



Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

01 FEB 2007

The Honorable Mark Forbes
Speaker
Mina' Bente Nuebe Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

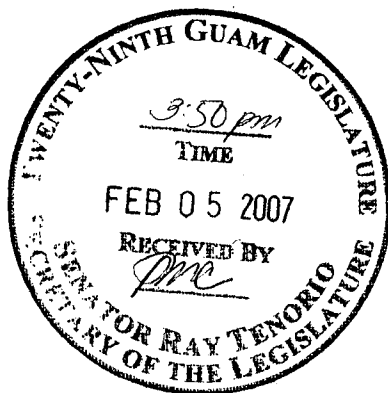
Transmitted herewith is Bill No. 353(LS), "AN ACT TO REPEAL TITLE 11 G.C.A., DIVISION 1, CHAPTER 1, §1106, ITEM (d) AND TO ADD A NEW TITLE 11 G.C.A., DIVISION 1, CHAPTER 1, § 1106.1 RELATIVE TO CREATING THE OFFICE OF THE PRINCIPAL GUAM TERRITORIAL INCOME TAX ATTORNEY" which I signed into law on January 29, 2007, as **Public Law 28-175**.

Sins eru yan Magåhet,

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Ray Tenorio
Senator and Secretary of the Legislature



127

Office of the Speaker
MARK FORBES

Date: 2/2/07
Time: 11:00
Rec'd by: [Signature]
Print Name: [Signature]

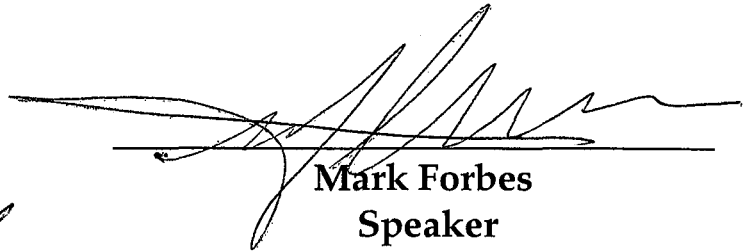
29-07-0127

[Signature]
05:04 PM
2/5/07


I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

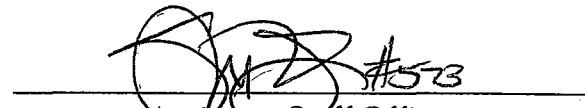
This is to certify that **Substitute Bill No. 353 (LS), "AN ACT TO REPEAL TITLE 11 G.C.A., DIVISION 1, CHAPTER 1, §1106, ITEM (d) AND TO ADD A NEW TITLE 11 G.C.A., DIVISION 1, CHAPTER 1, §1106.1, RELATIVE TO CREATING THE OFFICE OF THE PRINCIPAL GUAM TERRITORIAL INCOME TAX ATTORNEY,"** was on the 27th day of December, 2006, duly and regularly passed.


Mark Forbes
Speaker

Attested:


Edward J.B. Calvo
Senator and Secretary of the Legislature

This Act was received by *I Maga'lahaen Guåhan* this 30 day of Dec, 2006, at
1:30 o'clock P.M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED:


FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 29 JAN 2007

Public Law No. 28-175

MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

Bill No. 353 (LS)

As substituted by the Committee on Judiciary
Governmental Operations, & Reorganization
and amended.

Introduced by:

R. Klitzkie
Mark Forbes
J. M. S. Brown
L. F. Kasperbauer
Ray Tenorio
Edward J. B. Calvo
A. R. Unpingco
Mike Cruz
F. B. Aguon, Jr.
B. J.F. Cruz
J. A. Lujan
A. B. Palacios, Sr.
R. J. Respicio
J. T. Won Pat

**AN ACT TO *REPEAL* TITLE 11 G.C.A., DIVISION 1,
CHAPTER 1, §1106, ITEM (d) AND TO *ADD* A NEW
TITLE 11 G.C.A., DIVISION 1, CHAPTER 1, §1106.1,
RELATIVE TO CREATING THE OFFICE OF THE
PRINCIPAL GUAM TERRITORIAL INCOME TAX
ATTORNEY.**

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

2 **Section 1.** *I Liheslaturan Guåhan* finds that:

3 (1) 48 USC §1421i(c) (a Section of the Organic Act) provides:

1 “(c) Enforcement of Tax. The administration and enforcement
2 of the Guam Territorial Income Tax shall be performed by or
3 under the supervision of the Governor. Any function needful to
4 the administration and enforcement of the income tax laws in
5 force in Guam pursuant to subsection (a) of this Section shall be
6 performed by any officer or employee of the government of
7 Guam duly authorized by the Governor (either directly, or
8 indirectly by one (1) or more redelegations of authority) to
9 perform such function.”

