

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

Bill No. 205-32 (COR)

Introduced by:

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B. MCCREADIE 
R. J. RESPICIO 

AN ACT TO PROMOTE ECONOMIC DEVELOPMENT BY AUTHORIZING THE ISSUANCE OF TAX CREDITS TO ENTITIES WHO ASSIST WITH THE DEVELOPMENT OF GUAM'S AGRICULTURAL AND "GUAM PRODUCT SEAL" PRODUCTS EXPORT INITIATIVE THROUGH CONTRIBUTIONS TO OFFSET SHIPPING COSTS, BY ADDING A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED.

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BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Article 6 is hereby added to Chapter 77 of Division 2, Title 12, Guam Code Annotated, to read:

Article 6

GUAM EXPORT TAX CREDIT FOR AGRICULTURAL AND "GUAM PRODUCT SEAL" PRODUCTS

- §77600. Legislative Findings and Intent
- §77601. Definitions
- §77602. Tax Credits
- §77603. Maximum Amount of Tax Credits Authorized
- §77604. Calculation of Tax Credit
- §77605. Approval of Contributions
- §77606. Miscellaneous

1 §77607. Rules and Regulations

2 §77600. **Legislative Findings and Intent.** Guam has many
3 impediments when it comes to international business such as customs, quarantine,
4 immigration and shipping because of its status as an unincorporated territory of the
5 United States and because of our remoteness. That notwithstanding, in the early
6 1900's, Guam once had an *agricultural* industry that was developed to the extent that
7 it supported and satisfied the requirements of Guam society with a large variety of
8 produce. Further, production was sufficient to the extent that this local, homegrown,
9 Guam based, industry also supported opportunities in *exporting*. With the advent of
10 modernization, restrictions on shipping, competition with imported processed foods,
11 and other social economic factors, these two economic activities lost momentum and
12 over time contributed little to nothing to Guam's economy. It is the *intent* of *I*
13 *Liheslaturan Guåhan* that significant stimulus is required, and should be dedicated,
14 to *re-develop* Guam's agricultural export market, as well as the economic
15 development of markets for local Guam Product Seal exports.

16 It is the consensus of *I Liheslaturan Guåhan* that the issuance of tax credits
17 to entities who assist with the development of Guam's export initiative through
18 contributions that offset shipping costs is a vital incentive for the creation and
19 sustainability of this new and developing economic sector. By allowing tax credits
20 for export transshipment, Guam producers will be able to offset one of the largest
21 costs prohibiting the pursuit of profitable exportation, expansion into new markets and
22 the ability to provide competitive pricing. The tax credits will surely promote export
23 activity by mitigating one of the key cost components of doing business abroad thus
24 providing a competitive edge on product pricing regionally, as well as in the global
25 marketplace.

26 Currently there is little to no tax revenue generated from the sale of or

1 shipping of commodities for export. The tax credits will provide the added
2 incentive for the renaissance of Guam's Agricultural sector and Guam Product Seal
3 products by refocusing collaborative efforts and providing new market
4 opportunities providing a new, broader-based, economic stimulus.

5 With increased opportunities abroad, Guam exports will prove to be more
6 attractive and lucrative which, in turn, will increase manufacturing activity, create
7 more jobs and preserve cultural socioeconomic activities.

8 With the award and success of the State Trade and Export Promotions grant
9 in 2011 and 2012, the Guam Economic Development Authority has conducted
10 extensive research in the area of exporting and have set the groundwork to develop
11 this initiative and have identified that this tax credit is crucial to the success of this
12 new developing industry. It is the *intent* of *I Liheslaturan Guåhan* that further
13 economic development efforts be taken to promote Guam's local businesses
14 through the export of their Guam Product Seal and agriculture products.

15 **§77601. Definitions, as applied in this Act.**

16 (a) **Contributions** shall mean and can be made either as the sponsorship of
17 shipping costs, applying preferred shipping rates, or the discount provided by
18 transshipment companies solely for shipping charges related to the exportation of
19 agricultural products and/or produce and certified Guam Product Seal products.

20 (b) **Export** shall mean, for the purposes of this Article, the business activity
21 where an item or service produced on Guam is purchased by foreign dollars.

22 (c) **Shipping Costs**, shall mean the normal, posted and actual cost of shipping
23 freight, as would normally occur when conducted *without* sponsorship, preferred
24 shipping rates and/or discounts. This does not include fees and taxes that are not
25 retained by the company or third party charges.

26 (d) **Discounted Shipping Cost**, shall mean the normal, posted and actual cost of

1 shipping freight, *minus* the sponsored, preferred shipping rate, or discounted price
2 charged for qualified freight as provided pursuant to this Article.

3 (e) The applicable ***Tax Credit Value*** shall mean the difference between the
4 *shipping cost* and the *discounted shipping cost* actually charged for the export of
5 qualified products.

6 (f) ***Transshipment*** shall mean the shipment of goods to another destination via
7 air or ocean, and shall include, when applicable, to change the means of transport
8 during the journey (for example from road transport to air transport), known as trans-
9 loading, and/or, to combine or consolidate small shipments into a large shipment
10 (consolidation).

11 (g) ***Agricultural produce and/or products*** shall mean, but not be limited to,
12 plant produce and products (packaged, canned and/or otherwise preserved as
13 necessary), as well as live seedlings, plants and trees manufactured or grown on
14 Guam. The meaning shall also include meat products (packaged, canned and/or
15 otherwise preserved as necessary), as well as living livestock, and, aquaculture
16 products (packaged, canned and/or preserved as necessary), and living aquatic species.

