

*I Mina'trentai Sais 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
104-36 (COR)	Sabina Flores Perez Therese M. Terlaje V. Anthony Ada Joanne Brown Christopher M. Dueñas Telena Cruz Nelson Telo T. Taitague	AN ACT TO <i>AMEND</i> §§ 6703, 6802 AND 6805, ALL OF CHAPTER 6 OF TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO PAYMENT REQUIRMENTS FOR CIGARETTE TAX STAMPS.	4/5/21 3:06 p.m.						

***I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN***  
**2021 (FIRST) Regular Session**

**Bill No. 104-36 (COR)**

Introduced by:

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V. Anthony Ada *Q*

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**AN ACT TO *AMEND* §§ 6703, 6802 AND 6805, ALL OF  
CHAPTER 6 OF TITLE 11, GUAM CODE ANNOTATED,  
RELATIVE TO PAYMENT REQUIRMENTS FOR  
CIGARETTE TAX STAMPS.**

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

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* has found that the Cigarette Stamp Tax Law sought to create a better mechanism for accountability in taxes on cigarettes getting paid to the Government of Guam.

*I Liheslatura* has found cigarette wholesalers are allowed to delay the payment of cigarette taxes upon at the seaport level through the use of a bonded warehouse, allowing for taxes to be collected, not at the withdrawal point from the bonded warehouse, but no later than the twentieth (20th) day of the month following the month in which associated cigarettes were issued and sold out of the bonded warehouse.

*I Liheslatura* further finds that the Cigarette Stamp Tax Law, allows for an additional delay in the payment of cigarette tax stamps to no later than the twentieth

1 (20th) day of the month following the month in which the cigarette tax stamps were  
2 purchased.

3 *I Liheslatura* further finds that with the bonded warehouse mechanism, and  
4 the Cigarette Stamp Tax Law, there is a double delay in the payment of cigarette  
5 taxes due to the Government of Guam.

6 *I Liheslatura* further finds that upon passage of Public Law 34-55, the  
7 Cigarette Stamp Tax Law, in October 2017, the Department of Revenue and  
8 Taxation has been unable to facilitate the duties charged in the public law as the  
9 mandate was never funded. *I Liheslatura* has also found that there is no current or  
10 future funding source for the stamps, machines, maintenance, and enforcement.

11 It is the intention of *I Liheslaturan Guåhan* to create more accountability for  
12 the Government of Guam and to allow for bonded warehouses to work in unison  
13 with the Cigarette Stamp Tax Law. *I Liheslatura* intends to require cigarette tax  
14 stamps to be paid upon purchase. A delay in the payment of stamps would be still  
15 allowed, but only through the application with and approval from the Department of  
16 Revenue and Taxation, along with a surety bond equal to the amount of the delayed  
17 payment.

18 With this payment procedure in place, the products placed in a bonded  
19 warehouse, and then withdrawn and stamped for sale, will properly represent that  
20 taxes have been paid on those products.

21 It is the intention of *I Liheslaturan Guåhan* to eliminate the discount on  
22 cigarette tax stamps afforded to wholesalers after two years to allow for wholesalers  
23 to adjust to the new process of affixing stamps to cigarette packaging. The Cigarette  
24 Stamp Tax Law was created to create more accountability. An additional discount  
25 to the stamps in perpetuity would reduce the total revenues generated for the Healthy  
26 Futures Fund and thus discounting the importance of taxes on cigarettes.

27 It is also the intention of *I Liheslaturan Guåhan* to create a stable funding  
28 source in order to carry out the mandate of the Cigarette Stamp Tax Law by charging

1 a fee for the stamps. The fee would allow for the Department of Revenue and  
2 Taxation and the Office of the Attorney General to administer and enforce the  
3 Cigarette Stamp Tax Law.

4 **Section 2.** § 6703 of Chapter 6, Title 11, Guam Code Annotated, is hereby  
5 *amended* to read:

6 **§ 6703. Proof of Taxation.**

7 (a) The payment of taxes levied by § 26602 and § 26603(a) of  
8 Chapter 26, Title 11, Guam Code Annotated, shall be demonstrated by the  
9 purchase of tax stamps in Guam, which shall be affixed to each cigarette  
10 package. Nothing herein shall be construed as to levy any additional taxes on  
11 the sale of cigarettes, unless expressly stated by law.

12 (b) Payment for the purchasing of stamps to be affixed to a cigarette  
13 package shall be reported each month ~~and payable~~ no later than the twentieth  
14 (20th) day of the month following the month in which the stamps were  
15 purchased from the Department and payable at the point of purchase of the  
16 stamps from the Department.

17 (c) The Department is responsible for and shall effectuate the  
18 printing, distribution, and sale of tax stamps.

19 (d) Any taxpayer under this Section may delay the payment of taxes  
20 in accordance with the provisions under 11 GCA § 26601(c) relative to  
21 cigarettes held and sold out of a bonded warehouse.”

22 **Section 3.** § 6802 of Chapter 6, Title 11, Guam Code Annotated, is hereby  
23 *amended* to read:

24 **“§ 6802. Affixiation; Required Prior to Distribution; Method and**  
25 **Manner.**

26 (a) A licensee or the authorized agent or designee of a licensee shall  
27 affix a stamp to the bottom of each individual package of cigarettes prior to  
28 distribution.



