personal property by a person  
19 doing a regularly organized wholesale business, known to the trade as such, and  
20 licensed to do business as such, to a person for the purpose of resale.

21 (h) *Value* means fair and reasonable cash value at the time of accrual of the  
22 tax.

23 (i) *Drug* means a compound, substance or preparation, and any component  
24 of a compound, substance or preparation, other than food and food ingredients,  
25 dietary supplements or alcoholic beverages that is:

1           (1) recognized in the official United States Pharmacopoeia, official  
2           Homeopathic Pharmacopoeia of the United States, or official National  
3           Formulary, and supplement to any of them; or

4           (2) intended for use in diagnosis, cure, mitigation, treatment, or  
5           prevention of disease; or

6           (3) intended to affect the structure of any function of the body.

7           Drug shall also include insulin and medical oxygen whether or not sold on  
8           prescription.

9           (j) Prescription means an order, formula or recipe issued in any form of oral,  
10          written, electronic, or other means of transmission by a duly licensed practitioner  
11          authorized by the laws of Guam.

12          (k) Candy means food products with a sugar or confection base, including  
13          breath fresheners, gum, mints, and health foods which consist primarily of sugars.

14          (l) Baby products includes, but is not limited to:

- 15           (1) Baby bottles and nipples;
- 16           (2) Breast pumps;
- 17           (3) Diapers (cloth and disposable);
- 18           (4) Diaper liners;
- 19           (5) Infant syringes;
- 20           (6) Pacifiers;
- 21           (7) Nursing bra pads;
- 22           (8) Teething rings; and
- 23           (9) Clothing (from Premie to 5T).

24          (m) Food products includes, but is not limited to:

- 25           (1) Cereals and cereal products;
- 26           (2) Rice;
- 27           (3) Flour and Flour products;

- 1 (4) Milk and milk products; including ice cream;
- 2 (5) Cheese and cheese products;
- 3 (6) Oleomargarine and butter;
- 4 (7) Meat and meat products;
- 5 (8) Fish and fish products
- 6 (9) Eggs and egg products;
- 7 (10) Vegetables and vegetable products;
- 8 (11) Fruit and fruit products;
- 9 (12) Herbs and spices;
- 10 (13) Salt and soy products;
- 11 (14) Vinegar and condiments;
- 12 (15) Sugar and sugar products, excluding candy;
- 13 (16) Coffee and coffee substitutes;
- 14 (17) Tea;
- 15 (18) Ice, when not used for refrigeration; and
- 16 (19) Water, when used for household consumption.

17 (n) Feminine hygiene products includes tampons, menstrual pads, or other  
18 similar items used by a woman to absorb menstrual flow.

19 (o) Adult incontinence products mean absorbent garments such as diapers,  
20 briefs, liners, pads, or other similar incontinence products that are washable or  
21 disposable that are worn by a person who cannot control bladder or bowel  
22 movements.”

23 **Section 2.** To add a new § 26705 to Section 1, Public Law 34-87, to read:

24 **“§ 26705. Collection.**

25 The taxes levied under this Article shall be deemed to be held in trust by the  
26 licensed business for and on account of the Territory of Guam.”

27 **Section 3.** To add a new § 26706 to Section 1, Public Law 34-87, to read:

1 **“§26706. Further Exemptions to the General Sales Tax.**

2 The following shall be exempt from the general sales tax:

- 3 (a) Food or drink, which is delivered and sold without profit by a nonprofit  
4 volunteer organization to persons who are confined to their homes due to  
5 age, illness, disability, or infirmity; provided that such sales shall not be  
6 exempt unless such organization has received a certificate of exemption  
7 from the Department as a semipublic institution.
- 8 (b) Food products. The sale of food products for human consumption as  
9 defined in this Article is exempt from the general sales tax unless the  
10 food products are prepared for human consumption in which case the  
11 sales tax herein shall be applied at retail sale.
- 12 (c) A meal provided free of charge or at a reduced rate to an employee  
13 during work hours by a food service establishment or hotel licensed by  
14 the Territory of Guam for the convenience of the employer is not  
15 considered transferred for consideration.
- 16 (d) Casual sales. The general sales tax shall not apply to casual sales made  
17 by a person not regularly engaged in the business of selling tangible  
18 personal property, but does not apply to the sale of motor vehicles, boats,  
19 trailers, or other equipment that require registration with the Department.
- 20 (e) Notwithstanding any other provision of law, the amount of the trade-in  
21 allowance of a private passenger automobile when given in trade towards  
22 the purchase of a new or used private passenger automobile is excluded  
23 from the general sales tax.
- 24 (f) Federal exemptions. Sales of tangible personal property or services which  
25 the Territory of Guam is prohibited from taxing under the Constitution or  
26 laws of the United States.

