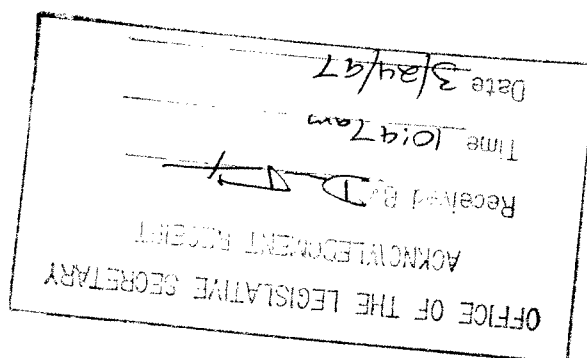




CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAR 21 1997

The Honorable Antonio R. Unpingco
Speaker
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910



Dear Speaker Unpingco:

Enclosed please find a copy of Substitute Bill No. 56 (COR), "AN ACT TO BE KNOWN AS 'THE DAVE SANTOS SMALL BUSINESS ENHANCEMENT ACT' TO AMEND §26110, ADD NEW §26110.1, ADD A NEW SUBSECTION (c) OF §26111, AMEND ITEM (9) OF SUBSECTION (k) OF §26203, ADD NEW ITEMS (26), (27) AND (28) TO SUBSECTION (k) OF §26203, ALL UNDER CHAPTER 26 OF TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE TO SIMPLIFYING THE FILING OF GROSS RECEIPTS TAX RETURNS, PENALIZING TAXPAYERS FOR FAILING TO SUPPLY THEIR IDENTIFICATION NUMBER, REFORMING THE GUAM GROSS RECEIPTS TAX BY EXEMPTING THEREFROM THE FIRST FIFTY THOUSAND DOLLARS (\$50,000) OF ANNUAL RENTAL INCOME, AND EXEMPTING THE FIRST FIFTY THOUSAND DOLLARS (\$50,000) OF GROSS ANNUAL INCOME RECEIVED FROM RETAILING, SERVICE AND OTHER RENTAL ACTIVITIES; TO AMEND §28108, ADD §§28108.1, §28110.1, ALL UNDER CHAPTER 28 OF TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE TO SIMPLIFYING THE FILING OF USE TAX RETURNS, AND PENALIZING TAXPAYERS FOR FAILING TO SUPPLY THEIR IDENTIFICATION NUMBERS.", which I have signed into law today as **Public Law No. 24-12.**

I proposed this legislation several years ago, and Dave Santos assisted in the research and drafting of proposed legislation. While we were midstream in working on the concept, Dave passed away at an untimely young age, and the work on this legislation was left incomplete. During the Ada Administration, I attempted to get personnel from the Department of

Office of the Speaker
ANTONIO R. UNPINGCO
Date: 3/21/97
Time: 3:20 pm
Rec'd by: mjh
Print Name: Moniano

Revenue and Taxation to finish assisting in drafting the legislation, but this was never accomplished. The legislation needed the input from those who actually collect Guam's taxes in order to produce an adequate finished product.

During the background research on this concept, it was discovered that a number of small businesses were having difficulties paying the Gross Receipts Tax each month, especially during months when profits are down. Routine monthly payments were also discovered to be quite burdensome, especially when small amounts were due. Payments of Gross Receipts Taxes under these circumstances sometimes means the difference between staying in business and being unable to "get over the hump" and make a small business profitable and stable.

I am pleased to be the Governor who has finalized "The Dave Santos Small Business Enhancement Act" and to transmit it to the Twenty-Fourth Guam Legislature. I am pleased to see the quick passage of this legislation.


The legislation submitted by this Administration exempted the first \$25,000 earned from the imposition of the Gross Receipts Tax. The Legislature amended the legislation to exempt the first \$50,000 earned from the imposition of Gross Receipts Tax. Although this increase will be a loss to the General Fund of over \$9 Million, the general circulation of these funds will stimulate the economy.

The legislation allows Gross Receipts Tax to be paid quarterly instead of monthly. Estimated income tax, normally paid by businesses, is already paid quarterly, and the 2 taxes would be paid at the same time. This gives a "shot in the arm" to the economy, largely made up of small businesses, and simplifies the daily "red tape" involved in running a small business.

As a Democrat, this is not the usual legislation that one would see being signed, however, this Democrat has worked very well with Republicans in forging a better economy for Guam.

