

I Mina'trentai Siette Na Lihelaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
193-37 (LS)	Joe S. San Agustin Telo T. Taitague Roy A. B. Quintana Dwayne T.D. San Nicolas	AN ACT TO <i>ADD</i> A NEW CHAPTER 10 AND CHAPTER 11 TO DIVISION 1, TITLE 11 GUAM CODE ANNOTATED AND <i>ADD</i> A NEW CHAPTER 98 TO DIVISION 4, TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A ELECTRONIC NICOTINE DELIVERY SYSTEMS (ENDS) PRODUCT TAX AND LICENSING WHICH SHALL BE CITED AS THE "ENDS EXCISE ACT OF 2023" AND ESTABLISH A DEPARTMENT OF REVENUE AND TAXATION REVOLVING FUND AND A GUAM MEMORIAL HOSPITAL AUTHORITY REVOLVING FUND.	10/24/23 3:00 p.m.	10/26/23	Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning	Request: 10/26/23 11/6/23			



COMMITTEE ON RULES

Senator Chris Barnett, Chairperson
I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature

November 6, 2023

To: **Joaquin P. Taitague**
Substitute Clerk of the Legislature

From: **Senator Chris Barnett** 
Chairperson, Committee on Rules

Subject: **Fiscal Note for Bill No. 193-37 (LS)**

Håfa Adai yan Biba Guåhan!

Find the attached, Fiscal Note for the following bill:

Bill No. 193-37 (LS).

I also request that the same be sent to the respective Chairperson of the Standing Committee, to which this bill has been referred. Kindly forward the same to Management Information Services (MIS) for posting on our website.



**Bureau of Budget & Management Research
Fiscal Note of Bill No. 193-37 (LS)**

AN ACT TO ADD A NEW CHAPTER 10 AND CHAPTER 11 TO DIVISION 1, TITLE 11 GUAM CODE ANNOTATED AND ADD A NEW CHAPTER 98 TO DIVISION 4, TITLE 10 GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A ELECTRONIC NICOTINE DELIVERY SYSTEMS (ENDS) PRODUCT TAX AND LICENSING WHICH SHALL BE CITED AS THE "ENDS EXCISE ACT OF 2023" AND ESTABLISH A DEPARTMENT OF REVENUE AND TAXATION REVOLVING FUND AND A GUAM MEMORIAL HOSPITAL AUTHORITY REVOLVING FUND.

Department/Agency Appropriation Information

Dept./Agency Affected: Department of Revenue and Taxation (DRT)	Dept./Agency Head: Dafne Mansapit-Shimizu, Director
Department's General Fund (GF) appropriation(s) to date:	\$14,532,027
Department's Other Fund appropriation(s) to date: Banking and Insurance Enforcement Fund (\$395,271); Better Public Service Fund (\$1,315,540); Tax Collection Enhancement Fund (\$1,046,640)	\$2,757,451
Total Department/Agency Appropriation(s) to date:	\$17,289,478

Fund Source Information of Proposed Appropriation

	General Fund:	Special Fund:	Total:
FY 2023 Unreserved Fund Balance	\$0	\$0	\$0
FY 2024 Adopted Revenues	\$0	\$0	\$0
FY 2024 Appro. (P.L. 37-42)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill

	One Full Fiscal Year	For Remainder of FY 2024 (if applicable)	FY 2025	FY 2026	FY 2027	FY 2028
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Special Fund	\$0	\$0	\$0	\$0	\$0	\$0
Total	1/	\$0	\$0	\$0	\$0	\$0

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|---|-------------------------|----------|--------|
| 1. Does the bill contain "revenue generating" provisions?
If Yes, see attachment | | /X/ Yes | // No |
| 2. Is amount appropriated adequate to fund the intent of the appropriation?
If no, what is the additional amount required? \$ _____ | /X/ N/A | // Yes | // No |
| 3. Does the Bill establish a new program/agency?
If yes, will the program duplicate existing programs/agencies?
Is there a federal mandate to establish the program/agency? | /X/ N/A | // Yes | /X/ No |
| 4. Will the enactment of this Bill require new physical facilities? | | // Yes | /X/ No |
| 5. Was Fiscal Note coordinated with the affected dept/agency?
/X/ Requested agency comments not received by due date: DRT | If no, indicate reason: | /X/ Yes | // No |
| | | // Other | |

Analyst: <u>Raymond Rieta</u> Raymond Rieta, BMA III	Date: <u>11/3/23</u>	Director: <u>Lester L. Carlson, Jr.</u> Lester L. Carlson, Jr., Director	Date: <u>NOV 03 2023</u>
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Notes:
1/ See Additional Comments.

Bureau of Budget & Management Research
Comments on Bill No. 193-37 (LS)

Bill No. 193-37 adds a new chapter 10 and chapter 11 to Division 1, Title 11, Guam Code Annotated (GCA) and adds a new chapter 98 to Division 4, Title 10, GCA relative to establishing an Electronic Nicotine Delivery Systems (ENDS) product tax and licensing which shall be cited as the “ENDS Excise Act of 2023” and establishes a Department of Revenue and Taxation (DRT) revolving fund and a Guam Memorial Hospital Authority (GMHA) revolving fund.

The Bill proposes to levy a tax on all ENDS products in Guam on vaping products with the intention of generating new revenue for the Government of Guam resulting in additional funding for DRT and GMH. The Bill establishes the licensing and fee regulations for the retail sale of ENDS products, the enforcement of said regulations, and the penalties and fines imposed on violations of said regulations. The legislation further distributes all monies collected from the taxes levied by the following: 40% to the DRT Revolving Fund, 60% to the GMHA Revolving Fund.

Currently, taxes collected for cigarettes, cigars, and other tobacco related products generate revenue which is then deposited into the Healthy Futures Fund (HFF). Based on the revenue categories in the AS400 financial system, it is unclear whether flavored tobacco products (i.e., e-cigarettes, and vaping) are taxed in the same manner as cigarettes, cigars, and other tobacco related products. Utilizing information from prior fiscal years to obtain data from overall revenues generated for the HFF for the past four fiscal years, the Bureau notes that the average collections from FY19 through FY22 is estimated at \$38.6M. However, absent information from the Department of Revenue and Taxation (DRT) relative to tax collections specifically from flavored tobacco and tobacco related products, the Bureau is unable to ascertain the fiscal impact of this proposed legislation.