

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

Bill No. 248-34 (LS)

As amended in the Committee of the Whole.

Introduced by:

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AN ACT TO *ADD* A NEW ARTICLE 7 TO CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO IMPOSING A GENERAL SALES TAX IN GUAM, AND TO DEDICATING THE REVENUE TO BE COLLECTED FROM THE EXPANDED REVENUE STREAM TO THE GUAM MEMORIAL HOSPITAL AUTHORITY (GMHA) FOR ITS OPERATIONS AND MODERNIZATION, THE DEPARTMENT OF EDUCATION TO FUND ITS CAPITAL NEEDS, AND THE GENERAL FUND OF THE GOVERNMENT OF GUAM TO ADDRESS THE TAX BASE EROSION RESULTING FROM THE PASSAGE OF THE TAX CUTS AND JOBS ACT OF 2017; TO *AMEND* § 26110(a) OF ARTICLE 1, CHAPTER 26 TITLE 11, GUAM CODE ANNOTATED; TO *ADD* A NEW CHAPTER 1A TO TITLE 5, GUAM CODE ANNOTATED; TO *REPEAL* § 4207 OF ARTICLE 2, CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED; TO *REPEAL* CHAPTER 11 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO GOVERNMENT REORGANIZATION AND ESTABLISHING THE TOP PRIORITIES

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

5 **§ 26703. Administration.**

6 The Department of Revenue and Taxation *shall* be responsible for the
7 administration of this Article.

8 **§ 26704. Electronic Filing.**

9 The Department of Revenue and Taxation *shall* provide for the
10 electronic filing of monthly returns by taxpayers against whom a tax is levied
11 under the provisions of this Article, commencing with returns submitted after
12 the month of January 2019; provided, however, that such provision *shall not*
13 prohibit taxpayers under this Article from opting to file non-electronic
14 returns.”

15 **Section 2.** § 26110(a) of Article 1, Chapter 26, Title 11, Guam Code
16 Annotated, is *amended* to read as follows:

17 “Monthly Returns for Alcoholic Beverage Tax, Liquid Fuel Tax,
18 Automotive Surcharges, Tobacco Tax, and General Sales Tax. Each taxpayer
19 against whom a tax is levied by the provisions of Articles 3, 4, 5, 6, and 7 of
20 this Chapter *shall* make and file monthly returns of taxes with the Tax
21 Commissioner on or before the twentieth (20th) day following the close of the
22 calendar month in which the taxes shall accrue, and in the form and in
23 accordance with the rules and regulations by the Tax Commissioner. Except
24 as may be specifically hereinafter provided, payment covering the full amount
25 of tax liability as evidenced by the monthly return *shall* accompany such
26 monthly return.”

27 **Section 3. Use and Appropriation of Revenue.**

1 (d) *Displaced employee* means an employee, in graded and ungraded
2 positions of the classified service of the government, who had been employed
3 by an agency of the government that was outsourced or privatized or whose
4 employment was terminated as a result of the outsourcing or privatization.

5 (e) *Gaining entity* means any agency to which any function has been
6 transferred by absorption.

7 (f) *Outsource* means contracting with a private company to
8 accomplish any function that has been or, were it not for the outsourcing,
9 would be provided by any agency of the government.

10 (g) *Privatization* means the alienation, by sale, lease, or otherwise,
11 of any agency or function of the government.

12 (h) *Reorganization* means:

13 (1) the transfer of the whole or any part of any agency, or of
14 the whole or any part of the functions thereof, to the jurisdiction and
15 control of any other agency;

16 (2) the abolition of all or any part of the functions of any
17 agency;

18 (3) the consolidation or coordination of the whole or any part
19 of any agency, or of the whole or any part of the functions thereof, with
20 the whole or any part of any other agency or the functions thereof;

21 (4) the consolidation or coordination of any part of any agency
22 or the functions thereof with any other part of the same agency or the
23 functions thereof;

24 (5) the authorization of any non-elective officer to appoint any
25 individual to perform any of his/her functions;

26 (6) the abolition of the whole or any part of any agency which
27 agency or part does not have any function; or

1 (7) the use of a person under contract to perform functions
2 which regularly are performed or budgeted to be performed by
3 employees appointed under the merit system.

