

I Mina'Trentai Singko Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
9-35 (LS)	James C. Moylan	AN ACT TO REPEAL SECTION 2 OF PUBLIC LAW 34-116 AND TO AMEND § 26202 (a), (c), (d), (e), (f), (g), (h), (i), (j), (j1), AND (j2) OF CHAPTER 26, TITLE 11 , GUAM CODE ANNOTATED RELATIVE TO REDUCING THE BUSINESS PRIVILEGE TAX FROM FIVE PERCENT (5%) TO FOUR PERCENT (4%).	1/7/19 11:22 a.m.						

1 *I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN*

2 2019 (FIRST) Regular Session

3
4 Bill No. 9-35 (LS)

5
6 Introduced by:

7 James C. Moylan 

8 AN ACT TO REPEAL SECTION 2 OF PUBLIC LAW 34-116 AND TO
9 AMEND § 26202 (a), (c), (d), (e), (f), (g), (h), (i), (j), (j1), AND (j2) OF
10 CHAPTER 26, TITLE 11 , GUAM CODE ANNOTATED RELATIVE TO
11 REDUCING THE BUSINESS PRIVILEGE TAX FROM FIVE PERCENT
12 (5%) TO FOUR PERCENT (4%).

13 BE IT ENACTED BY THE PEOPLE OF GUAM:

14
15 SECTION 1: Legislative Finding's and Intent:

16
17 The *I Liheslaturan Guahan* finds that the section in Public Law 34-116 which
18 increased the Business Privilege Tax (BPT) by one point(1) from four
19 percent (4%) to five percent (5%), created a rippling effect that increased
20 the cost of goods and services for consumers. The Tax Cuts and Jobs Act of
21 2017, which benefitted tax payers and business via tax cuts, also created an
22 adverse impact in terms of reduced collections for the government of
23 Guam. The original plan by the previous *I Liheslaturan Guahan* was to
24 establish a six (6) month period with the increase, however the sunset
25 provision was repealed in August 2018 and replaced with an infinite
26 timeline.

27
28 The government should not penalize island residents through increases in
29 regressive taxes, particularly with invisible taxes, and instead focus on cost
30 cutting measures, increasing collections and focusing on spending

2019 JUN -7 AM 11:22



1 priorities. Public Law 34-87 provides *I Maga'Haga Guahan*, via executive
2 order, the authority to reorganize the government with the intent of a cost
3 savings measure. This provision still exists for the new chief executive as a
4 means to offset the reduction in government revenues that will take place
5 with the enactment of this legislation.

6
7 In regards to the cost of the goods and services that were increased after
8 the BPT was raised, some claim that these prices will remain high even if
9 the objectives of this legislation are enacted, since businesses have already
10 incorporated the tax increases. However, the reality is that competition
11 and economic factors would step in, and eventually drive the cost of goods
12 and services downwards at some point.

13
14 The intent of this legislation is to address the concerns of the community
15 that were raised throughout 2018, and repeal the one point (1) tax increase
16 of 2018. However because the Fiscal Year 2019 budget was incorporated
17 with the assumption of the 1 point BPT increase, it would only be fiscally
18 responsible to reduce this increase at the start of Fiscal Year 2020, thus
19 providing the government ample time to address fiscal matters, including
20 the consideration of the authority vested in Public Law 34-87.

21
22
23 **SECTION 2: Section 2. BUSINESS PRIVILEGE TAX INCREASE of**
24 **Public Law 34-116 is hereby *repealed* in its entirety as follows:**

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

29
30
31 **SECTION 3: § 26202 (a), (c), (d), (e), (f), (g), (h), (i), (j), (j1), and (j2) of**
32 **Chapter 26, Title 11, Guam Code Annotated are hereby *amended* as**
33 **follows:**

1 § 26202. Rates.

2
3 “The following rates *shall* apply in computing, assessing and collecting the
4 business privilege tax:

5
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
9 evidence of indebtedness or stocks), there *shall* be a tax equivalent to four
10 percent (4%) ~~five percent (5%)~~ of gross proceeds of sales; ~~except that on the~~
11 ~~gross proceeds of the operation of poker machines, there shall be a tax~~
12 ~~equivalent to eight percent (8%) on the gross proceeds of each machine, as~~
13 ~~determined by subtracting the winnings, pay-outs and malfunction refunds~~
14 ~~from total receipts of each machine.~~

15
16 (c) Tax on service business. Upon every person engaging or continuing
17 within Guam, in any service business or calling not otherwise specifically
18 taxed under this Section, [there *shall* be] a tax equivalent to four percent
19 (4%) ~~five percent (5%)~~ of the gross income of such business.

