

*I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN*  
2013 (FIRST) Regular Session

Bill No. 109-32 (COR)

Introduced by:

Michael F.O. San Nicolas  
B.J.F. Cruz

2013 MAY - 8 PM 3: 00

**AN ACT TO AMEND §26205 OF ARTICLE 2, CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE STATUTE OF LIMITATIONS ON THE COLLECTION OF UNPAID BUSINESS PRIVILEGE TAX TO TEN (10) YEARS.**

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

2 **Section 1. Short Title.** This Act *shall* be cited as the "Responsible  
3 Business Privilege Tax Statutes of Limitations Act."

4 **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
5 finds that there was no statute of limitations on the collection of the Gross  
6 Receipts Tax until, on November 14, 1987, Governor Joseph F. Ada  
7 approved Public Law 19-10, which established a seven (7) year statute of  
8 limitations.

9 *I Liheslatura* finds that, in contrast to the seven (7) year statute of  
10 limitations on collections of the Gross Receipts Tax, now called the  
11 Business Privilege Tax, the statute of limitations for collections by the  
12 Department of Revenue and Taxation pursuant to taxes under the mirror  
13 tax, established by the Organic Act, is ten (10) years. The government of

1 Guam has three (3) extra years to collect for taxes under the Internal  
2 Revenue Code mirror tax, as compared to businesses taxed under the  
3 Business Privilege Tax.

4 *I Liheslatura* further finds that the extension of the statute of  
5 limitations for collections of the Business Privilege Tax would result in  
6 \$5,794,530.62 in additional potential revenue, which could be used to  
7 support vital public services.

8 *I Liheslaturan Guåhan* finds that the recent performance audit report  
9 by the Office of Public Accountability on Gross Receipts Tax Exemptions  
10 reveals significant challenges with the monitoring, reporting and collection  
11 of the Gross Receipts Tax, which underline the usefulness in extending the  
12 statute of limitations because it applies from the time when the tax return is  
13 filed.

14 It is therefore the intent of *I Liheslatura* that the statute of limitations  
15 for collections be standardized within the Department of Revenue and  
16 Taxation by adopting a ten (10) year statute of limitations for the collection  
17 of the Business Privilege Tax.

18 **Section 3. Statute of Limitations for Collections of the Business**  
19 **Privilege Tax.** § 26205, Article 2, Chapter 26, Title 11, Guam Code  
20 Annotated, is hereby *amended*, to read:

21 **“§ 26205. Statute of Limitations for Collections.**

22 The statute of limitations for collections of unpaid taxes due on  
23 business privilege tax returns *shall* be ten (10) ~~seven (7)~~ years after the

1 return is filed. For amendment, correction, adjustment, challenge,  
2 determination of correctness of the amount of taxes paid, or audit of  
3 income reported and the correctness of the amount of tax liability shown  
4 on the business privilege tax returns, the statute of limitations *shall* be three  
5 (3) years after filing and payment of taxes due. There *shall* be no statute of  
6 limitations on unfiled business privilege tax returns or on the collection of  
7 taxes on revenues not shown or reported on Business Privilege Tax  
8 Returns.”

9       **Section 4. Severability.** If any of the provisions of this Act, or the  
10 application thereof to any person or circumstance, is held invalid, such  
11 invalidity *shall* not affect any other provision or application of this Act  
12 which can be given effect without the invalid provision or application, and  
13 to this end the provisions of this Act are severable.