This legislation will become effective October 1, 1997.

Very truly yours,



Carl T. C. Gutierrez
Governor of Guam

Attachment

00113

TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 56 (COR), "AN ACT TO BE KNOWN AS "THE DAVE SANTOS SMALL BUSINESS ENHANCEMENT ACT" TO AMEND §26110, ADD A NEW §26110.1, ADD A NEW SUBSECTION (c) OF §26111, AMEND ITEM (9) OF SUBSECTION (k) OF §26203, ADD NEW ITEMS (26), (27) AND 28 TO SUBSECTION (k) OF §26203, ALL UNDER CHAPTER 26 OF TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE TO SIMPLIFYING THE FILING OF GROSS RECEIPTS TAX RETURNS, PENALIZING TAXPAYERS FOR FAILING TO SUPPLY THEIR IDENTIFICATION NUMBER, REFORMING THE GUAM GROSS RECEIPTS TAX BY EXEMPTING THEREFROM THE FIRST FIFTY THOUSAND DOLLARS (\$50,000) OF ANNUAL RENTAL INCOME, AND EXEMPTING THE FIRST FIFTY THOUSAND DOLLARS (\$50,000) OF GROSS ANNUAL INCOME RECIEVED FROM RETAILING, SERVICE AND OTHER RENTAL ACTIVITIES; TO AMEND §28108, ADD §§28108.1 AND 28110.1, ALL UNDER CHAPTER 28 OF TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE TO SIMPLIFYING THE FILING OF USE TAX RETURNS, AND PENALIZING TAXPAYERS FOR FAILING TO SUPPLY THEIR IDENTIFICATION NUMBERS," was on the 8th day of March, 1997, duly and regularly passed.

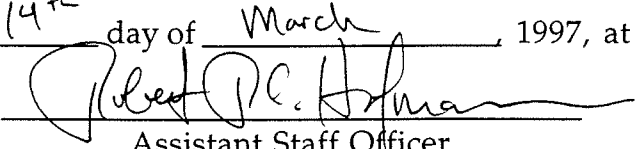


ANTONIO R. UNPINGCO
Speaker

Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by the Governor this 14th day of March, 1997, at 4:55 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 3-21-97
Public Law No. 24-12

TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session

Bill No. 56 (COR)

As substituted by the author and further
substituted by the Committee
on Finance and Taxation
and amended on the floor.

Introduced by:

Committee on Rules, Government
Reform and Federal Affairs

at the request of the Governor in
accordance with the Organic Act of
Guam.

AN ACT TO BE KNOWN AS, "THE DAVE SANTOS
SMALL BUSINESS ENHANCEMENT ACT" TO
AMEND §26110, ADD A NEW §26110.1, ADD A NEW
SUBSECTION (c) OF §26111, AMEND ITEM (9) OF
SUBSECTION (k) OF §26203, ADD NEW ITEMS (26),
(27) AND (28) TO SUBSECTION (k) OF §26203, ALL
UNDER CHAPTER 26 OF TITLE 11 OF THE GUAM
CODE ANNOTATED, RELATIVE TO SIMPLIFYING
THE FILING OF GROSS RECEIPTS TAX RETURNS,
PENALIZING TAXPAYERS FOR FAILING TO SUPPLY
THEIR IDENTIFICATION NUMBER, REFORMING
THE GUAM GROSS RECEIPTS TAX BY EXEMPTING
THEREFROM THE FIRST FIFTY THOUSAND
DOLLARS (\$50,000) OF ANNUAL RENTAL INCOME,
AND EXEMPTING THE FIRST FIFTY THOUSAND
DOLLARS (\$50,000) OF GROSS ANNUAL INCOME
RECEIVED FROM RETAILING, SERVICE AND OTHER
RENTAL ACTIVITIES; TO AMEND §28108, ADD
§§28108.1 AND 28110.1, ALL UNDER CHAPTER 28 OF
TITLE 11 OF THE GUAM CODE ANNOTATED,

RELATIVE TO SIMPLIFYING THE FILING OF USE
TAX RETURNS, AND PENALIZING TAXPAYERS FOR
FAILING TO SUPPLY THEIR IDENTIFICATION
NUMBERS.

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

2 **Section 1. Title.** This Act shall be known, and may be cited as, “The Dave
3 Santos Small Business Enhancement Act.”

