

11 GCA FINANCE & TAXATION
CH. 34 TAX REBATES

CHAPTER 34
TAX REBATES

- § 34101. Statement of Legislative Purpose.
- § 34102. Income Tax Rebate on Certain Income; Definitions.
- § 34103. Determination of Guam Residency.
- § 34104. Definition of Earned Income.
- § 34105. Treatment of Deduction.
- § 34106. Procedure to Claim Rebated Taxes.
- § 34107. Rebate Fund.
- § 34108. Rules and Regulations.

§ 34101. Statement of Legislative Purpose.

The Legislature declares it to be the purpose of the Chapter to promote the economic development of Guam by making it possible for individuals who become Guam residents to pay little income tax on their earned income derived from sources outside of Guam. Since this Chapter is not intended to encourage enterprises which have offices in Guam from sheltering income earned in Guam, the benefits of this Chapter are intended to apply only with respect to income earned by residents of Guam from sources outside of Guam, the United States, its states, territories or possessions.

SOURCE: GC § 19900, as added by P.L. 14-32.

§ 34102. Income Tax Rebate on Certain Income; Definitions.

A rebate of seventy-five percent (75%) of personal income tax payable by resident individual taxpayers to the government of Guam on earned income derived from sources outside of Guam, the United States, its states, territories or possessions is hereby established and declared. The term *possessions* includes the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas. The term *resident individual taxpayer* means a U.S. citizen who resides in Guam within the meaning of §935 of the Internal Revenue Code of 1954, as amended. Such rebate shall be increased to one hundred percent (100%) in the event of a final determination by competent authority of the United States Internal Revenue Service or a court of competent jurisdiction that such taxpayer resides in the United States within the meaning of said §935.

SOURCE: GC § 19901, as added by P.L. 14-32.

§ 34103. Determination of Guam Residency.

11 GCA FINANCE & TAXATION
CH. 34 TAX REBATES

To claim the rebate authorized by this Chapter, an individual citizen of the United States shall establish to the satisfaction of the Guam Economic Development Authority (the *Authority*) that he has been a bona fide resident of Guam within a taxable year in which case amounts received by him from foreign sources (except amounts paid by the United States, Guam or any agency thereof) which constitute earned income attributable to services by him performed during such period shall be eligible for the rebate authorized by this Chapter.

SOURCE: GC § 19902, as added by P.L. 14-32.

§ 34104. Definition of Earned Income.

For purposes of this Chapter, the term *earned income* means wages, salaries or professional fees and other amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income-producing factors, under regulations prescribed by the Director of Revenue and Taxation (the *Director*), a reasonable allowance as compensation for the personal service rendered by the taxpayer, not in excess of thirty percent (30%) of his share of the net profits of such trade or business, shall be considered as earned income.

SOURCE: GC § 19903, as added by P.L. 14-32.

§ 34105. Treatment of Deductions.

In any case in which any amount of income is eligible for the seventy-five percent (75%) rebate, there shall be disallowed as deductions or tax credits, any expenses, losses or other items otherwise deductible properly allocable to or chargeable against the amounts so eligible for rebate. Any claims filed which relate to net operating loss carryovers and carrybacks will be reviewed by the Director and to the extent that they relate to income items previously subject to rebate, refunds thereof will be repaid to the Authority to the extent of any rebate paid, with any refund in excess of the rebate to be repaid to the taxpayer.

SOURCE: GC § 19904, as added by P.L. 14-32:1.

§ 34106. Procedure to Claim Rebated Taxes.

11 GCA FINANCE & TAXATION
CH. 34 TAX REBATES

A taxpayer seeking a rebate under this Chapter shall attach to his income tax return when filing the same, a form furnished by the Guam Economic Development Authority reporting in detail all income and deductions therefrom upon which the claim for a rebate is based, with such supporting documentation as to residency and otherwise as is required by regulations issued pursuant to § 34108 of this Chapter. The amount of tax on such foreign source income prior to rebate shall be deposited with the government of Guam at the time of filing the income tax return. The Director shall immediately thereafter cause the return to be reviewed and audited, and if the rebate is found in order shall cause seventy-five percent (75%) of the amount deposited to be returned to the taxpayer within ninety (90) days from the date of deposit, without interest.

SOURCE: GC § 19905, as added by P.L. 14-32.

§ 34107. Rebate Fund.

Deposits for income tax subject to rebate pursuant to this Chapter shall be placed in a separate account in the Treasury of Guam, herein designated as the *Foreign Source Income Tax Rebate Fund*.

SOURCE: GC § 19906, as added by P.L. 14-32.

§ 34108. Rules and Regulations.

The Director of Revenue and Taxation and the Board of Directors of the Authority, subject to the approval of the Legislature, by resolution, are authorized and directed to make and promulgate joint rules and regulations for the purpose of implementing the provisions of this Chapter.

SOURCE: GC § 19907, as added by P.L. 14-32.
