

*I Mina'trentai Singko Na Liheslaturan Guåhan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
199-35 (COR)	James C. Moylan	AN ACT TO PROVIDE FOR A BINDING REFERENDUM DURING THE 2020 GENERAL ELECTION TO DETERMINE WHETHER THE BUSINESS PRIVILEGE TAX, PURSUANT TO CHAPTER 26 OF TITLE 11, GUAM CODE ANNOTATED, SHALL BE REDUCED FROM FIVE PERCENT (5%) TO FOUR PERCENT (4%).	9/3/19 9:31 a.m.						

*I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN*  
2019 (FIRST) Regular Session

Bill No. ~~199~~-35 (WR)

Introduced by:

James C. Moylan



AN ACT TO PROVIDE FOR A BINDING REFERENDUM DURING THE 2020 GENERAL ELECTION TO DETERMINE WHETHER THE BUSINESS PRIVILEGE TAX, PURSUANT TO CHAPTER 26 OF TITLE 11, GUAM CODE ANNOTATED, *SHALL BE REDUCED FROM FIVE PERCENT (5%) TO FOUR PERCENT (4%).*

2019 SEP -3 AM 9:31

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

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that it is the right of the people to determine matters of policy, particularly as it relates to taxpayer dollars, the cost of living, and equally as important, the government's failure to abide by language in Guam law relative to tax increases. § 16311 of Chapter 16, Title 3, Guam Code Annotated stipulates that any proposal to increase the business privilege (BPT) tax shall be placed in front of voters in the form of a Referendum. Unfortunately in 2018, *I Liheslaturan Guåhan* passed a measure that increased the BPT initially for a six month period, and later to allow the increase to remain indefinitely.

Given the financial constraints placed on the Guam Election Commission and the many challenges that would arise from calling a special election, *I Liheslaturan Guåhan* finds that this matter is most appropriate for placement on

1 the 2020 ballot, as allowed pursuant to Article 4 of Chapter 16, Title 3, Guam  
2 Code Annotated.

3 **Section 2.** The Guam Election Commission, subject to the provisions  
4 hereinafter set forth, *shall* put to the voters the question described in Section 4 of  
5 this Act. The question *shall be* submitted during the 2020 General Election.

6 **Section 3.** The question *shall* determine whether or not the business  
7 privilege tax, pursuant to Chapter 26, Title 11, Guam Code Annotated, *shall be*  
8 reduced from five percent (5%) to four percent (4%) via a referendum certified by  
9 the Guam Election Commission as eligible for a binding referendum vote.

10 **Section 4.** The question put to voters *shall be*:

11 **“Shall the Business Privilege Tax (BPT) be reduced from five**  
12 **percent (5%) to four percent (4%)?”**

13 **( ) Yes**

14 **( ) No**

15 **Vote for only ‘Yes’ or ‘No’.**”

16 **Section 5.** Notwithstanding any other provisions of the law, rule, or  
17 regulation, this referendum *shall be* approved if the total number of “Yes” votes  
18 garnered at least a minimum of fifty percent (50%) plus one (1) of the total votes  
19 casted by those voters who voted on the specific question pursuant to Section 4 of  
20 this Act. Any ballot in which no vote was cast for this question *shall not be* added  
21 to the total tabulation in determining the approval of this Act.

22 **Section 6.** *If* the referendum is approved, Section 2 of Public Law 34-116  
23 *shall* hereby be repealed in its entirety as follows:

24 ~~**Section 2. Business Privilege Tax Increase.** Notwithstanding any other~~  
25 ~~provision of law, rule or regulation, beginning on October 1, 2018, the business~~  
26 ~~privilege tax rate *shall be* five percent (5%).~~

1           **Section 7.** *If the referendum is approved, §§ 26202 (a), (c), (d), (e), (f), (g),*  
2 *(h), (i), (j)(1), and (j)(2) of Chapter 26, Title 11, Guam Code Annotated shall*  
3 *hereby be amended to read as follows:*

4           **§ 26202. Rates.**

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

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

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

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

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

1 gross income earned from another taxpayer who is a contractor as defined in  
2 § 26101(b) and who has already paid the tax levied under this Subsection for  
3 goods and services that include the deductible gross income of the taxpayer  
4 who is a contractor; provided, that any person claiming a deduction under  
5 this Subsection *shall* be required to show in the person's return either the  
6 name and the contractor's license number issued by the Guam Contractors  
7 License Board, or the Guam business license number, or the registration  
8 number for a professional engineer, architect or land surveyor, or the  
9 Certificate of Authorization (COA) number for a business authorized to  
10 provide engineering, architecture or land surveying services by the Guam  
11 Board 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 and  
15 loan associations. Upon every person engaging or continuing within Guam  
16 in the business of operating any bank, banking institutions, building and loan  
17 association, small lending business, or lending institutions, there *shall* be a  
18 tax equivalent to four percent (4%) ~~five percent (5%)~~ of the net income  
19 received from business.

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

26 (h) Tax on other business. Upon every person engaging or continuing  
27 within Guam in any business, trade, activity, occupation or calling not

1 specifically included in any other provision of this Article, there *shall*  
2 likewise be a tax equivalent to four percent (4%) ~~five percent (5%)~~ of the  
3 gross income of such business. This Section *shall* apply to the gross income  
4 of persons taxable under other provisions of this Chapter but which gross  
5 income is not derived from the exercise or privilege taxable there under.

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

13 (j) Tour Agencies.

14 (1) Upon every person engaging or continuing within Guam in  
15 the business of a tour agency or travel agency, where tourism-related  
16 services are furnished to consumers by independent vendors through  
17 arrangements made by a travel agency, or tour packager, and the gross  
18 income is divided between the provider of the services on the one  
19 hand and the travel agency or tour packager on the other hand, a tax  
20 equivalent to four percent (4%) ~~five percent (5%)~~ *shall* be imposed on  
21 each person with respect to such person's respective portion of the  
22 proceeds, and no more.

23 (2) Where transient accommodations are furnished through  
24 arrangements made by a travel agency or tour packager, the gross  
25 income is divided between the provider of the transient  
26 accommodations on the one hand and the travel agency, or tour  
27 packager, on the other hand, a tax equivalent to four percent (4%) ~~five~~

1            ~~percent (5%)~~ shall be imposed on each person with respect to such  
2            person's respective portion of the proceeds, and no more.

3            **Section 8.** Notwithstanding any other provisions of the law, rule, or  
4 regulation, *if* the referendum is approved, and after its approval certified by the  
5 Guam Election Commission, the Act shall take effect on January 1, 2021. The  
6 Commission shall transmit the results of the referendum to *I Maga'hagan Guåhan*,  
7 the Speaker of *I Liheslaturan Guåhan*, and the Compiler of Laws. *If* the  
8 referendum is approved, *I Maga'hagan Guåhan* shall assign a public law number  
9 to it after its receipt.

10           **Section 9. Severability.** If any provision of this Act or its application to  
11 any person or circumstance is found to be invalid or contrary to law, such  
12 invalidity shall not affect other provisions or applications of this Act that can be  
13 given effect without the invalid provision or application, and to this end the  
14 provisions of this Act are severable.