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CH. 44 GUAM REGISTERED APPRENTICESHIP PROGRAM

CHAPTER 44
GUAM REGISTERED APPRENTICESHIP PROGRAM

NOTE: Chapter 44 was added by P.L. 28-142:2 (July 18, 2006).

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§ 44101. Short Title.

This Chapter shall be cited as the “*Guam Registered Apprenticeship Program Law.*”

§ 44102. Definitions.

As used in this Chapter:

(a) ‘*Apprentice*’ means an employee of a business participating in the Guam Registered Apprenticeship Program who is at least 16 years of age, except when a higher minimum age is otherwise fixed by law, and who is employed to learn a skilled trade.

(b) ‘*Apprenticeship Program*’ or ‘*Apprenticeship Training Program*’ means a comprehensive training program designed to teach an apprentice how to perform all duties in a recognized skilled craft or trade at the journeyman level that is described by a plan containing all terms and conditions for the qualification, recruitment, selection,

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employment and training of apprentices and a written apprenticeship agreement.

(c) '*BAT*' means the Bureau of Apprenticeship and Training of the U.S. Department of Labor.

(d) '*Business*' means a professional group, association, corporation, partnership, sole proprietorship, trust, foundation, or any other individual or organization carrying on any business whether or not operated for profit.

(e) '*DOL*' means the Department of Labor of the government of Guam.

(f) '*Director*' means the Director of Labor.

(g) '*Employer*' means a business employing an apprentice whether or not such business has an apprenticeship agreement with the apprentice.

(h) '*Institution of Higher Education*' means the Guam Community College, the University of Guam, licensed post secondary institutions or licensed post secondary training programs.

(i) '*Occupational List*' means a list of occupations prioritizing needed trades that corresponds with a USDOL BAT apprenticeship training program that lists the occupational trades approved for apprenticeship training within the Program.

(j) '*Program*' means the Guam Registered Apprenticeship Program, an occupationally driven apprenticeship training program meeting the standards of the U.S. Department of Labor, Bureau of Apprenticeship and Training, that is recognized and approved as an occupational priority by DOL to which this Chapter applies.

(k) '*Program Participant*' means an employer that employs apprentices who receive training through a program provider of a registered apprenticeship program.

(l) '*Program Provider*' means a business or institution of higher education that conducts a registered apprenticeship program recognized by the United States Department of Labor (USDOL), Bureau of Apprenticeship and Training (BAT). A business with a registered apprenticeship program may be both a program participant and a program provider.

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(m) ‘*Tax Commissioner*’ means the Tax Commissioner of Guam, the Director of Revenue and Taxation.

(n) ‘*Tax Credit*’ means an offset to business privilege tax owed by a business equal in amount to fifty percent (50%) of all eligible costs paid or incurred by a program participant to train an apprentice.

(o) ‘*Trade*’ means the skilled practice of an occupation.

(p) ‘*USDOL*’ means the United States Department of Labor.

SOURCE: Amended by P.L. 29-002:VI:28 (May 18, 2007) the name, Gross Receipts Tax, changed to Business Privilege Tax, effective July 17, 2007.

§ 44103. Guam Registered Apprenticeship Program.

There is hereby established the *Guam Registered Apprenticeship Program* to be administered by the Director of Labor. The purposes of the Program are to reduce the shortage of highly skilled workers; to encourage employers to hire and train apprentices in highly skilled trades and occupations; to authorize tax credits for certain long term apprenticeship training expenses; and to ensure that apprentices continue to pay income taxes and participate in the economy.

§ 44104. Apprenticeship Program Occupations Approved for the Guam Registered Apprenticeship Program.

In the first quarter of each fiscal year, the Director of Labor shall conduct a public hearing to receive opinions and recommendations from businesses and the general public to determine which areas need additional professional and skilled technical trade workers. The Director shall also consider new program participant applications and agreements and shall emphasize industrial, construction, and technical trades and occupations. The Director shall then establish a list of skilled occupations and trades that correspond to recognized USDOL BAT apprenticeship programs or may amend a prior year’s occupational list. The Director shall then submit the occupational list to *I Maga’lahen Guåhan* for approval. *I Maga’lahi* shall then submit the occupational list to *I Liheslaturan Guåhan* no later than January 5th of each year provided, however, that no program participant shall request a tax credit for a new trade until the list is approved by *I Liheslatura*. If *I Liheslatura* has not expressly approved or rejected the list, or any part thereof, by resolution within forty-five (45) days after submission, the list shall be deemed approved.

§ 44105. Authorization to Enter into Apprenticeship Agreements.

The Director of Labor, with the approval of *I Maga'lahañ Guåhan*, may contract with program providers to prescribe the manner, terms and conditions of DOL cooperation with the provider in meeting the Program's objectives. The contracts shall be with program providers having a registered and approved apprenticeship training program that complies with Title 29 C.F.R. Parts 29 and 30 and the apprenticeship training standards of USDOL, BAT.

§ 44106. Eligibility of Apprentices.

An apprentice must be a bona fide resident of Guam for a continuous period of *not less than* three (3) years before becoming an apprentice, a United States citizen or a permanent resident alien, and must agree to the terms and conditions of the Program and § 44110 of this Chapter.

§ 44107. Administration of the Guam Registered Apprenticeship Program.

(a) The Director of Labor shall administer the *Guam Registered Apprenticeship Program* and shall establish rules and regulations necessary to implement this Chapter pursuant to the Administrative Adjudication Law *within* ninety (90) days after the enactment hereof.

(b) The Director shall ensure proper educational accreditation standards are met and maintained by program providers, using educational classes provided by an institution of higher education or employer provided USDOL BAT approved educational learning resources.

