

# **GUAM CODE ANNOTATED**

## **TITLE 11**

### **FINANCE & TAXATION**

**UPDATED THROUGH P.L. 30-045  
(July 14, 2009)**



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**§ 1101. Title.**

This Chapter may be cited as the *Department of Revenue and Taxation Act*.

**SOURCE:** GC § 49270.

**§ 1102. Definitions.**

As used in this Chapter:

- (a) *Director* means the Director of Revenue and Taxation;
- (b) *Department* means the Department of Revenue and Taxation.

**SOURCE:** GC § 49271.

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**§ 1103. Purpose of Department.**

The Department shall be responsible for the administration of this Chapter and the performance of the responsibilities and duties assigned by law. It shall be charged with the enforcement of the tax laws of Guam and the collection of revenue. It shall also be the government agency generally responsible for licensing and registration as well as allied and connected enforcement functions.

**SOURCE:** GC § 49272.

**§ 1104. Functions.**

(a) **Income Tax.** The Department shall be responsible under the Governor for the enforcement of the Guam Territorial Income Tax set out in §1421 of Title 48, U.S.C.A.

(b) **General Taxes.** The Department shall be responsible for the administration and enforcement of Division 2 of this Title and the taxes levied therein.

(c) **Business License Law.** The Department shall be responsible for the administration and enforcement of the Business License Law set out in Division 3 (beginning with Chapter 70) of this Title.

(d) **Vehicle Registration.** The Department shall be responsible for all functions formerly assigned the Department of Finance under the Vehicle Code of Guam, Title 16 Guam Code Annotated.

(e) **Alcoholic Beverage Control.** The Department shall be responsible for all functions formerly assigned the Department of Finance under the Alcoholic Beverage Control Act, Chapter 3 of this Title.

(f) **Savings and Loan.** The Department shall be responsible for the administration and enforcement of the Savings and Loan Association Act, [Title 22 of this Code].

(g) **Insurance.** The Department shall be responsible for the administration and enforcement of the Insurance Law of Guam, [Title 22 of this Code].

(h) **Securities.** The Department shall be responsible for the administration and enforcement of the Uniform Securities Act [Title 22 of this Code].

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(i) Weights and Measures. The Department shall be responsible for the administration and enforcement of weights and measures, Chapter 2 of this Title.

(j) Corporations. The Department shall be responsible for the administration and enforcement of the General Corporation Law, Part 1 of Title 18 of this Code.

(k) Narcotics. [Repealed by Implication]

(m) Tax Preparers. The Department shall be responsible for the administration and enforcement of the Tax Preparers Act, 11 GCA Chapter 40, including but not limited to the adoption of rules and regulations under the provisions of the Administration Adjudication Act.

(n) Passports. The Department shall be responsible for providing Passport Acceptance Agents, provided that all funds collected, derived or received from the issuance of passports shall be deposited in the Fund created by § 1111 of this Title.

**SOURCE:** GC § 49273 as amended by P.L. 13-92. Subsection (n) added by P.L. 27-05:III:3.

**CROSS-REFERENCES:** 9 GCA Chapter 67, Articles 3 and 5, provide a comprehensive scheme for the regulation of *controlled substances*, which include narcotic drugs. Enforcement powers are given to the Governor, who may delegate them to the appropriate agencies. Most regulatory functions are undertaken by the Department of Public Health & Social Services, which criminal enforcement is handled by the Guam Police Dept. and the Attorney General's Office.

**NOTE:** Former Gaming Commission Duties.

P.L. 19-5:118 transferred duties of the Greyhound Racing Commission (GC § 59001, et seq.) to the Director of Revenue & Taxation;

P.L. 19-5:119 transferred duties of the Guam Gaming Commission set forth in the Territorial Lottery Act, GC § 6230, et seq., to the Director of Revenue & Taxation;

P.L. 19-5:121 transferred records, property and employees from Guam Gaming Commission to the Department of Revenue & Taxation.