- 1        (g) Sales of tangible personal property used to develop property which the  
2        Territory of Guam is under contract to purchase through a long-term  
3        financing contract only if a Certificate of Exemption is provided by the  
4        Department containing at a minimum the contract license of the  
5        exempted, the contract or purchase order identification number. The  
6        Department of Revenue and Taxation shall make available on their  
7        website all exemptions claimed under this subsection.
- 8        (h) Sales and use of any tangible personal property to be incorporated into or  
9        used or otherwise consumed in the demolition or construction relative to  
10       capital improvement projects of the Territory, only if a Certificate of  
11       Exemption is provided by the Department containing at a minimum the  
12       contract license of the exempted contract or purchase order identification  
13       number. The Department of Revenue and Taxation shall make available  
14       on their website all exemptions claimed under this subsection.
- 15       (i) Real property transactions where the sale value is assessed is under four  
16       hundred thousand (\$400,000) dollars.
- 17       (j) The sale, use or other consumption of drugs, as defined in this Article,  
18       that are sold on prescriptions are exempt from the general sales tax. In  
19       addition, the sales, storage, use or other consumption of medical oxygen  
20       and insulin; whether or not sold on prescription; and human blood are  
21       also exempt from the general sales tax.
- 22       (k) Syringes and needles only by prescription. Sales of and the use or other  
23       consumption of materials, including materials used in packaging, which  
24       become an ingredient or component part of medicine only by  
25       prescription, as defined by federal or local law are exempt from the  
26       general sales tax, but remains subject to taxation if purchased outside of  
27       Guam for delivery to Guam.

1 (l) Personal tangible property sold by wholesalers, provided, that any person  
2 engaging or continuing in business as a retailer and a wholesaler shall  
3 pay the tax required solely on the gross proceeds of sales of the retail  
4 business, and records must be kept so as to show separately the gross  
5 proceeds of sale of each business.

6 (m) Baby products. The sale, use or other consumption of baby products,  
7 as defined herein, are not subject to taxation under this Article, but  
8 remains subject to taxation if purchased outside of Guam for delivery to  
9 Guam.

10 (n) Feminine hygiene products. The sale, use or other consumption of  
11 feminine hygiene products, as defined herein, are not subject to taxation  
12 under this Article, but remains subject to taxation if purchased outside of  
13 Guam for delivery to Guam.

14 (o) Adult incontinence products. The sale, use or other consumption of adult  
15 incontinence products, as defined herein, are not subject to taxation under  
16 this Article, but remains subject to taxations if purchased outside of  
17 Guam for delivery to Guam.”

18 **Section 4.** To add a new § 26707 to Section 1, Public Law 34-87, to read:

19 **“§ 26707. Exemption from Use Tax.**

20 Notwithstanding any other provision of law, goods purchased outside of  
21 Guam for delivery to Guam for non-business purposes are exempt from taxation  
22 under Chapter 28 of Title 11, Guam Code Annotated.”

23 **Section 5.** To add a new § 26708 to Section 1, Public Law 34-87, to read:

24 **“§ 26708. Bundled Transactions.**

25 All businesses with taxable and nontaxable sales shall comply with the  
26 recordkeeping requirements as established by the Department of Revenue



1 &Taxation. Nontaxable sales which are not recorded and not substantiated with  
2 such business' records shall be considered taxable.

3 (a) For the purposes of this section, *bundled transaction* means the retail  
4 sale of two (2) or more products, except real property, in which;

5 (1) The products are otherwise distinct and identifiable; and

6 (2) The products are sold for one (1) non-itemized price.

7 (b) *Distinct and identifiable products shall not include:*

8 (1) Packaging, such as, but not limited to, containers, boxes, sacks,  
9 bags, bottles, wrapping material, labels, tags, or instruction guides that  
10 accompany the retail sale of products and are incidental or immaterial to the  
11 retail sale thereof; and

12 (2) A product provided free of charge with the required purchase of  
13 another product.

14 (c) The retailer *may* elect to compute the tax on multiple items or services  
15 within the same transaction on each item or service individually or on the total  
16 amount of the items or services; provided that the taxable sales and non taxable  
17 sales shall be totaled separately.”