

11 GCA FINANCE & TAXATION
CH. 30 MONTHLY EXCISE TAX ON OCCUPANCY OF
HOTEL AND SIMILAR LODGING HOUSE FACILITIES

CHAPTER 30
MONTHLY EXCISE TAX ON OCCUPANCY OF HOTEL
AND SIMILAR LODGING HOUSE FACILITIES

- § 30101. Imposition.
- § 30102. Definitions.
- § 30103. Payment of Tax; Penalties.
- § 30104. Records to be Kept.
- § 30105. Willful Failure to Collect or Pay Over Tax.
- § 30106. Exclusions and Exemptions.
- § 30107. Creation of Tourist Attraction Fund.
- § 30107.1. Unused TAF Funds.
- § 30107.2. Interest.
- § 30108. Deposit in Infrastructure Improvement Fund.

§ 30101. Imposition.

An excise tax is hereby levied and imposed which shall be assessed and collected monthly, against transient occupants of a room or rooms in a hotel, lodging house, or similar facility located in Guam according to the following schedule:

(a) From September 1, 1993 through March 31, 1995, the rate shall be ten percent (10%) of the rental price charged or paid per occupancy per day;

(b) From April 1, 1995 and thereafter the rate shall be eleven percent (11%) of the rental price charged or paid per occupancy per day.

If the room or rooms are rented more than once within a twenty-four (24) hour period, each time of occupancy shall be subject to the tax for such accommodations.

This tax applies and is collectible when the sale is made, regardless of the time when the price is paid or delivered. It shall be paid by the consumer to the operator or owner of the hotel or rooming house facility.

SOURCE: GC § 19650, as enacted by P.L. 10-166 and amended by P.L. 11-145; repealed and reenacted by P.L. 19-5:141 and by P.L. 19-9:4. Subsection (c) repealed and reenacted by P.L. 19-27:1. Amended by P.L. 22-32:2 (9/27/93); P.L. 22-144:1 (12/27/94).

§ 30102. Definitions.

As used in this Chapter:

11 GCA FINANCE & TAXATION
CH. 30 MONTHLY EXCISE TAX ON OCCUPANCY OF
HOTEL AND SIMILAR LODGING HOUSE FACILITIES

(a) *Transient occupant of a room or rooms in a hotel, lodging house or similar facilities* means those persons who occupy such facilities in a specific location for less than ninety (90) consecutive days.

(b) *Person* means any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as unit, whether public or private, or quasi-public, and plural as well as the singular number.

(c) *Sale* means the sale or charges for any room or rooms, lodging, or accommodations furnished to transients by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are furnished regularly to transients for consideration.

(d) *Commissioner* shall mean and include the person who is performing the duties of Director of Revenue and Taxation for the government of Guam and who is charged with the administration and enforcement of the provisions of this Act.

SOURCE: GC § 19650.1, as added by P.L. 10-166.

§ 30103. Payment of Tax; Penalties.

The tax levied by § 30101 shall be paid to the Commissioner with the monthly return which shall be filed on or before the 20th day of the month following the month during which such taxable incidents occurred. The general provisions of 11 GCA, Chapter 26, Article 1 are applicable with respect to penalties for failure to file timely returns, informal hearings, adjustments, review, stay of collection, suits for refund, perfecting appeals, decisions, interest, perjury, examination of books and witnesses, and inspection of tax returns and information and other administrative matters referred to therein.

SOURCE: GC § 19651, as added by P.L. 10-166.

§ 30104. Records to be Kept.

Every taxpayer shall keep, in the English language, in Guam, and preserve for a period of five (5) years, suitable records of gross proceeds of sales and gross income, and such other books, records of accounts, registers of occupants, cash register tapes, and invoices as may be

11 GCA FINANCE & TAXATION
CH. 30 MONTHLY EXCISE TAX ON OCCUPANCY OF
HOTEL AND SIMILAR LODGING HOUSE FACILITIES

required by the Commissioner, and all such books, records, and invoices shall be open for examination at any time by the Commissioner or his duly designated representative. Any person violating this Section shall be guilty of a misdemeanor; and any director, president, secretary, or treasurer of a corporation who permits, aids, or abets the corporation to violate this Section shall likewise be guilty of a misdemeanor. On conviction thereof by a court of competent jurisdiction, any license issued for the operation of such business shall be suspended upon such conviction for at least the period of any imprisonment imposed therefor plus six (6) months, and if no imprisonment is ordered, for a period of at least six (6) months.

SOURCE: GC § 19652, added by P.L. 10-166, amended by P.L. 13-187.

§ 30105. Willful Failure to Collect or Pay Over Tax.

Any person, required under this Chapter to collect, account for, and pay over the tax imposed by this Chapter, who willfully fails to collect or truthfully account for and pay over such tax shall be guilty of a felony. Evidence of personal use of any such tax so collected by the person charged with collection, either in his business or otherwise, shall constitute prima facie evidence for willful failure to truthfully account for and pay over such tax in violation of this Chapter.

SOURCE: GC § 19653, as added by P.L. 10-166, amended by P.L. 13-187.