4 **§ 1A101. Internal Reorganization.**

5 Internal reorganization of an entity, including reductions in force, *shall* be
6 accomplished in accordance with the executive order(s) authorized by § 1A107.

7 **§ 1A102. Reorganization of the Executive Branch.**

8 Reorganization of the executive branch *shall* be accomplished in accordance
9 with this Chapter.

10 **§ 1A102.1. Executive Order: Reorganization of the Executive Branch.**

11 The Governor by executive order(s) may direct the reorganization of the
12 various entities of the executive branch and may implement the Priority Placement
13 Procedure as listed in Appendix C of Chapter 1, Division 1, Title 2, Guam
14 Administrative Rules and Regulations, relative to the Personnel Rules and
15 Regulations of the Department of Administration as the standard policy and uniform
16 guideline to address employees affected by adverse effects such as, but not limited
17 to, consolidation, transfer of functions, lack of work or funds, position classification
18 or reduction in force; or executive branch reorganization, restructuring, reform,
19 modernization, streamlining, innovation or transformation initiatives.

20 **§ 1A102.2. Table 1.**

21 Table 1 sets out three (3) groups of various entities of the executive branch
22 and assigns a priority number (PN) to each entity. Group I, PN 100, *et seq.*, is
23 composed of entities that provide services that are the government's top priorities:
24 education, health and public safety. Group II, PN 200, *et seq.*, is composed of entities
25 that provide services that are involved in support, enforcement, regulation,
26 adjudication or administration. Group III, PN 300, *et seq.*, is composed of other

1 entities. Any entity of the executive branch otherwise not listed in Table 1 is deemed
2 listed in Group III of Table 1.

3 **Table 1**

4 **Group I**

5 **PN 100 Education:**

6 101E Guam Department of Education

7 102E University of Guam

8 103E Guam Community College

9 104E Guam Public Library

10 **Health:**

11 101H Guam Memorial Hospital Authority

12 102H Guam Behavioral Health and Wellness Center

13 103H Department of Public Health and Social Services

14 **Public Safety:**

15 101S Guam Police Department

16 102S Guam Fire Department

17 103S Department of Corrections

18 104S Department of Law (prosecution division)

19 105S Customs and Quarantine Agency

20 106S Department of Youth Affairs (custodial; corrections related)

21 107S Guam Homeland Security; Office of Civil Defense

22 108S Public Defender Service Corporation (criminal defense)

23 **Group II**

24 **PN 200**

25 201 Department of Revenue and Taxation

26 202 Department of Public Works

27 203 Department of Labor

1	204	Department of Land Management
2	205	Department of Administration
3	206	Department of Military Affairs
4	207	A.B. Won Pat International Airport Authority
5	208	Government of Guam Retirement Fund
6	209	Guam Veterans Affairs Office
7	210	Guam Visitors Bureau
8	211	J.D. Leon Guerrero Port Authority of Guam
9	212	Department of Chamorro Affairs
10		Group III
11		PN 300
12	301	Agency for Human Resources Development
13	302	Ancestral Lands Commission
14	303	Bureau of Budget and Management Research
15	304	Bureau of Statistics and Plans
16	305	Civil Service Commission
17	306	Chamorro Land Trust Commission
18	307	Commission on Decolonization
19	308	Department of Agriculture
20	309	Department of Integrated Services for Individuals with Disabilities
21		(DISID)/Division of Vocational Rehabilitation
22	310	Department of Parks and Recreation
23	311	Department of Youth Affairs (non-custodial; non-corrections related)
24	312	General Services Agency - Department of Administration
25	313	Guam Council on the Arts and Humanities
26	314	Guam Commission for Educator Certification
27	315	Guam Contractors License Board

- 1 316 Guam Developmental Disabilities Council
- 2 317 Guam Economic Development Authority
- 3 318 Guam Educational Telecommunications Corporation (KGTF/PBS
- 4 Guam)
- 5 319 Guam Election Commission
- 6 320 Guam Energy Office
- 7 321 Guam Environmental Protection Agency
- 8 322 Guam Housing and Urban Renewal Authority
- 9 323 Guam Housing Corporation
- 10 324 Guam Museum
- 11 325 Guam Regional Transit Authority
- 12 326 *Hagåtña* Restoration and Redevelopment Authority
- 13 327 Office of the Governor
- 14 328 Office of Post-Mortem Examinations (Chief Medical Examiner)
- 15 329 Office of Technology
- 16 330 Professional Engineers, Architects, Land Surveyors (PEALS) Board

