

I Mina'Trentai Kuåttro Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
246-34 (COR) As substituted by the Prime Sponsor, and amended on the Floor.	Michael F.Q. San Nicolas Régine Biscoe Lee James V. Espaldon	AN ACT TO ADD A NEW SUBSECTION (q) TO §58104 OF ARTICLE 1, CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED; RELATIVE TO ESTABLISHING A QUALIFYING CERTIFICATE FOR A BUSINESS WITH AT LEAST FIVE MILLION DOLLARS (\$5,000,000) IN UNREPATRIATED PROFITS EARNED BY AT LEAST ONE (1) FOREIGN SUBSIDIARY WHICH OFFERS A SEVENTY-FIVE PERCENT (75%) REBATE FOR INCOME TAX PAID TO THE GOVERNMENT OF GUAM ON REPATRIATED OR DEEMED REPATRIATED PROFITS.	2/15/18 1:29 p.m.	2/23/18	Committee on Appropriations and Adjudication	3/27/18 10:00 a.m.	4/13/18 8:43 a.m.	Fiscal Note Request 2/23/18	
				2/26/18	Re-referred : Committee on Innovation and Economic, Workforce, and Youth Development			Fiscal Note 3/23/18	
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE LAPSED	NOTES	
4/23/18	AN ACT TO ADD A NEW § 58104(q) TO ARTICLE 1 OF CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A QUALIFYING CERTIFICATE FOR A BUSINESS WITH AT LEAST FIVE MILLION DOLLARS (\$5,000,000) IN UNREPATRIATED PROFITS EARNED BY AT LEAST ONE (1) FOREIGN SUBSIDIARY THAT OFFERS A SEVENTY-FIVE PERCENT (75%) REBATE FOR INCOME TAX PAID TO THE GOVERNMENT OF GUAM ON REPATRIATED OR DEEMED REPATRIATED PROFITS.	5/01/18	5/03/2018 11:50 a.m.	5/15/18	34-103	5/16/18	Received: 5/17/18 Mess and Comm. Doc. No. 34GL-18-1901.		



EDDIE BAZA CALVO
Governor
RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam.

MAY 17 2018

The Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuattro Na
Lihselaturan Guahan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

GC# 34-18-1901
Speaker Benjamin J.F. Cruz

MAY 17 2018
Time: 2:46 PM File No: 34-1957
Received By: *[Signature]*

Dear Mr. Speaker:

Transmitted herewith is Bill No. 246-34 (COR), "AN ACT TO ADD A NEW §58104(q) TO ARTICLE 1 OF CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A QUALIFYING CERTIFICATE FOR A BUSINESS WITH AT LEAST FIVE MILLION DOLLARS (\$5,000,000) IN UNREPATRIATED PROFITS EARNED BY AT LEAST ONE (1) FOREIGN SUBSIDIARY THAT OFFERS A SEVENTY-FIVE PERCENT (75%) REBATE FOR INCOME TAX PAID TO THE GOVERNMENT OF GUAM ON REPATRIATED OR DEEMED REPATRIATED PROFITS," which lapsed into law on May 16, 2018, as Public Law 34-103.

Senseramente,

[Signature]
EDDIE BAZA CALVO
Governor of Guam

2018 MAY 17 PM 3:32M

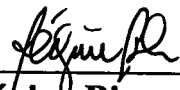
I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN
2018 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LÁHEN GUÁHAN*

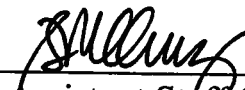
This is to certify that Substitute Bill No. 246-34 (COR), "AN ACT TO ADD A NEW § 58104(q) TO ARTICLE 1 OF CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A QUALIFYING CERTIFICATE FOR A BUSINESS WITH AT LEAST FIVE MILLION DOLLARS (\$5,000,000) IN UNREPATRIATED PROFITS EARNED BY AT LEAST ONE (1) FOREIGN SUBSIDIARY THAT OFFERS A SEVENTY-FIVE PERCENT (75%) REBATE FOR INCOME TAX PAID TO THE GOVERNMENT OF GUAM ON REPATRIATED OR DEEMED REPATRIATED PROFITS," was on the 1st day of May 2018, duly and regularly passed.


