

CHAPTER 11
GUAM TAX COMMISSION

SOURCE: This Chapter was enacted in its entirety by P.L. 27-056:2 (Dec. 17, 2003). Repealed and reenacted in its entirety by P.L. 33-027:2 (May 7, 2015).

2015 NOTE: This Act shall be cited as the Guam Tax Commission Act pursuant to P.L. 33-027:1.

- § 11101. Legislative Findings and Intent.
- § 11102. Creation.
- § 11103. Definitions.
- § 11104. Membership.
- § 11105. Subcommittees.
- § 11106. Duties.
- § 11107. Authority.
- § 11108. Administration.
- § 11109. Dissolution.
- § 11110. Severability.

§ 11101. Legislative Findings and Intent.

I Liheslaturan Guåhan finds that since 1950, under the Organic Act of Guam, the government of Guam has administered a Guam Territorial Income Tax which mirrors the U.S. Federal Income Tax (48 U.S.C. §1421i(a)). The Organic Act further provides under §1421i(a) that, in addition to the mirror tax, the Legislature of Guam is authorized to “levy a separate tax on all taxpayers in an amount not to exceed 10 per centum of their annual income tax obligation to the Government of Guam.”

I Liheslaturan Guåhan further finds that in the Tax Reform Act of 1986 (Public Law 99-514: §1271), the United States Congress authorized the government of Guam to “[enact] laws (which shall apply in lieu of the mirror system) with respect to income - (1) from sources within, or effectively connected with the conduct of a trade or business within, any such possession, or (2) received or accrued by any resident of such possession.” In order to implement this section of law, an implementing agreement must be in effect between the United States and Guam. Such an agreement was drafted and signed by the Governor of Guam, the Director of Revenue and Taxation and the Assistant Secretary of the United States by April 5, 1989, but is not in effect pursuant to Public Law 20-181. Once such an agreement

**2 GCA LEGISLATIVE BRANCH
CH. 11 GUAM TAX COMMISSION**

is entered into and a local tax code is created, revenue, adjusted for inflation, shall not be less than what was received by Guam the fiscal year preceding the implementation year.

I Liheslaturan Guåhan finds that the government of Guam has implemented a number of taxes to provide revenue. These taxes include the Documents Tax found in 11 GCA, Chapter 20; the Annual Excise and Admission Taxes found in 11 GCA, Chapter 22; the Real Property Tax found in 11 GCA, Chapter 24; the Business Privilege Tax found in 11 GCA, Chapter 26, Article 2; the Alcoholic Beverage Tax found in 11 GCA, Chapter 26, Article 3; the Liquid Fuel Tax found in 11 GCA, Chapter 26, Article 4; the Automotive Surcharges found in 11 GCA, Chapter 26, Article 5; the Tobacco Tax found in 11 GCA, Chapter 26, Article 6; the Use Tax found in 11 GCA, Chapter 28; and the Hotel Occupancy Tax found in 11 GCA, Chapter 30.

I Liheslaturan Guåhan finds that Governor Ricardo J. Bordallo established a Guam Tax Advisory Committee, pursuant to Executive Order 1986-09; that Governor Joseph F. Ada established the Guam Tax Reform Commission in Executive Order 87-6; and that Governor Felix P. Camacho established the Tax Conversion and Reform Commission in Executive Order 2003-04. Each of these commissions were formed to review and propose changes to Guam's tax structure and/or policies.

I Liheslaturan Guåhan further finds that a number of commissions were established through legislative mandates to review and make recommendations on tax policy, including the Guam Tax Code Commission established by Public Law 20-181; the Guam Finance Commission established by Public Law 22-74; and the Legislative Tax Review Commission established by Public Law 27-56.

I Liheslaturan Guåhan finds that the Legislative Tax Review Commission and the previous commissions served a useful role in allowing policymakers and interested members of the community to review the tax structure and policies on Guam and develop proposals for their reform. Efforts at reforming Guam's tax system must continue. Systematically reviewing the major components of Guam's tax code with members of the community can grant policymakers the ability to focus on the larger picture of what a reformed tax code can deliver for the people of Guam. A systematic review would cover not only provisions that narrowly affect a few businesses or a particular industry, but also how the code is structured to

promote economic efficiency, equity, simplicity, enforceability, accountability, and social responsibility.

It is, therefore, the intent of *I Liheslaturan Guåhan* to establish the Guam Tax Commission to improve Guam's tax structure and policies, thereby promoting economic efficiency, equity, simplicity, enforceability, accountability, and social responsibility.