17 **§ 1A103. Same: Absorption of Functions.**

18 The Governor by executive order(s) may direct the absorption of any or all of
 19 the functions of any one (1) agency of the government listed in Table 1 with a
 20 Priority Number (PN) of 201 or higher by any agency(ies) of the government with a
 21 lower priority number. Any agency in Group I may absorb any of the functions of
 22 any other agencies in Groups II and III, and any agencies within Groups II and III
 23 may absorb the functions of any other agencies within Group II or Group III.

24 **§ 1A104. Same: Abolition of Government Entities.**

25 The Governor by executive order(s) may abolish any agency of the
 26 government listed in Table 1 with a PN of 301 or higher.

27 **§ 1A105. Transfer Authority.**

1 The Governor is authorized to transfer the appropriation, and any cost savings,
2 unspent appropriation, or excess spending authority, of any agency of the
3 government which is abolished or any function which is absorbed to any other
4 agency(ies) of the government with a PN of 101E-108S.

5 **§ 1A106. Same. Outsourcing and Privatization.**

6 *No more than* ninety percent (90%) of the appropriation for personnel services
7 for a function that is outsourced or privatized may be transferred by the Governor to
8 the contractual category to fund the contract arising from the outsourcing or
9 privatization.

10 **§ 1A107. Executive Order(s).**

11 (a) The reorganization(s) directed by executive order(s) authorized
12 by § 1A109 *shall* be accomplished in accordance with the procedures for
13 promulgating rules set out in 5 GCA §§ 9301 and 9303.

14 (b) The rules promulgated by executive order(s) authorized by §
15 1A109 *shall* be promulgated in accordance with 5 GCA §§ 9301, 9303 and
16 9304.

17 (c) The executive order(s) *shall* recognize, where applicable,
18 employees' rights of representation in accordance with 4 GCA § 10106.

19 (d) Nothing contained herein shall be construed to prevent the
20 Attorney General from approving such executive order(s) as to form, content
21 and compliance with law.

22 **§ 1A108. Same: Availability Roster.**

23 When executive orders authorized by § 1A109 issue, the person in charge of
24 the entities to be abolished or the functions of which are to be absorbed *shall* submit
25 an availability roster to the gaining entity, if any. The person in charge of the gaining
26 entity may, in accordance with the applicable executive order, employ those

1 employees on the availability roster in such number, if any, as required to accomplish
2 the function(s) of the gaining agency if necessary.

3 **§ 1A109. Implementing Executive Order.**

4 The Governor *shall* by executive order(s) promulgate rules to accomplish the
5 following:

- 6 (a) prioritization in force;
- 7 (b) outsourcing;
- 8 (c) absorption;
- 9 (d) abolition;
- 10 (e) reorganization;
- 11 (f) availability rosters;
- 12 (g) the designation of functions to be absorbed; or
- 13 (h) the designation of entities to be abolished.

14 **§ 1A109.1.** Furloughs and layoffs *shall* be conducted pursuant to existing
15 Personnel Rules and Regulations.

16 **§ 1A110. Transition - Files and Equipment.**

17 (a) All files and reports held by an abolished entity *shall* be
18 transmitted by the person in charge of such entity to such custodian as is
19 designated by the Governor within sixty (60) days following the designation
20 of the entity as an abolished entity.

21 (b) All property of the abolished entity, or property leased by it,
22 when the lease cannot be cancelled or will not expire upon the abolition of the
23 entity, *shall* be turned over to the custodian designated by the Governor within
24 sixty (60) days following the designation of the entity as an abolished entity.

25 **§ 1A111. Abolished Entity.**

1 An abolished entity *shall* be closed and all remaining personnel terminated
2 within sixty (60) days of the date of implementation of the executive order
3 effectuating the abolition.

4 **§ 1A112. Same: Boards and Commissions of Entities Listed in Group**
5 **III.**

6 Boards and Commissions of entities listed in Group III may be assigned for
7 logistical support to entities in Groups I and II when the entity supported or directed
8 by the Board or Commission is abolished.

