

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
220-37 (COR)	Jesse A. Lujan Christopher M. Dueñas Frank Blas, Jr. Thomas J. Fisher Chris Barnett	AN ACT TO ADD A NEW § 26203 (f) TO ARTICLE 2, CHAPTER 26, TITLE 11 GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE BUSINESS PRIVILEGE TAX EXEMPTIONS LIST TO INCLUDE PRESCRIPTION DRUGS.	12/15/23 3:59 p.m.	12/20/23	Committee on General Government Operations and Appropriations	Request: 12/20/23 12/27/23			



COMMITTEE ON RULES

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

December 27, 2023

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

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

Subject: **Fiscal Note for Bill No. 220-37 (COR)**

Håfa Adai yan Biba Guåhan!

Find the attached, Fiscal Note for the following bill:

Bill No. 220-37 (COR).

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. 220-37 (COR)**

AN ACT TO ADD A NEW § 26203 (f) TO ARTICLE 2, CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE BUSINESS PRIVILEGE TAX EXEMPTIONS LIST TO INCLUDE PRESCRIPTION DRUGS.

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

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

Analyst: Raymond Rieta, BMA III Date: 12/26/23 Director: Lester V. Carlson, Jr., Director Date: DEC 27 2023

Notes:
1/ See Additional Comments.

Bureau of Budget & Management Research
Comments on Bill No. 220-37 (COR)

Bill No. 220-37 is an act to expand the Business Privilege Tax (BPT) Exemptions List to include prescription drugs. As per the AS400 financial management system, amounts collected for BPTs fall under several categories ranging from wholesaling, retailing, services, rental, profession, commission, insurance, contracting, insurance, etc.

The impact of exempting BPTs from the costs of prescription drugs may fall within the wholesaling and retailing categories of the BPT. However, absent comment from the Department of Revenue and Taxation (DRT) the Bureau does not have administrative or sales data to ascertain the dollar value of prescription drugs sold by local pharmacies on Guam to measure its overall fiscal impact on government tax revenues and as such is not able to accurately measure its impact should the bill become law.

Additionally, referencing past comments from the Guam Economic Development Authority (GEDA) on previously introduced legislation similar in nature, Bill No. 220-37 may expressly violate Article 6, Section 6.09 of the BPT Bond Indenture specific to the collection of BPT revenues which states:

“As long as any Bonds remain outstanding, the Government shall not reduce the rate of levy and collection of the pledged business privilege tax below three percent (3%), nor shall the Government reduce the services, products or activities to which the pledged business privilege tax applies, nor shall the Government upwardly adjust any exception or exclusion, or otherwise impair, the pledged business privilege tax.”

GEDA further commented that the breach of this covenant may lead to an event of default, which would have broad financial implications on the government to include, among other things, an acceleration of the bond payments to be due immediately.