Benjamin J.F. Cruz
Speaker

Attested:


Régine Biscoe Lee
Legislative Secretary

This Act was received by *I Maga'láhen Guáhan* this 3rd day of May, 2018,
at 11:50 o'clock ~~A.~~M.


Assistant Staff Officer
Maga'láhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'láhen Guáhan

Date: MAY 16 2018

Public Law No. 34-103

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

Bill No. 246-34 (COR)

As substituted by the Prime Sponsor;
and amended on the Floor.

Introduced by:

Michael F.Q. San Nicolas
Régine Biscoe Lee
James V. Espaldon
Thomas C. Ada
FRANK B. AGUON, JR.
William M. Castro
B. J.F. Cruz
Fernando Barcinas Esteves
Tommy Morrison
Louise B. Muña
Telena Cruz Nelson
Dennis G. Rodriguez, Jr.
Joe S. San Agustin
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO ADD A NEW § 58104(q) TO ARTICLE 1 OF CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A QUALIFYING CERTIFICATE FOR A BUSINESS WITH AT LEAST FIVE MILLION DOLLARS (\$5,000,000) IN UNREPATRIATED PROFITS EARNED BY AT LEAST ONE (1) FOREIGN SUBSIDIARY THAT OFFERS A SEVENTY-FIVE PERCENT (75%) REBATE FOR INCOME TAX PAID TO THE GOVERNMENT OF GUAM ON REPATRIATED OR DEEMED REPATRIATED PROFITS.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that in 1965, during the Eighth (8th) Guam Legislature, the late Senator George M.

1 Bamba introduced Bill No. 167, which proposed the establishment of the Guam
2 Economic Development Authority and the Qualifying Certificate Program, and
3 Governor Manuel F.L. Guerrero approved the bill, which was enacted into law as
4 Public Law 8-80 on August 21, 1965.

5 *I Liheslaturan Guåhan* finds that, as explained in *Ramsey v. Chaco*, 549 F.2d
6 1335 (9th Cir. 1977), “Prior to amendment in 1968, however, the Organic Act also
7 provided that all laws enacted by the Guam Legislature ultimately would be reported
8 to Congress, and unless Congress acted to annul the law within one year, it was
9 deemed to have congressional approval...The original law granting tax rebates was
10 passed by the Guam Legislature and submitted to Congress while this pre-1968
11 version was still in effect, and Congress failed to annul the law within the one-year
12 period. In 1968, Section 19 of the Organic Act was amended to eliminate the
13 provision of implied congressional approval in the absence of annulment by it within
14 one year. Thereafter, in 1969, the present rebate act was passed, changing only the
15 percentage of taxes rebated.” The court concluded, “that Congress’ failure to annul
16 the original rebate bill within one year constituted an implied approval under former
17 Section 19 of the Organic Act. Despite its possible conflict with the Organic Act, the
18 original rebate law was implicitly ratified by Congress’ inaction, and the Guam
19 Legislature’s later alteration of the specific rebate percentages did not give rise to a
20 possible independent violation of the Organic Act and therefore did not require
21 congressional approval.”

22 *I Liheslaturan Guåhan* finds that many of the hotels that have been built on
23 Guam have benefited from the Qualifying Certificate Program, developing an
24 industry that attracts an average of over one million (1,000,000) tourists per year.

25 *I Liheslaturan Guåhan* finds that the United States employs a worldwide tax
26 system, where United States-based companies and individuals are taxed on
27 worldwide income, even when that income is earned outside of the United States.

1 United States-based multinational companies are able to defer the foreign income
2 tax liabilities that would be payable under the United States' worldwide tax system
3 by reinvesting overseas earnings on an indefinite basis. A June 13, 2017 Bloomberg
4 report estimates that the fifty (50) largest cash-holding companies in the S&P 500
5 have approximately Nine Hundred Twenty-five Billion Dollars (\$925,000,000,000)
6 in profits held overseas.