9 **§ 1A113. Special Provision for Elected Officials.**

10 The provisions of §§ 1A101, 1A102, 1A103, 1A104, 1A110, or 1A111 *shall*
11 *not* apply to an office or department under the supervision of an elected official.

12 **§ 1A114. Special Provision for the University of Guam and the Guam**
13 **Community College.**

14 The provisions of § 1A101 *shall not* apply to the University of Guam and the
15 Guam Community College.”

16 **Section 6. Restraint on Alienation.** No office, department, agency,
17 institution, board, bureau, commission, council, authority, committee of territorial
18 government, branch, or the Guam Visitors Bureau, of the government of Guam may
19 sell or transfer any real property of the government of Guam without the approval
20 of *I Liheslaturan Guåhan*, which, by statute, may amend, approve, or disapprove the
21 plan or the action taken within sixty (60) days, or said plan or action shall be deemed
22 approved. Any attempted alienation of any interest in the sale, lease, or property
23 covered thereby, without such prior consent shall be void, and shall have no effect
24 in law.

25 **Section 7. Repeal of Reduction in Force Provision.** § 4207 of Article 2,
26 Chapter 4, Title 4, Guam Code Annotated, is hereby *repealed*.

1 **Section 8. Repeal of Chapter on Reorganization.** Chapter 11 of Title 5,
2 Guam Code Annotated, is hereby *repealed*.

3 **Section 9. General Repealer.** All laws, rules, regulations, and policies
4 dealing with the subject matter of this Act which are inconsistent herewith are
5 repealed effective on the date of issue of the executive order(s) authorized by 5 GCA
6 §§ 1A107 and 1A109, as enacted by Section 5 of this Act, unless a different date is
7 specified in said executive order(s).

8 **Section 10. Transition.** Nothing contained herein shall be construed to
9 affect proceedings begun or action taken prior to the effective date of this Act;
10 provided, however, that the executive order(s) issued pursuant to §§ 1A107 and
11 1A109, as enacted by Section 5 of this Act may be made applicable to pending
12 proceedings if the executive order(s) so state.

13 **Section 11. Ongoing Proceedings.** Any reorganization authorized by this
14 Act *shall not* affect any ongoing administrative or judicial proceeding involving any
15 agency, instrumentality, or public corporation.

16 **Section 12. Ten Percent (10%) Reduction in Fiscal Year 2018 General**
17 **Fund Appropriation to the Guam Legislature, the Office of Finance and**
18 **Budget, and the Office of the Governor.**

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

21 “**Section 1. Appropriation.** The sum of Seven Million Six Hundred
22 Forty-six Thousand Nine Hundred Eight Dollars (**\$7,646,908**) is appropriated
23 from the General Fund to *I Liheslaturan Guåhan* (the Guam Legislature) for
24 its operations, including personnel services, for Fiscal Year 2018.

25 **Section 2. Appropriations to the Office of Finance and Budget.**
26 The sum of Four Hundred Twenty-three Thousand Dollars (**\$423,000**) is
27 appropriated from the General Fund to *I Liheslaturan Guåhan* for the Office

1 of Finance and Budget for its operations, including personnel services, for
2 Fiscal Year 2018.”

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

5 “(1) **Appropriation.** The sum of Seven Million Three Hundred
6 Forty-two Thousand Nine Hundred Twenty-four Dollars (**\$7,342,924**) is
7 appropriated to the Office of *I Maga’låhen Guåhan* (Governor of Guam) for
8 its operations for Fiscal Year 2018. This sum is composed of Seven Million
9 Forty Thousand Seven Hundred Sixty Dollars (**\$7,040,760**) from the General
10 Fund and Three Hundred Two Thousand One Hundred Sixty-four Dollars
11 (**\$302,164**) from the Indirect Cost Fund.

12 **SUMMARY OF APPROPRIATION FUNDING SOURCE**

13 GENERAL FUND	\$7,040,760
14 INDIRECT COST FUND	\$302,164
15 TOTAL	\$7,342,924

16 For information purposes only:

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

18 **Section 13.** § 26202 of Article 2, Chapter 26, Title 11, Guam Code
19 Annotated, is hereby *amended* to read as follows:

20 “§ 26202. **Rates.**

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

23 (a) Tax on the business of selling tangible personal property. Upon
24 every person engaging or continuing within Guam in the business of selling
25 any tangible property whatsoever (not including however, bonds or other
26 evidence of indebtedness or stocks), there *shall* be a tax equivalent to five
27 percent (5%) of gross proceeds of sales; except that on the gross proceeds of

1 the operation of poker machines, there shall be a tax equivalent to eight
2 percent (8%) on the gross proceeds of each machine, as determined by
3 subtracting the winnings, pay-outs and malfunction refunds from total receipts
4 of each machine.