§ 30106. Exclusions and Exemptions.

(a) *Sales* or *retail sales* shall not include specific, individual transactions in which the price or charge for the commodity, property, or service being sold is less than One Dollar (\$1.00).

(b) The tax imposed by this Chapter shall not apply to any property, or consumption of such property, which cannot be legally so taxed under the constitution or laws of the United States, but only so long as, and only to the extent to which, the government of Guam is without power to impose such tax.

(c) The tax imposed by this Chapter shall not apply to any transaction involving a sale to the government of Guam, the government of the United States, the government of any Foreign Sovereignty, or any agency or instrumentality of any of the foregoing governments in regard to any activity or function engaged in.

11 GCA FINANCE & TAXATION
CH. 30 MONTHLY EXCISE TAX ON OCCUPANCY OF
HOTEL AND SIMILAR LODGING HOUSE FACILITIES

(d) The taxes imposed by this Chapter shall not apply to the proceeds of any transaction entered into by any of the following persons: corporations, associations, or societies organized and operated exclusively for religious, charitable, scientific or educational purposes, hospitals, infirmaries and sanitariums, business leagues, chambers of commerce, boards of trade, civic leagues, public schools, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare; provided, such persons have applied for and obtained exempt status under the provisions of 11 GCA, Chapter 26.

(e) The taxes imposed by this Chapter shall not apply to any transaction involving a sale to the airlines servicing Guam for the accommodation on Guam of airline flight crews from September 30, 2001 until September 30, 2002.

SOURCE: GC § 19654, as added by P.L. 10-166. Subsection (e) added by P.L. 26-41:2.

§ 30107. Creation of Tourist Attraction Fund.

There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the Tourist Attraction Fund (hereinafter *TAF*). The TAF shall not be commingled with the General Fund and shall be kept in a separate bank account. All proceeds from taxes collected under this Chapter shall be deposited in the TAF and shall be expended exclusively for purposes authorized in §9107 and §9113 of Title 12, Guam Code Annotated. The TAF may also be used to fund the following projects:

(a) The creation, improvement or beautification of roads, avenues, boulevards, parkways, intersections, bicycle paths, motor bike trails, footpaths, biking trails, stairways, rivers, streams, estuaries, lagoons, or other means of access and transportation;

(b) The development and restoration of points of natural beauty or historic social or cultural significance, including means of access, parking, safety devices, concessions, restrooms, view points and information pavilions;

(c) The construction of monuments, memorials, statues, fountains, arches, and similar projects;

11 GCA FINANCE & TAXATION
CH. 30 MONTHLY EXCISE TAX ON OCCUPANCY OF
HOTEL AND SIMILAR LODGING HOUSE FACILITIES

(d) The construction of buildings to be used for public purposes including zoos and aquariums, museums, athletic facilities, cultural centers, and performing arts complexes;

(e) Landscaping, provision of decorations or the enhancement of beauty of any of the projects listed in this Section;

(f) Accessory projects reasonably necessary to projects listed in this Section;

(g) Projects and programs identified in the Tumon Bay Master Plan.

Except as provided in subparagraph (i)(A) of 5 GCA §1504(d), all expenditures of the TAF shall be made exclusively by appropriation of the Legislature. No further appropriations shall be made of monies in the TAF which have been pledged for the payment of any debt or debts created pursuant to said 5 GCA §1504 and such monies may be used for payment of such debt or debts without further appropriations. The TAF shall not be used for any purposes other than those enumerated or reasonably inferred herein or for purposes other than those relating to Guam tourism. Specifically, the TAF shall not be used as a pledge of security or as collateral for government loans without prior authorization by the Legislature.

SOURCE: GC § 19655, as added by P.L. 10-166, R/R by P.L. 17-65. R/R by P.L. 20-14:7. Amended by P.L. 23-15:2 (5/13/95).

§ 30107.1. Unused TAF Funds.

Notwithstanding the general provisions of 5 GCA § 22406 which require that unused and de-appropriated funds revert to the General Fund, or any other provision of Guam law to the contrary, all de-appropriated or unused funds appropriated from the TAF shall, in all circumstances, and whether in whole or in part, be returned to the TAF and not the General Fund.

SOURCE: Added by P.L. 23-15:3.

§ 30107.2. Interest.

Notwithstanding the provisions of 5 GCA §21103, §21107 and §21110 or any other provision of Guam law to the contrary, all interest earned on TAF-Funded investments or accounts shall be returned to the TAF.

SOURCE: Added by P.L. 23-15:4.

11 GCA FINANCE & TAXATION
CH. 30 MONTHLY EXCISE TAX ON OCCUPANCY OF
HOTEL AND SIMILAR LODGING HOUSE FACILITIES

§ 30108. Deposit in Infrastructure Improvement Fund.

Notwithstanding 11 GCA §106138, twenty-five percent (25%) of the revenue collected pursuant to §106132 is appropriated to the Infrastructure Improvement Fund.

SOURCE: GC § 19650.05, added by P.L. 19-5:143.