10 (2) 48 USC §1421i(d) (2) (a Section of the Organic Act) provides in
11 pertinent part:

12 “(2) The Governor or his delegate shall have the same
13 administrative and enforcement powers and remedies with
14 regard to the Guam Territorial Income Tax as the Secretary of
15 the Treasury, and other United States officials of the executive
16 branch, have with respect to the United States income tax. ...”

17 (3) On March 23, the District Court of Guam in Julie Babauta
18 Santos, *et al.* v. Felix A. Camacho, *et al.*, Civil Case No. 04-00006, stated, “The
19 court finds that, at least in this context, the Government of Guam’s representative
20 should be the Governor. Moreover, the court concludes, as matter of law, that the
21 Governor has authority over the enforcement of tax matters, and thus, may dictate
22 the litigation strategy of this matter.”

23 (4) Thirteen (13) days after the decision in Santos the Attorney
24 General sent a memo titled “TRANSFER OF ALL CASES (LITIGATION/ NON-
25 LITIGATION)” to the Director of Revenue and Taxation telling the Director to
26 coordinate the transfer of one hundred eleven (111) files to his office. There are
27 ten (10) kinds of files to be transferred:

Guam Territorial Income Tax	19
Regulatory	26
Regulatory/Other	1
Liquid Fuel Tax	5
Division of Motor Vehicle	2
Gross Receipts	1
Gross Receipts/Sunshine Request	1
Gross Receipts/GEDA Rebate	21
Real Property Tax	2
Other	33
Total	111

(5) In the memo the Attorney General requested that the Director retain counsel to represent his interests.

(6) The Governor's administration and enforcement of the Guam Territorial Income Tax requires the use of officers and employees of the Government of Guam. It is impracticable to employ officers, *e.g.* Director of Revenue and Taxation and the Principal Guam Territorial Income Tax Attorney, in the merit system. These officers' authority is delegated or redelegated from the Governor pursuant to 48 USC §1421i(c). Therefore, their performance can *not* be the subject of the kind of job protections applicable to employees in the classified service.

(7) In order to effect the administration and enforcement of the Guam Territorial Income Tax, it is necessary to create the **Office of the Principal Guam Territorial Income Tax Attorney** headed by the **Principal Guam Territorial Income Tax Attorney** within the Department of Revenue and Taxation.

1 **Section 2.** Title 11 G.C.A., Division 1, Chapter 1, §1106, Item (d) is
2 *repealed.*

3 **Section 3.** A new §1106.1 is *added* to Title 11 G.C.A., Division 1, Chapter
4 1 to read:

5 **"§1106.1. Office of the Principal Guam Territorial Income Tax**
6 **Attorney.** There is within the Department of Revenue and Taxation the Office of
7 the Principal Guam Territorial Income Tax Attorney. The Director shall appoint
8 the **Principal Guam Territorial Income Tax Attorney** who shall be a member of
9 the unclassified service who shall serve at his pleasure. The Director of Revenue
10 and Taxation shall, pursuant to Title 48 U.S.C. §1421i, supervise the Office of the
11 **Principal Guam Territorial Income Tax Attorney.** The Director shall appoint,
12 as members of the classified service, such Assistants to the **Principal Guam**
13 **Territorial Income Tax Attorney** as may be required, to assist the **Principal**
14 **Guam Territorial Income Tax Attorney** in the performance of his duties. The
15 **Principal Guam Territorial Income Tax Attorney** and the Assistants Principal
16 Tax Attorneys shall be compensated in accordance with Title 4 G.C.A. §6208.1.
17 The **Principal Guam Territorial Income Tax Attorney** shall:

18 (1) Assist the Director and *I Maga'lahen Guåhan* in administering and
19 enforcing the Guam Territorial Income Tax;

20 (2) Represent *I Maga'lahen Guåhan* in all civil actions arising from or
21 pertaining to the Guam Territorial Income Tax, provided that the Principal
22 Guam Territorial Income Tax Attorney may appear on behalf of the Director
23 in a criminal action for the sole purpose of seeking restitution of funds or
24 payment of overdue taxes;

25 (3) Represent the Director of Revenue and Taxation in court and
26 administrative proceedings in legal matters in which the Department is
27 interested;

1 (4) Diligently protect the rights and property of the government of Guam
2 in matters under the Director's purview;

3 (5) Perform such other tasks as the Director of Revenue and Taxation
4 assigns to him;

5 (6) Nothing herein shall be construed to prevent the **Principal Guam**
6 **Territorial Income Tax Attorney** from assisting and representing the
7 Director of Revenue and Taxation regarding all legal matters in which the
8 Department is interested, including tax, regulatory, licensing issues and
9 personnel matters and all other legal matters within the Director's purview."