5 (1) Provided, that gross proceeds of export sales of tangible
6 property in foreign commerce *shall not* constitute a part of the measure
7 of the tax imposed. Although not constituting a part of the measure of
8 the tax imposed, all such sales *shall* be reported in the manner provided
9 for the reporting of the tax imposed by § 26202(a).

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

15 (3) Provided, that a manufacturer or producer engaging in the
16 business of selling his manufactured products at retail in Guam *shall* be
17 required to make returns of the gross proceeds of such retail sales and
18 pay the tax imposed by this Chapter for the privilege of engaging in the
19 business of selling such products at retail in Guam; and

20 (4) Provided, that a manufacturer or producer, other than a
21 manufacturer of alcoholic beverages, engaging in the business of
22 selling his products to manufacturers, wholesalers, or licensed retailers,
23 or persons actually selling the products to the United States
24 Government, *shall not* be required to pay the tax imposed in this Act
25 for the privilege of selling such products at wholesale. Nor shall any
26 such manufacturer or producer, other than a manufacturer of alcoholic
27 beverages, be required to pay the tax imposed in this Act for the

1 privilege of selling products for delivery to the purchaser outside of
2 Guam. The point of delivery for a purchaser outside of Guam may be
3 on Guam, if the product's ultimate destination or consumption is
4 outside of Guam.

5 (b) (1) [Repealed.]

6 (2) [Repealed.]

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

11 (c) Tax on service business. Upon every person engaging or
12 continuing within Guam, in any service business or calling not otherwise
13 specifically taxed under this Section, [there shall be] a tax equivalent to five
14 percent (5%) of the gross income of such business.

15 (d) Professions. Upon every person engaging or continuing within
16 Guam in the practice of a profession, excluding those expounding the religious
17 doctrines of any church, [there shall be] a tax equivalent to five percent (5%)
18 of the gross income of such practice

19 (e) Tax on Contractors. There *shall* be levied, assessed and collected
20 a tax rate of five percent (5%) measured against the gross income of any
21 contractor; provided, that there *shall* be deducted from the gross income of the
22 taxpayer so much thereof as has been included in the gross income earned
23 from another taxpayer who is a contractor as defined in § 26101(b) and who
24 has already paid the tax levied under this Subsection for goods and services
25 that include the deductible gross income of the taxpayer who is a contractor;
26 provided, that any person claiming a deduction under this Subsection *shall* be
27 required to show in the person's return either the name and the contractor's

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

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

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

16 (A) Salaries or bonuses paid and other compensation
17 from personal services.

18 (B) Interest or discount paid.

19 (C) Rents paid.

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

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

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

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

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

9 (I) Loss on property sold and depreciation on property
10 owned.

11 (2) A person liable for the payment of taxes levied under this
12 Section *shall* be required to file an annual return and *shall not* be
13 required to file monthly returns. The tax year *shall* be calendar year
14 except that the taxpayer may use his annual accounting period when
15 prior permission is obtained from the Tax Commissioner. The annual
16 return under this Subsection *shall* be filed not later than ninety (90)
17 days following the close of the taxpayer's tax year.

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

23 (h) Tax on other business. Upon every person engaging or
24 continuing within Guam in any business, trade, activity, occupation or calling
25 not specifically included in any other provision of this Article, there *shall*
26 likewise be a tax equivalent to five percent (5%) of the gross income of such
27 business. This Section *shall* apply to the gross income of persons taxable

1 under other provisions of this Chapter but which gross income is not derived
2 from the exercise or privilege taxable thereunder.

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

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

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

24 (1) As used in this Subsection, tourism-related services *shall*
25 mean dinner cruises, transportation included in a tour package, sight
26 seeing tours, dinner shows, extravaganzas, cultural and educational

1 facilities, and other services rendered directly to the customer or
2 tourist.

