

11 GCA FINANCE & TAXATION
CH. 43 EDUCATION APPRECIATION ACT

CHAPTER 43
EDUCATOR APPRECIATION ACT

SOURCE: This new Chapter 43 added by P.L. 28-20 using sections 4301-4308. Sections renumbered by Compiler to 43101-43108 to reflect the Chapter 43 designation.

NOTE: P.L. 28-20:3 provides: “Effective Dates. This Act is effective upon adoption *provided* that the tax rebate created by § 4303 shall be effective for tax liability arising in 2005.

- § 43101. Statement of Legislative Purpose.
- § 43102. Definitions.
- § 43103. Tax Rebate for Educator Expenses.
- § 43104. Procedure to Claim Rebated Taxes.
- § 43105. Rebate Fund.
- § 43106. Implementation by Tax Commissioner.
- § 43107. Sunset Provision.
- § 43108. Construction.

§ 43101. Statement of Legislative Purpose.

Teachers traditionally spend their own money on various supplies (e.g. bulletin board materials, books, pencils, crayons and markers). Although these expenses are deductible as unreimbursed business expenses on a teacher’s income tax return, election of the standard deduction meant that most teachers bore the entire cost of these generous expenditures. The United States Congress recognized the plight of teachers and effective tax year 2002 allowed a deduction of Two Hundred-Fifty Dollars (\$250.00) from the adjusted gross income (see line 23, Internal Revenue Service (‘IRS’) Form 1040 for 2004) thereby allowing all teachers and other educators to deduct qualified expenses even if the educator did not itemize deductions.

While the Two Hundred-Fifty Dollars (\$250.00) tax deduction may be sufficient for teachers in some areas, it is woefully inadequate for many teachers teaching in the Guam public school system. Because of several years of chronic under-funding, public school educators have, for several years, responded to the needs of their students by spending their own money on what are denominated *qualified expenses* in this Act. Furthermore, educators in Guam’s private schools are faced with the same conditions, thereby finding it necessary to spend their own private funds to provide supplies and materials cited as *qualified expenses* in this Act. Given the state of Guam’s economy it is almost a certainty that

11 GCA FINANCE & TAXATION
CH. 43 EDUCATION APPRECIATION ACT

educators will continue to attempt to meet the needs of their students by spending their own money. This Act allows educators to claim a tax rebate to recover *up to* Five Hundred Dollars (\$500.00) of personal expenditures over and above the Two Hundred-Fifty Dollar (\$250.00) deduction allowed by the Internal Revenue Code ('IRC').

This Act adopts much of the operative language of §62 of the Internal Revenue Code ('IRC') thereby making the various instructions, pamphlets and other papers issued by the Internal Revenue Service ('IRS') available for the interpretation of this Act, *e.g.* expenses deductible at line 23 of Internal Revenue Service ('IRS') Form 1040 are subject to rebate under this Act to the extent they exceed the Two Hundred-Fifty Dollar (\$250.00) deduction.

GEDA Qualifying Certificates have been issued to businesses, allowing them tax rebates for nearly forty (40) years and have fostered much economic development. This Act extends the functional equivalent of the Qualifying Certificate (the *Educator's Qualifying Certificate* or '*EQC*') and tax rebate, on a much smaller scale, to teachers. While this rebate is insufficient to make up for the economic hardship suffered by teachers, it is one way for this community to show its appreciation to its educators.

§ 43102. Definitions.

The definitions set forth herein shall govern the construction and interpretation of this Chapter;

(a) '*Eligible educator*' means a kindergarten through grade 12 in the Guam public school system and in Guam's private schools:

- (1) Teacher;
- (2) Instructor;
- (3) Counselor;
- (4) Principal; or
- (5) Aide.

(b) '*Qualified expenses*' means unreimbursed expenses exceeding Two Hundred-Fifty Dollars (\$250.00), less any unreimbursed employee expenses upon which a deduction from adjusted gross income is based that an eligible educator paid or

11 GCA FINANCE & TAXATION
CH. 43 EDUCATION APPRECIATION ACT

incurred for books, supplies, computer equipment (including related software and services), other equipment, and supplementary materials that the educator used in his or her classroom. For courses in health or physical education, expenses for supplies are qualified expenses *only* if they are related to athletics.

(c) ‘*Educator’s Qualifying Certificate (EQC)*’ means the declaration of an *eligible educator*, made pursuant to 6 GCA §4308, of the *qualified expenses* he or she incurred during a tax year.

§ 43103. Tax Rebate for Educator Expenses.

A rebate in an amount equal to the qualified expenses incurred, *but not to exceed* Five Hundred Dollars (\$500.00) of personal income tax paid by resident individual taxpayers, who are eligible educators, to the government of Guam is hereby established and declared.

§ 43104. Procedure to Claim Rebated Taxes.

When a tax return is accompanied by an *EQC(s)*, the amount of tax due prior to the rebate shall be deposited with the government of Guam at the time of filing the income tax return. Alternatively, if no payment is due at the time the tax return is filed, the Tax Commissioner of Guam shall credit the amount of the EQC to the Rebate Fund from taxes paid by the taxpayer. Absent a finding by the Tax Commissioner that the rebate is not payable, the rebate shall be withdrawn from the deposit and returned to the taxpayer(s) within one hundred and eighty (180) days of the deposit without interest.

§ 43105. Rebate Fund.

Deposits made pursuant to §4304 shall be covered over and deposited into the fund created by 12 GCA §58138.

§ 43106. Implementation by Tax Commissioner.

The Tax Commissioner of Guam shall, *no later than* ninety (90) days after the effective date hereof, develop necessary procedures to implement this Chapter, and to that end shall:

- (a) issue such rules and regulations as he or she may deem necessary to implement this Chapter;
- (b) promulgate such forms and publications as are necessary to assist eligible taxpayers to take advantage of this Chapter; and
- (c) develop a procedure to allow the set off of an unpaid tax

11 GCA FINANCE & TAXATION
CH. 43 EDUCATION APPRECIATION ACT

rebate from a prior year against a current year's tax liability.

§ 43107. Sunset Provision.

This Act shall be ineffective in the tax year following the receipt by the Director of Revenue and Taxation of a certificate of the Superintendent of Education that it is no longer necessary for *eligible educators* to spend their own money on *qualified expenses*, as those terms are defined in §4302, in order to provide an adequate public education.

§ 43108. Construction.

Subsections 4302(a) and (b) of this Chapter are substantially similar to §62(a)(2)(D) of the Internal Revenue Code [26 USC §62(a)(2)(D)] and should be construed consistently therewith *except* where manifestly inapplicable.”