§ 11102. Creation.

There is hereby created a Guam Tax Commission, which shall have the duties and powers as prescribed by the provisions of this Chapter.

§ 11103. Definitions.

As used in this Chapter, unless the context in which they are used requires a different meaning:

- (a) Commission means the Guam Tax Commission.
- (b) Chairperson means the chairperson of the Commission.

§ 11104. Membership.

(a) Members. There shall be ten (10) members of the Commission, which are:

- (1) the chairperson of the committee of *I Liheslaturan Guåhan* with jurisdiction over tax policy matters, or his/her designee from among the Members of *I Liheslaturan Guåhan*, who shall serve as Chairperson of the Commission;
- (2) the chairperson of the committee of *I Liheslaturan Guåhan* with jurisdiction over budgetary matters or, if such chairperson also has jurisdiction over tax policy matters, then the Speaker of *I Liheslaturan Guåhan* shall designate a member of the majority to serve, who shall serve as Vice Chairperson;
- (3) the minority leader of *I Liheslaturan Guåhan* or his/her designee;
- (4) an economist, selected by the Chairperson, with a master's degree or doctorate in economics from an institution of higher learning accredited by an accreditation agency recognized by the U.S. Secretary of Education;

**2 GCA LEGISLATIVE BRANCH
CH. 11 GUAM TAX COMMISSION**

(5) a Certified Public Accountant selected by the Chairperson from among three (3) names submitted by the Guam Society of Certified Public Accountants of currently licensed Certified Public Accountants in good standing with the Guam Board of Accountancy;

(6) a banking professional selected by the Chairperson from among three (3) names submitted by the Guam Bankers Association;

(7) a member selected by the Chairperson from the names of among three (3) active members submitted by the Chamber of Commerce;

(8) a member selected by the Chairperson from among the names of three (3) active members submitted by the Women's Chamber of Commerce;

(9) an attorney specializing in tax laws selected by the Chairperson from among three (3) names submitted by the Guam Bar Association; and

(10) an individual designated by *I Maga'lahaen Guåhan*.

(b) Ex Officio Members. The Commission shall have ex officio members, which are:

(1) the Guam Congressional Delegate, or his/her designee;

(2) the Speaker of *I Liheslaturan Guåhan*;

(3) the Public Auditor;

(4) the Attorney General;

(5) the Director of the Department of Revenue and Taxation;

(6) the Director of the Department of Administration;

(7) the Director of the Bureau of Budget and Management Research;

(8) the Administrator of the Guam Economic Development Authority;

(9) the Chief Economist of the Guam Department of Labor and/or the Bureau of Statistics and Plans; and

**2 GCA LEGISLATIVE BRANCH
CH. 11 GUAM TAX COMMISSION**

(10) additional individuals appointed by the Chairperson who may provide expertise and knowledge relative to the Commission's duties.

(c) The Chairperson shall, within thirty (30) days, solicit the selection of three (3) names from each organization listed in items (5), (6), (7), (8), and (9) of Subsection (a) of this Section to serve on the Commission. The Chairperson shall appoint an individual from the three (3) names provided by each such organization at his/her earliest convenience.

(d) Commission members shall receive no compensation but may be reimbursed by *I Liheslaturan Guåhan* for actual expenses incurred in the performance of their duties, subject to submission of documentation by the Chairperson and approval by the Chairperson of the Committee on Rules of *I Liheslaturan Guåhan*.

(e) Each member appointed to serve in the Commission shall serve from the date of appointment until the Commission is dissolved pursuant to § 11109 of this Chapter. If any vacancy occurs in the appointed membership of the Commission prior to the dissolution of the Commission pursuant to § 11109 of this Chapter, the appointing authority shall appoint such replacement members in accordance with this Section, and shall serve until the Commission is dissolved pursuant to § 11109 of this Chapter, except that if the vacancy is of an individual selected by an organization pursuant to Items (5), (6), (7), (8), or (9) of Subsection (a) of this Section, then one (1) of the remaining individuals selected shall be appointed to serve until the Commission is dissolved pursuant to § 11109 of this Chapter.

§ 11105. Subcommittees.

The Chairperson shall establish such subcommittees as deemed appropriate to facilitate the work of the Commission. The Chairman shall select members and appoint a chairperson to any subcommittee formed pursuant to this Section.

§ 11106. Duties.