3 (2) As used in this Subsection ‘transient accommodations’
4 *shall* mean hotel, lodging facility, or similar facility located on Guam
5 and subject to the provisions of 11 GCA § 30101.”

6 **Section 14. Exemption to the Business Privilege Tax Increase and**
7 **General Sales Tax.**

8 (a) The implementation of the business privilege tax increase and the
9 general sales tax, effective upon enactment of this Act, *shall not* apply to
10 income generated from the following contracts:

11 (1) contracts entered into or awarded prior to enactment of this
12 Act, which were based upon bid awards made prior to passage of this
13 Act and that cannot be amended or renegotiated to accommodate the
14 business privilege tax increase and the general sales tax; and

15 (2) contracts entered into or awarded after enactment of this
16 Act, which were based upon bids or proposals submitted prior to
17 enactment of this Act and that cannot be amended or renegotiated to
18 accommodate the business privilege tax increase and the general sales
19 tax.

20 (b) For purposes of this Section, each taxpayer claiming an
21 exemption under this Section *shall* provide to the Department of Revenue and
22 Taxation a copy of its bid contract or award under which any claimed exempt
23 income was generated and *shall* segregate in their tax filings, relative to the
24 business privilege tax increase and the general sales tax, said exempt income
25 from any other income generated by the taxpayer.

26 (c) The Director of the Department of Revenue and Taxation *shall*
27 create an affidavit form to be completed and submitted concurrently with

1 monthly tax filings by businesses or individuals claiming an exemption from
2 the business privilege tax increase and the general sales tax that took effect
3 upon enactment as provided for in this Act. Said affidavit *shall* request from
4 the filing entity, properly licensed to conduct business in Guam, all relevant
5 information necessary to properly execute the law as provided in this Act.

6 **Section 15. GMHA Stabilization Fund, Created.** There is hereby created,
7 separate and apart from other funds of the government of Guam, a fund known as
8 the “GMHA Stabilization Fund” (Fund). The Fund *shall not* be commingled with
9 the General Fund, any current funds maintained by the GMHA, or any other fund of
10 the government of Guam. The Fund *shall* be held in an account or accounts at a
11 Guam financial institution or institutions separate and apart from all other accounts
12 and funds of the government of Guam. Those revenues received by or on behalf of
13 the government of Guam resulting from the general sales tax that are dedicated to
14 the GMHA *shall* be deposited in the GMHA Stabilization Fund, and *shall* be
15 accounted for and used periodically only for the following purposes:

- 16 (a) procurement of supplies, materials, equipment, and services
17 essential to patient care; and
18 (b) capital improvement projects.

19 **Section 16. SNAP Exemption.** The Supplemental Nutrition Assistance
20 Program (SNAP), formerly known as the “Food Stamp Program” is exempt from all
21 general sales tax. Purchases made with SNAP for the purposes of this provision *shall*
22 refer to purchases of “eligible foods” as defined in 7 CFR § 271.2.

23 **Section 17. General Sales Tax Visible as a Receipt Line Item.** For a
24 business responsible for collecting the general sales tax established in § 26701 of
25 Article 7, Chapter 26, Title 11, Guam Code Annotated, at the point of sale the
26 general sales tax *shall* be illustrated as a receipt line item.

1 **Section 18. Effective Date of General Sales Tax.** The general sales tax
2 provisions of this Act *shall* be effective on October 1, 2018.

3 **Section 19. Effective Date and Sunset of Business Privilege Tax Increase.**
4 Notwithstanding any other provision of law, rule or regulation, beginning on April
5 1, 2018, the business privilege tax rate *shall* be five percent (5%), and *shall* remain
6 in effect until September 30, 2018. During the effective period when the business
7 privilege tax rate is five percent (5%), the Department of Revenue and Taxation *shall*
8 adopt rules and regulations for the implementation and administration of the general
9 sales tax established by this Act.

10 **Section 20. Effective Date.** This Act *shall* be effective upon submission of
11 a fiscal realignment plan by *I Maga'lâhen Guâhan* to the Speaker of *I Liheslaturan*
12 *Guâhan* for Fiscal Year 2018 that reduces net appropriations for Fiscal Year 2018
13 by not less than Thirty Million Dollars (\$30,000,000) as compared to Public Law
14 34-42.

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