4 **Section 2. Legislative Findings and Intent.** The Guam Legislature finds that
5 under the current operation of the Guam Gross Receipts Tax (GRT), every business,
6 including those with no employees apart from their owners, is required to file a
7 monthly GRT return, even if to report no income. This monthly reporting
8 requirement is a large burden on the small firms that constitute the bulk of Guam’s
9 licensed businesses. Approximately Three to Six Thousand (3,000 - 6,000) licensed
10 Guam businesses, or Fifty-five to Fifty-nine percent (55-59%) of Gross Receipts
11 Taxpayers, earn an annual income of less than Twenty-five Thousand Dollars
12 (\$25,000), and the burden of paying the taxes due under the current system is both
13 irksome and burdensome.

14 The Guam Legislature further finds that where every Guam retail, service and
15 rental taxpayer making Fifty Thousand Dollars (\$50,000) or less of taxable income
16 is given an exemption from the GRT, there would be a revenue loss to the
17 government of approximately One Million Eight Hundred Fifty-five Thousand
18 Dollars (\$1,855,000). If such an exemption were made, the funds which would not
19 be paid in Gross Receipts Taxes due to the exemption would nevertheless be spent in
20 the local economy, and as a result, additional taxable income for income tax and
21 GRT purposes would be realized. Therefore, the net loss to the government of

1 Guam will be substantially less than the amounts not immediately collected. The
2 many small businesses that earn less than Fifty Thousand Dollars (\$50,000) per year
3 are considerably burdened by the tax since, unlike the approximately One Hundred
4 and Thirty-seven (137) businesses that pay about Sixty Percent (60%) of the GRT,
5 these small businesses frequently cannot pass the expenses on to their customers and
6 do not have the staff to make monthly filing easy to accomplish. Monthly filing,
7 though particularly burdensome to the small businesses, is also burdensome to all
8 Guam businesses and to the government.

9 It is also the finding of the Guam Legislature that the GRT exemption of the first
10 One Thousand Two Hundred Dollars (\$1,200) of rental income needs to be
11 upgraded to reflect the current economic conditions, and therefore that an exemption
12 of Fifty Thousand Dollars (\$50,000) would be more appropriate. The original
13 exemption would have represented a yearly rental income from one (1) residential
14 rental unit, and an increase of this exemption of Fifty Thousand Dollars (\$50,000)
15 would also represent a yearly rental income from One (1) residential rental unit.

16 It is therefore the purpose and intent of this legislation to enhance Guam small
17 businesses both by reducing their tax burden and by simplifying the tax reporting of
18 all GRT taxpayers. The initial loss of revenue to the government will be offset by
19 the additional income to these small businesses and rental unit owners, allowing
20 them to devote more of their energies to their businesses and allowing for the greater
21 upkeep of rental units with a lowering of rental costs. This would benefit the
22 consumer and be to the greater good of the whole community. The multiplier effect
23 of these reforms will permeate throughout Guam's economy.

24 **Section 3. Remove the Method of Filing Gross Receipts Tax Returns**
25 **from the Method of Filing other Business Privilege Law Taxes. Section**
26 26110 of Title 11 of the Guam Code Annotated, is repealed and reenacted to read:

1 “§26110. **Returns.** All taxpayers against whom a tax is levied by the
2 provisions of this Chapter shall file returns in the manner, and at the time herein
3 provided, and shall make payments of the tax in accordance therewith. Such returns
4 shall be made to the Tax Commissioner.

5 (a) **Monthly Returns for Alcoholic Beverage Tax, Liquid Fuel**
6 **Tax, Automotive Surcharges and Tobacco Tax.** Each taxpayer against
7 whom a tax is levied by the provisions of Articles 3, 4, 5 and 6 of this
8 Chapter shall make and file monthly returns of taxes with the Tax
9 Commissioner on or before the Twentieth (20th) day following the close of the
10 calendar month in which the taxes shall accrue, and in the form and in
11 accordance with the rules and regulations prescribed by the Tax
12 Commissioner. Except as may be specifically hereinafter provided, payment
13 covering the full amount of tax liability as evidenced by the monthly return
14 shall accompany such monthly return.