The Commission shall:

(a) compile the records and work products of previous commissions, to include the commissions formed under Executive Orders 1986-09, 1987-06, and 2003-04; and Public Laws 20-181, 22-74, and 27-56;

**2 GCA LEGISLATIVE BRANCH
CH. 11 GUAM TAX COMMISSION**

(b) review Guam's tax structure and tax policies, including tax exemptions and credits, which may include a comparative analysis of such policies in relation to other jurisdictions within the United States;

(c) review the procedure and policy options available to the government of Guam with regard to de-linking from the U.S. Internal Revenue Code under §1271 of Public Law 99-514;

(d) review estimates of the fiscal impact of potential changes to Guam's tax structure and policies;

(e) develop informational reports and/or recommendations regarding Guam's tax structure and tax policies, procedure and policy options available to the government of Guam with regard to de-linking from the U.S. Internal Revenue Code as deemed appropriate by the Commission, and the fiscal impacts of potential changes to Guam's tax structure and policies;

(f) develop a uniform tax code for Guam; and

(g) transmit a copy of any such reports and/or recommendations as adopted by the Commission regarding tax policy to *I Maga'lahen Guåhan* and the Speaker of *I Liheslaturan Guåhan*.

§ 11107. Authority.

Government of Guam agencies and departments, including autonomous entities, shall make available to the Commission in a timely manner such data and technical support as is necessary for it to perform its duties as provided in this Chapter. The Commission shall be authorized to:

(a) receive and compile the records and work products of previous tax commissions from agencies and instrumentalities of the government of Guam, to include the tax commissions formed under Executive Orders 1986-09, 1987-06, and 2003-04; and Public Laws 20-181, 22-74, and 27-56;

(b) request and receive reports from the Department of Revenue and Taxation relating to the application of provisions of Guam's tax law, to include the tax laws under Title 11 of the Guam Code Annotated, and the Guam Territorial Income Tax administered under Title 48 U.S.C. §1421i, including the use of tax exemptions, tax deductions, and tax credits by Guam taxpayers;

2 GCA LEGISLATIVE BRANCH
CH. 11 GUAM TAX COMMISSION

(c) receive copies of and review such documents as exist in the government of Guam relating to de-linking from the U.S. Internal Revenue Code under §1271 of Public Law 99-514;

(d) communicate with the U.S. federal government regarding Guam's tax system, relevant domestic and international tax laws, tax treaties, and tax agreements which may bear upon the present and future relationship between the United States and Guam relative to taxes, and propose modifications of such tax laws, tax treaties, and tax agreements which may benefit Guam's economy and/or government;

(e) communicate with the U.S. Department of Treasury with regard to the issue of de-linking from the U.S. Internal Revenue Code under §1271 of Public Law 99-514, to ascertain the procedure and guidelines that should be followed for such a policy change and the impacts to local and federal tax authority from such a policy change;

(f) request and receive estimates from the Department of Revenue and Taxation and/or the Bureau of Budget and Management Research of the fiscal impact of potential changes to Guam's tax structure and policies;

(g) examine any document, report or data, including programs and data files, held by any agency or instrumentality of the government of Guam, which agencies are required to cooperate with the Commission and its employees in any such examination, except as provided by United States and Guam law regarding the confidentiality of specific tax return information;

(h) to issue subpoenas, to compel attendance of witnesses and the production of electronic and/or physical books, records, papers, accounts, reports, and documents, as necessary to achieve the mandates of the Commission, which shall be provided in such a manner as to ensure the confidentiality of specific tax return information as protected by United States and Guam law;

(i) administer oaths relative to testimony and documents provided to the Commission;

(j) meet from time to time, as determined by the Chairperson, to execute its duties; and

(k) solicit information and advice from various sources on the present tax structure and recommended changes, which may include local and national non-governmental organizations, and agencies of the government of Guam.

§ 11108. Administration.

For administrative purposes, clerical support and necessary funding, the Commission shall be accommodated as necessary by *I Liheslaturan Guåhan*. Should data and technical support necessary to accomplish its duties as provided in this Chapter be unavailable from government of Guam entities and/or personnel, *I Liheslaturan Guåhan* may enter into contractual agreements with private consultants as it deems necessary to perform those duties, giving preference to those currently licensed to do business on Guam. *I Liheslaturan Guåhan* shall approve the funding of the Commission consistent with its Standing Rules.

§ 11109. Dissolution.

The Commission may be reconstituted and shall be reconvened by the chairperson in the following legislative term, pursuant to § 11104 of this Chapter.

§ 11110. Severability.

If any provision of this Chapter or its application to any person or circumstance is found to be invalid, or contrary to law, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.