### **§ 1105. References.**

All references to the Department of Finance in Titles XVII, XXXVII, and XXXIX, Government Code of Guam, in this Title or Title 16 of the Guam Code Annotated, and in Title 18, Part 1, of this Code, shall mean Department of Revenue and Taxation. All reference to the Director of Finance or Commissioner of Revenue and Taxation in such Titles and Chapters shall mean Director of Revenue and Taxation. All reference in

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Chapter III, Title XLIV, Government Code of Guam, to the Department of Commerce and Director of Commerce shall mean the Department of Revenue and Taxation and Director of Revenue and Taxation, respectively.

**NOTE:** References given reflect the current location of statutory material.

**SOURCE:** GC § 49274.

**§ 1106. Organization and Personnel.**

(a) The Director may establish such divisions or other organizational units as he may determine to be necessary for the efficient and effective administration and operation of the Department. Each such division or organizational unit shall be subject to the supervision and direction of the Director and shall have jurisdiction of such matters, exercise such powers, and perform such duties as may be assigned to it by the Director or otherwise by applicable law.

(b) The Director may appoint and remove officers and other employees within the Department in accordance with the provisions of the Personnel Policy and the Civil Service Commission, 4 GCA Chapter 4.

(c) The Director may delegate authority for the performance of any of his powers or duties to any officer or employee under his direction and supervision.

(d) [Repealed]

**SOURCE:** GC § 49275. Subsection (d) added by P.L. 28-068:II:V:3(e) (Sept. 30, 2005). Subsection (d) repealed by P.L. 28-175:2 (Jan. 29, 2007).

**§ 1106.1. Office of the Principal Guam Territorial Income Tax Attorney.**

There is within the Department of Revenue and Taxation the Office of the Principal Guam Territorial Income Tax Attorney. The Director shall appoint the Principal Guam Territorial Income Tax Attorney who shall be a member of the unclassified service who shall serve at his pleasure. The Director of Revenue and Taxation shall, pursuant to Title 48 U.S.C. § 1421i, supervise the Office of the Principal Guam Territorial Income Tax Attorney. The Director shall appoint, as members of the classified service, such Assistants to the Principal Guam Territorial Income Tax Attorney as may be required, to assist the Principal Guam Territorial Income Tax Attorney in the performance of his duties. The Principal Guam Territorial Income Tax Attorney and the Assistants Principal Tax Attorneys shall be compensated in accordance with Title 4 GCA § 6208.1. The Principal

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Guam Territorial Income Tax Attorney shall:

(1) Assist the Director and *I Maga'lahren Guahan* in administering and enforcing the Guam Territorial Income Tax;

(2) Represent *I Maga'lahren Guahan* in all civil actions arising from or pertaining to the Guam Territorial Income Tax, provided that the Principal Guam Territorial Income Tax Attorney may appear on behalf of the Director in a criminal action for the sole purpose of seeking restitution of funds or payment of overdue taxes;

(3) Represent the Director of Revenue and Taxation in court and administrative proceedings in legal matters in which the Department is interested;

(4) Diligently protect the rights and property of the government of Guam in matters under the Director's purview;

(5) Perform such other tasks as the Director of Revenue and Taxation assigns to him;

(6) Nothing herein shall be construed to prevent the **Principal Guam Territorial Income Tax Attorney** from assisting and representing the Director of Revenue and Taxation regarding all legal matters in which the Department is interested, including tax, regulatory, licensing issues and personnel matters and all other legal matters within the Director's purview.

**NOTE:** Added by P.L. 28-175:3 (Jan. 29, 2007).

**§ 1107. General Powers and Duties of Director.**

As head of the Department, the Director:

(a) Shall administer the Department;

(b) Shall exercise and discharge the powers and duties of the Department through such divisions or other organizational units as he may establish pursuant to this Title or as otherwise provided by law;

(c) Shall enforce the provisions of this Title and of any other laws imposing any power, duty or other function upon the Department;

(d) May formulate and adopt rules necessary or proper for the internal administration of the Department.

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(e) Shall expend fifty percent (50%), pro rata, of the funds in the Tax Collection Enhancement Fund to employ Attorneys, Tax Technicians, Revenue Agents, Revenue Officers and for other related expenses in order to increase collection of taxes and for the salaries of employees serving as Passport Acceptance Agents. He shall deposit fifty percent (50%), pro rata, of the funds in the Tax Collection Enhancement Fund to the Public School Library Resources Fund created by 17 GCA § 4120.1.