15 (b) **Quarterly returns for Gross Receipts Tax.** Each taxpayer
16 against whom a tax is levied by the provisions of Article 2 of this Chapter
17 shall make and file quarterly returns of tax with the Tax Commissioner.
18 Gross Receipts Taxpayers shall file quarterly Gross Receipts Tax returns
19 summarizing the tax due and deposits made for the quarter. Except as may be
20 specifically hereinafter provided, any tax then due shall be paid with the filing
21 of this quarterly return. The quarterly return shall be filed, and any tax then
22 due shall be paid no later than the end of the month following each calendar
23 quarter of the year, which is April 30, July 31, October 31 and January 31 of
24 each year.

25 (c) **Annual information return.** Any person engaged in any
26 business, or activity of a business nature, which has been declared tax exempt

1 by the Tax Commissioner, as provided in this chapter, shall be required to file
2 annually, not later than Ninety (90) days following the close of such person's
3 tax year, an information return setting forth therein the nature of such
4 business, the tax exemption given by the Tax Commissioner, the gross income
5 of such business and any other information required in the rules and
6 regulations promulgated by the Tax Commissioner.

7 (d) **Erroneous Returns.** If any return is erroneous in any respect,
8 the Tax Commissioner shall assess the proper amount and so notify the
9 taxpayer in writing. If such corrected assessment is less than the tax remitted
10 by the taxpayer, the tax Commissioner shall direct the Treasurer of Guam to
11 make such refund. If the corrected assessment is more than that computed by
12 the taxpayer in his return, the taxpayer shall have Thirty (30) days from
13 receipt of the Tax Commissioner's notice, or until the expiration of the time
14 granted by the law levying such tax, whichever is greater, in which to pay
15 such additional assessment before it becomes delinquent.

16 (e) **Tax Year.** The tax year shall be the calendar year, except that a
17 taxpayer may use an annual accounting period when written permission is
18 obtained from the Tax Commissioner.

19 (f) **Consolidated Returns of Interrelated Businesses of Like**
20 **Character.** When any taxpayer required to file a return under this Section is
21 engaged in Two (2) or more businesses, or business activities, which are
22 interrelated and of like character, such taxpayer may file a consolidated return
23 covering all business activities which are thus interrelated and of like
24 character.

25 (g) **Returns of Interrelated Businesses of Different Character.**
26 When any taxpayer required to file a return under this Section is engaged in

two (2) or more businesses, or business activities, which may or may not be interrelated but are of such different character that a different tax is levied against each, such taxpayer must file separate returns covering each such business activity.”

Section 4. Change the method of paying Gross Receipts Taxes. A new §26110.1 is added to Title 11 of the Guam Code Annotated, to read:

“§26110.1. Deposit of Gross Receipts Taxes. All taxpayers against whom a tax is levied by the provisions of Article 2 of this Chapter shall deposit Gross Receipts Taxes on a monthly basis. The taxes due for any calendar month shall be deposited no later than the fifteenth (15th) day of the following month. The Gross Receipts Taxes shall be deposited at authorized banks, financial institutions or at designated offices of the government of Guam.”

Section 5. Add a Provision Penalizing Taxpayers for Failing to Supply Identifying Number. A new Subsection (c) is added to §26111 of Title 11 of the Guam Code Annotated, to read:

“(c) Failure to Supply Identifying Number. Every person required to file returns or pay taxes, as prescribed under §§26110 and 26110.1 of this Chapter, shall include his taxpayer identification on such return, statement or other document. If any person fails to comply with such requirement, such person shall, unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of Fifty Dollars (\$50.00) for each failure.”

Section 6. Increase the Rental Income Exemption from the Imposition of Gross Receipts Tax. Item (9) of Subsection (k) of §26203, Title 11 of the Guam Code Annotated, is amended to read:

“(9) The first Fifty Thousand Dollars (\$50,000) earned or received per taxable year by any person as rental income from real property whose gross annual

1 rental income from real property is less than Five Hundred Thousand Dollars
2 (\$500,000) during the most recent tax year. The exemption shall apply annually,
3 commencing at the first day of the month of the new tax year, based on the gross
4 annual rental income of a person during the most recent year, and shall end on the
5 last day of the last month of the same tax year.”