(c) Program participants having five (5) or more apprentices in training shall adopt and register with the Director a written Affirmative Action Plan and Selection Procedure according to Title 29 C.F.R. Part 30. Program participants may set their own minimum requirements, qualifications and credentials for apprentices, subject to approval by the Director, provided that said requirements are fair, nondiscriminatory, and comply with all applicable Program requirements and USDOL BAT standards.

§ 44108. Tax Credit for Apprenticeship Program Participants.

Any business that employs apprentices duly enrolled and registered under the terms of the Program is entitled to a tax credit against its business privilege tax liability equal to fifty percent (50%) of the eligible training costs paid or incurred by the business, provided that:

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(a) The apprenticeship training program teaches an occupation on the approved occupational list compiled pursuant to § 44104 of this Chapter;

(b) The apprentice completes a training stage of an apprenticeship program as determined by DOL following BAT standards. *No* tax credit shall be claimed by a program participant for an apprentice unless the apprentice satisfactorily completes the current level of training;

(c) The tax credit is restricted to eligible training costs incurred during the apprentice's participation in the Program.

(d) No business or program participant holding a Qualifying Certificate (QC) shall claim tax credits pursuant to this Section. The Guam Economic Development and Commerce Authority shall assist the Director in determining whether a business may claim the credit;

(e) The apprentice must work a minimum of one hundred and twenty (120) hours per month at the trade;

(f) The apprentice must be paid the prevailing wage required by the Program, which shall be a graduated percentage of journeyman wages for that particular trade as determined by the Director;

(g) Pre-apprentices are *not* counted as apprentices and wages earned by pre-apprentices are *not* eligible for this tax credit; and

(h) Apprenticeship training costs paid by Work Incentive Act (WIA) funds, Department of Labor Manpower Development Fund (MDF) funds, Hotel/Restaurant Industry Training Program funds, and any training costs paid by government of Guam or federal funding shall *not* be eligible Program costs and shall *not* be applied as a tax credit.

A program participant may carry forward the tax credit when the credit exceeds the total amount of its business privilege tax liability within the applicable tax period. Tax credits may be carried forward until exhausted.

SOURCE: Amended by P.L. 29-002:VI:28 (May 18, 2007) the name, Gross Receipts Tax, changed to Business Privilege Tax, effective July 17, 2007.

§ 44109. Implementation of Tax Credit by Tax Commissioner.

The Tax Commissioner of Guam shall, *no later than* ninety (90) days

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after the enactment hereof, in cooperation with the Director, develop procedures to implement the tax credit authorized by this Chapter, and to that end shall:

(a) Enact such requirements for claimants as may be necessary to implement this Chapter;

(b) Promulgate forms and publications to assist eligible businesses III claiming the tax credit;

(c) Develop a procedure to facilitate the off-set of tax credits against business privilege tax liabilities; and

(d) Coordinate with the Director relative to verifying eligible business privilege tax credits. The Director shall certify eligible training costs paid or incurred pursuant to the Program.

SOURCE: Amended by P.L. 29-002:VI:28 (May 18, 2007) the name, Gross Receipts Tax, changed to Business Privilege Tax, effective July 17, 2007.

§ 44110. Participation Requirements for Apprentices.

An apprentice shall sign an agreement with his employer and the DOL that stipulates that, in exchange for the training, he will remain and work on Guam for a period of one (1) year for each year he participates in the Program.

§ 44111. Cooperative Programs Authorized.

(a) The Director may contract with government agencies, departments and instrumentalities, public or private organizations, firms, companies, businesses, program providers or individuals to provide technical or skilled training programs. Said contracts shall provide for specialized training in needed skills not otherwise available through the Program. If this specialized training is not part of an accessory government of Guam or federally funded program, the program participant shall pay the training cost.

(b) Government of Guam agencies, departments, and instrumentalities, including autonomous agencies, shall provide to the Program, on a timely basis, technical support and training required by the Director to perform his duties under this Chapter.

§ 44112. Effective Date.

This Chapter shall be effective upon enactment.

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§ 44113. Tax Credit Sunset Provision.

(a) Sections 44108, 44109 and 44110 of this Chapter shall remain in effect until December 30, 2014, at which time said sections shall be deemed repealed; provided, however, that *I Liheslaturan Guåhan* may extend the effectiveness of Sections 44108, 44109 and 44110 to December 30, 2018 by adopting legislation to that effect before December 30, 2014. Any Guam Registered Apprenticeship Program tax credits certified for a period expiring after December 30, 2014, or after December 30, 2018 if the effective period has been extended, shall remain in full force and effect until the period expires or the credit is canceled on other grounds.

(b) Tax credits that have *not* been applied to business privilege tax liability that remains after the effective date of Subsection (a) hereof may be carried forward until such tax credit is exhausted for the tax year if any part of the tax year falls before December 30, 2014, or before December 30, 2018 if the effective period of Sections 44108, 44109 and 44110 has been extended.

SOURCE: Amended by P.L. 29-002:VI:28 (May 18, 2007) the name, Gross Receipts Tax, changed to Business Privilege Tax, effective July 17, 2007.

§ 44114. Reporting Requirements.

The Director shall make a full written report to *I Liheslatura* and post the report on the Department's website within thirty (30) days after the close of each fiscal year. The report shall describe accurately the names of all program participants; the total amount of tax credits claimed by each program participant in the preceding fiscal year; a list of apprentices for every program participant with his corresponding occupational trade; the amount of tax credits claimed by every program participant for each apprentice during the preceding fiscal year; DOL's occupational list, including the total number of apprentices trained for each Program trade; and such statistical and other information in such form and detail as *I Liheslatura* may prescribe. *if* the Director fails to make said report or to post it on the website within thirty (30) days after the report is due, all tax credits shall immediately be discontinued until the Director submits and posts the report.