7 *I Liheslaturan Guåhan* finds that the Tax Cuts and Jobs Act, introduced on
8 November 2, 2017, was enacted on December 22, 2017, as United States Public Law
9 115-97. Among the provisions of the Tax Cuts and Jobs Act is a one (1)-time tax
10 rate on repatriated profits with rates of fifteen and five-tenths percent (15.5%) on
11 cash assets and eight percent (8%) on other assets.

12 *I Liheslaturan Guåhan* finds that if multinational corporations based in the
13 United States are able to repatriate profits through Guam, such repatriation would
14 produce windfall tax revenue to the government of Guam and may encourage local
15 investment, likely resulting in some direct job creation.

16 *I Liheslaturan Guåhan* finds that the Qualifying Certificate Program, if
17 expanded to allow beneficiaries specifically for the purpose of repatriating foreign
18 earnings, provides an opportunity for the government of Guam to encourage
19 multinational corporations that seek to repatriate profits to locate their business on
20 Guam, thereby becoming Guam taxpayers.

21 *I Liheslaturan Guåhan* further finds that under the Tax Cuts and Jobs Act
22 versions passed by Congress, deemed repatriation on Nine Hundred Twenty-five
23 Billion Dollars (\$925,000,000,000) in profits would yield a minimum of Seventy-
24 four Billion Dollars (\$74,000,000,000) to a maximum of One Hundred Forty-three
25 Billion Three Hundred Seventy-five Million Dollars (\$143,375,000,000). Thus, if a
26 Qualifying Certificate rebating seventy-five percent (75%) of such repatriated
27 revenue were enacted on Guam, and all such income were repatriated within Guam,

1 it would yield from Eighteen Billion Five Hundred Million Dollars
2 (\$18,500,000,000) to Thirty-five Billion Eight Hundred Forty-three Million Seven
3 Hundred Fifty Thousand Dollars (\$35,843,750,000).

4 It is, therefore, the intent of *I Liheslaturan Guåhan* to establish a Qualifying
5 Certificate for a business with at least Five Million Dollars (\$5,000,000) in
6 unrepatriated profits earned by at least one (1) foreign subsidiary, which offers a
7 seventy-five percent (75%) rebate for income tax paid to the government of Guam
8 on repatriated profits, by adding a new § 58104(q) to Article 1 of Chapter 58, Title
9 12, Guam Code Annotated.

10 **Section 2. Eligibility Defined.** A new § 58104(q) is hereby *added* to
11 Article 1 of Chapter 58, Title 12, Guam Code Annotated, to read:

12 “(q) a business with at least Five Million Dollars (\$5,000,000) of
13 unrepatriated profits earned by at least one (1) foreign subsidiary of such
14 business. Such business’ only benefit for a Qualifying Certificate issued under
15 this Subsection *shall* be a rebate of income tax, as provided in § 58128.1 of
16 this Article, which *shall* apply *solely* to profits repatriated or deemed
17 repatriated from any foreign subsidiaries of such beneficiary. A business
18 covered under this Subsection *shall not* be eligible for benefits under §§
19 58127, 58127.1, 58127.2, 58127.3, 58127.4, 58127.5, or 58127.6 of this
20 Article, unless such business is qualified for, applies for, and is granted a
21 separate Qualifying Certificate under a different Subsection of this Section.

22 (1) Third (3rd)-party agents licensed to do business on Guam
23 are hereby authorized to facilitate transactions with the government of
24 Guam on behalf of or as representatives of repatriating entities, subject
25 to legal authorization thereto, relative to any repatriation pursuant to
26 this Subsection for total fees not to exceed one percent (1%) of any

1 amounts repatriated with such fees paid by the repatriating entity, net
2 of applicable taxes.

3 (2) Any entity handling primary financial transactions relative
4 to any repatriation pursuant to this Subsection *shall* be licensed to do
5 business on Guam.

6 (3) A one percent (1%) surcharge *shall* be further assessed on
7 repatriated amounts net of applicable taxes, for remittance to the state
8 or territorial treasury of corporate domicile of the repatriating entity, or
9 such state or territorial corporate domicile held prior to any repatriation
10 under this Subsection if such corporate domicile was established on
11 Guam for the purposes of this Subsection.”