20
21 (d) Professions. Upon every person engaging or continuing within Guam
22 in the practice of a profession, excluding those expounding the religious
23 doctrines of any church, [there *shall* be] a tax equivalent to four percent
24 (4%) ~~five percent (5%)~~ of the gross income of such practice.

25
26 (e) Tax on Contractors. There *shall* be levied, assessed and collected a tax
27 rate of four percent (4%) ~~five percent (5%)~~ measured against the gross
28 income of any contractor; provided, that there *shall* be deducted from the
29 gross income of the taxpayer so much thereof as has been included in the
30 gross income earned from another taxpayer who is a contractor as defined
31 in § 26101(b) and who has already paid the tax levied under this Subsection
32 for goods and services that include the deductible gross income of the
33 taxpayer who is a contractor; provided, that any person claiming a
34 deduction under this Subsection *shall* be required to show in the person’s

1 return either the name and the contractor's license number issued by the
2 Guam Contractors License Board, or the Guam business license number, or
3 the registration number for a professional engineer, architect or land
4 surveyor, or the Certificate of Authorization (COA) number for a business
5 authorized to provide engineering, architecture or land surveying services
6 by the Guam Board of Registration for Professional Engineers, Architects,
7 and Land Surveyors of the person paying the tax on the amount deducted
8 by the person.

9
10 (f) Tax on banks, banking institutions, small lenders and building and loan
11 associations. Upon every person engaging or continuing within Guam in
12 the business of operating any bank, banking institutions, building and loan
13 association, small lending business, or lending institutions, there *shall* be a
14 tax equivalent to four percent (4%) ~~five percent (5%)~~ of the net income
15 received from business.

16
17 (g) Dealing in foreign currency. Upon every person engaging or continuing
18 within Guam in the business of purchasing and selling foreign money,
19 there *shall* be a tax equivalent to four percent (4%) ~~five percent (5%)~~ of the
20 gross profit of such business represented by the difference between the cost
21 and selling price of the foreign currency measured in United States dollars.

22
23 (h) Tax on other business. Upon every person engaging or continuing
24 within Guam in any business, trade, activity, occupation or calling not
25 specifically included in any other provision of this Article, there *shall*
26 likewise be a tax equivalent to four percent (4%) ~~five percent (5%)~~ of the
27 gross income of such business. This Section *shall* apply to the gross income
28 of persons taxable under other provisions of this Chapter but which gross
29 income is not derived from the exercise or privilege taxable there under.

30
31 (i) Insurers. Upon every person engaged or continuing within Guam in the
32 business of an insurer, there *shall* be a tax at the rate of four percent (4%)
33 ~~five percent (5%)~~ of gross income received as premium for the writing of
34 insurance, less returned premiums and less all commissions attributable to

1 the sale and purchase of an insurance policy or policies of the insurer paid
2 by said insurer to agents of the same, and five percent (5%) of any other
3 gross income earned or derived on Guam.

4
5 (j) Tour Agencies.

6
7 (1) Upon every person engaging or continuing within Guam in the
8 business of a tour agency or travel agency, where tourism-related
9 services are furnished to consumers by independent vendors through
10 arrangements made by a travel agency, or tour packager, and the
11 gross income is divided between the provider of the services on the
12 one hand and the travel agency or tour packager on the other hand, a
13 tax equivalent to four percent (4%) ~~five percent (5%)~~ shall be imposed
14 on each person with respect to such person's respective portion of the
15 proceeds, and no more.

16
17 (2) Where transient accommodations are furnished through
18 arrangements made by a travel agency or tour packager, the gross
19 income is divided between the provider of the transient
20 accommodations on the one hand and the travel agency, or tour
21 packager, on the other hand, a tax equivalent to four percent (4%)
22 ~~five percent (5%)~~ shall be imposed on each person with respect to
23 such person's respective portion of the proceeds, and no more."

24
25
26 **SECTION 4: EFFECTIVE DATE.** This Act shall be effective on October 1,
27 2019.

28
29 **SECTION 5: SEVERABILITY.** If any provision of this Act or its
30 application to any person or circumstances is found to be invalid or
31 contrary to law, such invalidity shall not affect other provisions or
32 applications of this Act that can be given effect without the invalid

- 1 provision or application, and to this end the provisions of this Act are
- 2 severable.