17 (h) ***Guam Product Seal Products*** shall mean those domestic products made on
18 Guam, as provided pursuant to §1201 of Chapter 1, Article 2, Guam Code Annotated.

19 (i) The ***Authority*** or ***GEDA*** shall mean the Guam Economic Development
20 Authority.

21 (j) ***Contributors*** shall mean Guam sole proprietorships, partnerships, limited
22 liability companies, corporations licensed to do business on Guam who make
23 qualifying contributions as set forth in §77601(a).

24 (k) ***Business Privilege Tax*** shall mean the business privilege tax imposed by
25 Section 26201 of Article 2 of Chapter 26 of Title 11 of the Guam Code Annotated.

1 **§77602. Tax Credits.** (a) Guam sole proprietorships, partnerships, limited
2 liability companies and corporations conducting business in the areas of air cargo,
3 ocean shipping or transshipment, which shall be duly licensed to conduct business on
4 Guam, shall be entitled to tax credits against a portion of the business privilege taxes
5 levied against the contributor for those revenue portions of the business activity
6 related solely to exporting qualified freight (§77601 (g) and (h)) from Guam. All tax
7 credits referred to in this Article shall mean tax credits applied against business
8 privilege tax liabilities incurred for the tax year the contribution was made, and as
9 further provided pursuant to this Section.

10 (b) Effective date and applicability of tax credits: Provisions of this Act shall
11 take effect on the first day of the succeeding month after enactment into law. Offsets
12 on taxable amounts shall be effective beginning in Tax Year 2013, and annually
13 thereafter.

14 (c) Qualifying exports: The issuance of tax credits for contributions made
15 pursuant to this Article shall only be applicable to the categories of products defined
16 pursuant to §77601(g) and (h).

17 **§77603. Maximum Tax Credits Authorized for Utilization for Tax-Offset**
18 **per Tax Year.** The maximum amount of tax credits authorized for utilization for tax-
19 offsets for each contributor shall not exceed Two Hundred Fifty Thousand Dollars
20 (\$250,000) per tax year. As an added incentive to promote participation at the onset,
21 an additional amount of One Hundred Thousand Dollars (\$100,000) *shall* be added to
22 the *tax credit value cap per tax year* to expire December 31, 2015, which *shall* then be
23 the amount of the tax credit to be issued and will revert back to Two Hundred Fifty
24 Thousand Dollars (\$250,000) per tax year thereafter.

25

1 **§77604. Calculation of Tax Credit and Participatory Incentive.** The *tax*
2 *credit value* (§77601(e)) shall be the basis from which the tax credit to be issued is
3 calculated for a qualified contribution. The applied credit amount will be a dollar for
4 dollar match of the contribution to the corresponding tax credit.

5 (1) The Authority, in conjunction with the Department of Revenue &
6 Taxation, shall annually determine the maximum amount of BPT tax credits
7 which may be authorized for utilization for tax liability offsets, as provided
8 pursuant to this Article.

9 (A) The Authority *shall* submit, annually, to *I Maga'lahaen Guåhan*, and
10 to the Speaker, *I Liheslaturan Guåhan*, the determination by the
11 Authority and the Department as to the aggregate sum of available
12 Business Privilege Tax credits determined to be available as BPT offsets
13 for *contributions*.

14 **§77605. Approval of Contributions and Tax Credits.** The GEDA Business
15 Development Division, or its designee, shall be responsible for providing to The
16 Department of Revenue and Taxation an approved list of agricultural producers and
17 eligible Guam Product Seals holders. The Department of Revenue and Taxation shall
18 review requested tax credits and, shall subsequently authorize the tax credits for
19 requests found to be compliant with this Article.

20 **§77606. Miscellaneous.** (a) The tax credits authorized by this Article shall
21 be subject to the following conditions:

22 (1) Approved tax credits can be applied in amounts, which shall not exceed
23 Two Hundred Fifty Thousand Dollars (\$250,000) in a single tax year except
24 during the initial incentivized period up to December 31, 2015.

25 (2) To be eligible for the tax credits authorized by this Article, contributors
26 must be licensed to do business on Guam.

1 (3) Agricultural producers and Guam Product Seal holders must register at the
2 Guam Economic Development Authority and must be in full compliance
3 with the programs.

4 (4) Any credit against the Business Privilege Tax, as authorized herein, shall
5 only apply to the unpledged portion of the Business Privilege Tax (currently
6 one percentage point of the current four percent Business Privilege Tax
7 rate). The credit shall not apply to the first three percentage points of the
8 Business Privilege Tax, so as not to violate the government's covenants to
9 bondholders of the Government of Guam Business Privilege Tax Bonds,
10 Series 2011A, Series 2012B and Series 2013C authorized through P.L. 31-
11 76, P.L. 31-196 and P.L. 31-276.

12 **§77607. Term and Effective Date.**

13 **Section 1. Sunset Provision:** This Act shall remain in effect for a term of ten
14 (10) years, at the expiration of which period, this Act shall automatically be deemed
15 repealed.

16 **Section 3. Severability.** If any provision of this act or its application to any
17 person or circumstances is found to be invalid contrary to law, such invalidity shall
18 not affect other provisions or applications of this act which can be given effect without
19 the invalid provisions or applications, and to this end the provisions of this act are
20 severable.

21 **Section 4. Effective Date.** This Act shall become immediately effective upon
22 enactment.