

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.
- § 30109. Tax Collection Agreements Authorized.
- § 30110. Tax Collection Agents Liable.
- § 30111. Cancellation Agreement.

§ 30101. Imposition.

(a) 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, and bed and breakfast, or similar facility located in Guam according to the following schedule:

(1) 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;

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

(3) the rate for a registered bed and breakfast shall be four percent (4%) of the rental charged or paid per occupancy per day.

(b) 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.

(c) 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

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

by the consumer to the operator or owner of the hotel or rooming house facility.

SOURCE: GC § 19650, as enacted by P.L. 10-166:1 (July 29, 1970). Amended by P.L. 11-145:1 (June 23, 1972). Repealed and reenacted by P.L. 19-005:141 (Aug. 21, 1987) and by P.L. 19-009:4 (Oct. 7, 1987). Subsection (c) repealed and reenacted by P.L. 19-027:1 (Oct. 24, 1988). Codified as 11 GCA § 30101. Amended by P.L. 22-032:2 (Sept. 27, 1993); P.L. 22-144:1 (Dec. 27, 1994). First paragraph amended by P.L. 32-045:5 (July 5, 2013). Subsection (a) amended by P.L. 33-165:1 (June 30, 2016).

2013 NOTE: Subsection designations were added/alterd to adhere to the Compiler's alpha-numeric scheme in accordance to the authority granted by 1 GCA § 1606.

§ 30102. Definitions.

As used in this Chapter:

(a) Transient occupant of a room or rooms in a hotel, lodging house, and bed and breakfast facility or similar facilities” means those persons who occupy such facilities in a specific location for less than ninety 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 enacted by P.L. 10-166:1 (July 29, 1970). Codified as 11 GCA § 30102. Subsection (a) amended by P.L. 32-045:6 (July 5, 2013).

§ 30103. Payment of Tax; Penalties.

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

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 enacted by P.L. 10-166:1 (July 29, 1970). Codified as 11 GCA § 30103.

§ 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 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, as enacted by P.L. 10-166:1 (July 29, 1970). Amended by P.L. 13-187:137. Codified as 11 GCA § 30104.

§ 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.

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

SOURCE: GC § 19653, as enacted by P.L. 10-166:1 (July 29, 1970). Amended by P.L. 13-187:138. Codified as 11 GCA § 30105.

§ 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) [Repealed.]

(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 enacted by P.L. 10-166:1 (July 29, 1970). Codified as 11 GCA § 30106. Subsection (e) added by P.L. 26-041:2 (Oct. 2, 2001). Subsection (c) repealed by P.L. 30-143:2 (May 17, 2010).

§ 30107. Creation of Tourist Attraction Fund.

(a) 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

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

Title 12, Guam Code Annotated. The TAF may also be used to fund the following projects:

(1) 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;

(2) 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;

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

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

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

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

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

(b) 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 enacted by P.L. 10-166:1 (July 29, 1970). Repealed and reenacted by P.L. 17-065:1 (Sept. 7, 1984), and P.L. 20-014:7 (June 8, 1989). Amended by P.L. 23-015:2 (May 13, 1995).

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

2013 NOTE: Pursuant the authority granted by 1 GCA § 1606, numbers and/or letters were added/alterd to adhere to the Compiler's alpha-numeric scheme.

COMMENT: Subsection (b) refers to 5 GCA § 1504, which was repealed and reenacted by P.L. 20-014:3; as reenacted, § 1504 included (d)(i)(A). However, P.L. 21-110:1 (June 1, 1992) repealed subsection § 1504 (d)(i)(A) and correspondingly, the exception indicated in subsection (b).

§ 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. 23-015:3 (May 13, 1995).

§ 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. 23-015:4 (May 13, 1995).

§ 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. 19-005:143 (Aug. 21, 1987).

§ 30109. Tax Collection Agreements Authorized.

(a) Transient accommodations broker means any person or entity, including, but not limited to, persons who operate online websites, online travel agencies or online booking agencies, that offers, lists, advertises, or accepts reservations, or collects whole or partial payment for transient accommodations or resort time share vacation interests, units or plans. Notwithstanding any other provision of law, rule, or regulation to the contrary, the Director of the Department of Revenue and Taxation, or his designee, may permit a transient accommodations broker to register as a tax collection agent on behalf of all of its operators and plan managers by

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

entering into a tax collection agreement with the Director or by submitting a transient accommodations broker tax collection agent registration statement to the Director, in a form prescribed by the Department. The Director may deny an application for registration as a transient accommodations broker tax collection agent under this Section for any cause authorized by law, including, but not limited to, any violation of this Chapter.

(b) A registered transient accommodations broker tax collection agent shall report, collect, and pay over the taxes due under this Chapter on behalf of all of its operators and plan managers from the date of registration until the registration is canceled; provided, that the registered transient accommodations broker tax collection agent's obligation to report, collect, and pay taxes on behalf of all of its operators and plan managers shall apply solely to transient accommodations in the state arranged or booked directly through the registered transient accommodations broker tax collection agent.

(c) The Director shall issue a certificate of registration or letter of denial within thirty (30) calendar days after a transient accommodations broker submits to the Director a completed and signed transient accommodations broker tax collection agent registration statement, in a form prescribed by the Department. If approved, the registration shall be valid only for the transient accommodations broker tax collection agent in whose name it is issued, and for the website or platform designated therein, and shall not be transferable, except to a successor by merger or acquisition of the transient accommodations broker's website or platform designated in its application or tax collection agreement.

(d) A registered transient accommodations broker tax collection agent shall be issued separate licenses under this Chapter with respect to taxes payable on behalf of its operators and plan managers in its capacity as a registered transient accommodations broker tax collection agent and, if applicable, with respect to any taxes payable under this Chapter for its own business activities.

SOURCE: Added by P.L. 33-165:2 (June 30, 2016).

§ 30110. Tax Collection Agents Liable.

(a) Under this Section, a registered transient accommodations broker tax collection agent shall assume all obligations, rights and responsibilities imposed by this Chapter upon its operators and plan

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

managers with respect to their business activities conducted directly through the registered transient accommodations broker tax collection agent from the date of registration until the registration is canceled in writing to the Director.

(b) A transient accommodations broker tax collection agent shall be personally liable for the taxes imposed by this Chapter that are due and collected on behalf of operators and plan managers, if taxes are collected, but not reported or paid, together with penalties and interest as provided by law.

SOURCE: Added by P.L. 33-165:2 (June 30, 2016).

§ 30111. Cancellation of Agreement.

(a) A registered transient accommodations broker tax collection agent may cancel its registration under this Section by delivering a written notice of cancellation to the Director and each of its operators and plan managers furnishing transient accommodations in the state no later than ninety (90) days prior to the effective date of cancellation.

(b) The Director may cancel a transient accommodations broker tax collection agent's registration under this Section for any cause authorized by law, including, but not limited to, any violation of this Chapter or rules adopted pursuant thereto, or for violation of any applicable tax collection agreement, by delivering a written notice of cancellation to the transient accommodations broker tax collection agent no later than ninety (90) days prior to the effective date of cancellation.

SOURCE: Added by P.L. 33-165:2 (June 30, 2016).