1 (b) No individual package of cigarettes may be sold or offered for  
2 sale to the general public unless affixed with the stamp required under this  
3 Section.

4 (c) No cigarette package may be placed or stored in a vending  
5 machine unless affixed with the stamp required under Subsection (a) of this  
6 Section.

7 (d) The Department may adopt rules regarding the method and  
8 manner of affixing stamps to a cigarette package.

9 (e) For the purpose of allowing compensation for the initial costs  
10 necessarily incurred in affixing the proper tax stamps to each package of  
11 cigarettes prior to distribution, each licensee or authorized agent or a designee  
12 of a licensee purchasing stamps from the Department may purchase the  
13 stamps at a reduction of fourtenths of one percent (0.4%) of the denominated  
14 value of each stamp purchased. The reduction shall be the only discount  
15 allowed to purchasers from the Department and shall be applicable only for  
16 the first two (2) years upon enactment. If a purchaser does not comply with  
17 all of the provisions of Guam law, the licensee shall pay the full denominated  
18 value of the stamps purchased until the licensee has complied.”

19 **Section 4.** § 6805 of Chapter 6, Title 11, Guam Code Annotated, is hereby  
20 *amended* to read:

21 “§ 6805. **Price.**

22 (a) Stamps shall be sold at their denominated values as provided for  
23 herein-, plus a stamp fee of one percent (1%) of the denominated value of each  
24 stamp sold, composed of the aggregate of:

25 (1) One half of one percent (0.5%) of the denominated value  
26 of the stamp to pay for the cost to the Department of providing the  
27 stamps, with that amount to be deposited to the Cigarette Stamp Tax  
28 Fund;

1                   (A)       Cigarette Stamp Tax Fund

2                   (i)       There is created, separate and apart from any  
3                   other funds of the government of Guam, under the  
4                   administration and control of the Director, the Cigarette  
5                   Stamp Tax Fund (hereinafter the 'Fund'). The Fund shall  
6                   not be commingled with the General Fund or any other  
7                   fund of the government of Guam. The Fund shall be held  
8                   in an account or accounts at a Guam financial institution  
9                   or institutions separate and apart from all other accounts  
10                  and funds of the government of Guam. The Fund shall not  
11                  be subject to I Maga'haga Guahan's transfer authority.  
12                  The Fund shall be used for the costs associated with  
13                  issuing the tax stamps, including but not limited to  
14                  supplies, equipment, and personnel in promulgating this  
15                  Chapter.

16                  (2)       One half of one percent (0.5%) of the denominated value  
17                  of the stamp to pay for the cost of enforcing the Cigarette Stamp Tax  
18                  law to the Office of the Attorney General;

19                  Provided that the Department by rule may modify the stamp fee to  
20                  reflect actual costs incurred by the government of Guam in providing the  
21                  stamps.

22                  (b)       Payment for the stamps shall be made ~~no later than the twentieth~~  
23                  ~~(20th) day of the month following the month in which the stamps were~~  
24                  purchased at the time of purchase from the Department.

25                  (1)       A licensed wholesaler may delay payment of the stamps  
26                  by applying for delay with the Department. The Department shall set  
27                  the allowed amount for delayed payment purchases.

1                   (A)       The licensed wholesaler shall post a surety bond in  
2                   the amount of one hundred percent (100%) of the allowed  
3                   delayed purchase amount.

4                   (B)       Amounts owed for stamps purchased on a delayed  
5                   payment basis in any calendar month shall be made no later than  
6                   the twentieth (20<sup>th</sup>) day of the month following the month in  
7                   which the stamps were purchased from the Department.

8                               (i)     Posted surety bonds shall be claimed against  
9                               the licensed wholesaler for failure to remit payment for the  
10                              stamps no later than the twentieth (20<sup>th</sup>) day of the month  
11                              following the month in which the stamps were purchased  
12                              from the Department.

13                   (C)       Licensed wholesalers applying for a stamp payment  
14                   delay shall be current in their tax liability payments and in  
15                   good standing with the Department.

16                   (c)     Any taxpayer under this Section may delay the payment of taxes  
17                   in accordance with the provisions under 11 GCA § 26601(c) relative to  
18                   cigarettes held and sold out of a bonded warehouse. Payment for the stamps  
19                   for cigarettes held and sold out of a bonded warehouse *shall* be made ~~no later~~  
20                   ~~than the twentieth (20<sup>th</sup>) day of the month following the month in which the~~  
21                   ~~stamps and associated cigarettes were issued and sold out of the bonded~~  
22                   ~~warehouse~~ at the time of purchase from the Department.

23                               (d)     A licensed wholesaler who fails to pay any amount owed for the  
24                   purchase of stamps within the required time shall be subject to:

25                               (1)     The penalties and interest in accordance with the  
26                   provisions under 11 GCA § 26111 and § 26112; and

1                   (2)   Ten percent (10%) of the amount due in addition to the  
2                   amount due. This percentage of the amount due shall be deposited into  
3                   the Cigarette Stamp Tax Fund.

4           **Section 5. Severability.** If any provision of this Act or its application to  
5 any person or circumstance is found to be invalid or contrary to law, such invalidity  
6 *shall not* affect other provisions or applications of this Act that can be given effect  
7 without the invalid provision or application, and to this end the provisions of this  
8 Act are severable.