(f) *Shall* provide a grace period for payment of fees due for renewal of Government of Guam licenses, permits, and certificates, to include, *but not be limited to*, drivers licenses and vehicle registrations, for a member of the Guam National Guard *or* Reserves, *or* a dependent of a member of the Guam National Guard *or* Reserves, while that member is on active service outside Guam and for the next one hundred eighty (180) days after completion of such service. *No* interest *or* penalties *shall* be assessed for any period prior to expiration of the one hundred eighty (180) days.

**SOURCE:** GC § 49276. Subsection (e) added by P.L. 27-005:III:4. Subsection (e) repealed and reenacted by P.L. 28-068:IV:49 (Sept. 30, 2005). Subsection (f) added by P.L. 29-148:1 (Jan. 30, 2009).

**§ 1108. Transfer of Records and Equipment.**

Upon the transfer of functions as provided in this Act, all contracts, books, records, papers, maps, plans, documents, property and pending business heretofore made, used and acquired or conducted by the Departments of Finance and Commerce in the exercise of the functions transferred shall be transferred to the Department of Revenue and Taxation.

**SOURCE:** GC § 49277.

**§ 1109. Transfer of Officers and Employees.**

All officers and employees of the Department of Finance and Department of Commerce engaged in performing functions herein transferred shall be transferred to the Department of Revenue and Taxation. The Director, in the interest of improved departmental management and subject to the approval of the Director of Administration, shall have the power to abolish unnecessary offices and positions.

**SOURCE:** GC § 49278. Effective January 1, 2006, reference to the “Civil Service Commission,” amended to “Director of Administration” pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

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**§ 1110. Effective Date.**

This Act shall take effect upon its passage and approval but in order that there be no interruption of the administrative business of the government, the Governor may, for a period not to exceed six (6) months, postpone the actual transfer of all or portion of the functions here involved, until such time as the organization herein provided for can be put into full force and effect.

**SOURCE:** GC § 49279.

**§ 1111. Creation of Tax Collection Enhancement Fund. No Commingling.**

There is hereby created, separate and apart from other funds of the government of Guam, a reserve fund known as the ‘Tax Collection Enhancement Fund (the ‘Fund’)’. The Fund shall *not* be commingled with any other fund of the government of Guam. Expenditures from the Fund shall be pursuant to 11 GCA § 1107(e).

**SOURCE:** Added by P.L. 27-05:III:5. Amended by P.L. 28-068:II:I:10 (Sept. 30, 2005).

**§ 1112. Income Tax Service Fees.**

The Income Tax and Processing Branch of the Department of Revenue and Taxation is authorized to charge service fees as follows:

No.	Description	Fee
(1)	For each page	\$1
(2)	W-1 Duplication Fee	\$5
(3)	Certification Notice to Taxpayer	\$3
(4)	Form F-500 Duplication Fee	\$3
(5)	SWICA	\$5

**SOURCE:** P.L. 29-002:V:I:1 (May 18, 2007).

**§ 1113. Office of the Taxpayer Advocate.**

(a) Office of the Taxpayer Advocate. The Office of the Taxpayer Advocate (hereinafter referred to as the ‘OTA’) is hereby established as an office within the Guam Department of Revenue and Taxation. The OTA shall be a separate division within the Department, and may be physically located separate and apart from the primary office activities of the agency. The OTA shall be governed by the provisions set forth within Section 7803(c) of the Internal Revenue Code.

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(b) Personnel Requirements. The Director of the Department of Revenue and Taxation shall establish, through the concurrence of the Director of Administration, appropriate positions and compensation necessary for the administration and operation of the OTA. Upon the approval of such positions and the appropriate compensation package, the Director shall provide *I Maga'lahaen Guãhan* and the Speaker of *I Liheslaturan Guãhan* with a copy of said documents within ten (10) days of its receipt.

**SOURCE:** Added by P.L. 27-139:2. Effective January 1, 2006, reference to the "Civil Service Commission," amended to "Director of Administration" pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

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