6 **Section 7. Add an Exemption of Fifty Thousand Dollars (\$50,000) of**
7 **Gross Annual Retail Income from the Imposition of Gross Receipts Tax.** A
8 new Item (28) is added to Subsection (k) of §26203 of Title 11 of the Guam Code
9 Annotated to read:

10 “(28) The first Fifty Thousand Dollars (\$50,000) earned or received per
11 taxable year by any person as income from retailing whose gross annual retail
12 income is less than Five Hundred Thousand Dollars (\$500,000) during the most
13 recent tax year. The exemption shall apply annually, commencing at the first day of
14 the month of the new tax year, subject to the gross annual retail income of a person
15 during the most recent year, and shall end on the last day of the last month of the
16 same tax year .”

17 **Section 8. Add an Exemption of Fifty Thousand Dollars (\$50,000) of**
18 **Gross Annual Service Income from the Imposition of Gross Receipts Tax.**
19 A new Item (29) is added to Subsection (k) of §26203 of Title 11 of the Guam Code
20 Annotated to read:

21 “(29) The first Fifty Thousand Dollars (\$50,000) earned or received per
22 taxable year by any person as income from service, whose gross annual service
23 income is less than Five Hundred Thousand Dollars (\$500,000) during the most
24 recent tax year. This exemption shall apply annually, commencing at the first day of
25 the first month of the new tax year, subject to the gross annual service income of a

1 person during the most recent year, and shall end on the last day of the last month of
2 the same tax year.”

3 **Section 9. Add an Exemption of the First Fifty Thousand Dollars**
4 **(\$50,000) of Rental Income.** A new Item (30) is added to Subsection (k) of
5 §26203 of Title 11 of the Guam Code Annotated to read:

6 “(30) The first Fifty Thousand Dollars (\$50,000) earned or received per
7 taxable year by person as rental income whose gross annual rental income is less
8 than Five Hundred Thousand Dollars (\$500,000.00) during the most recent tax year.
9 This exemption shall apply annually, commencing at the first day of the month of the
10 new tax year, based on the gross annual rental income of a person during the most
11 recent year, and shall end on the last day of the last month of the same tax year.”

12 **Section 10. Amend the Method of Filing Use Tax Returns.** Section
13 28108 of Title 11 of the Guam Code Annotated is repealed and reenacted to read:

14 “§28108. **Returns.** Each taxpayer against whom a tax is levied by the
15 provisions of this Chapter shall make and file quarterly tax returns with the Tax
16 Commissioner summarizing the tax due and deposits made for the quarter. The
17 quarterly return shall be filed and any tax then due shall be paid no later than the end
18 of the month following each calendar quarter of the year, which is April 30, July
19 31, October 31 and January 31 of each year.”

20 **Section 11. Method of Paying Use Tax.** A new §28108.1 is added to Title
21 11 of the Guam Code Annotated to read:

22 “§28108.1. **Payment of Use Tax.** All taxpayers against whom a tax is
23 levied by the provisions of this Chapter shall pay Use Taxes immediately upon the
24 property’s importation or use. The Use Taxes shall be paid at authorized banks,
25 financial institutions or at designated offices of the government of Guam.”

1 **Section 12. Add a Provision Penalizing Taxpayers for Failing to**
2 **Supply Identifying Number.** A new §28110.1 is added to Title 11 of the Guam
3 Code Annotated to read:

4 “**28110.1. Failure to Supply Identifying Number.** Every person
5 required to file returns or pay taxes, as prescribed under Sections 28108 and
6 28108.1 of this Chapter, shall include his taxpayer identification number on such
7 return, statement or other document. If any person fails to comply with such
8 requirement, such person shall, unless it is shown that such failure is due to
9 reasonable cause and not to willful neglect, pay a penalty of Fifty Dollars (\$50.00)
10 for each failure.”

11 **Section 13. Promulgation of Rules and Regulations.** The Tax
12 Commissioner is directed to promulgate rules and regulations respecting the
13 implementation of the provisions of this Act, including revising and creating forms
14 and other documents, as are necessary in accordance with the procedures prescribed
15 by the Administrative Adjudication Law.

16 **Section 14. Funding.** Funding to implement the provisions of this Act shall
17 come from the Department of Revenue and Taxation’s operating budget.

18 **Section 15. Effective Date.** Sections 1 through 15 of this Act are effective
19 October 1, 1997 to allow the Tax Commissioner to promulgate the necessary rules
20 and regulations and to make necessary modifications in forms and other documents.