

*I Mina'trentai Siette Na Liheslaturan Guåhan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
220-37 (COR)	Jesse A. Lujan Christopher M. Dueñas Frank Blas, Jr. Thomas J. Fisher Chris Barnett	AN ACT TO ADD A NEW § 26203 (f) TO ARTICLE 2, CHAPTER 26, TITLE 11 GUAM CODE ANNOTATED, RELATIVE TO EXPANDING THE BUSINESS PRIVILEGE TAX EXEMPTIONS LIST TO INCLUDE PRESCRIPTION DRUGS.	12/15/23 3:59 p.m.						

***I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN***  
**2023 (FIRST) Regular Session**

**Bill No. 220-37 (COR)**

Introduced by:

Jesse A. Lujan 

Christopher M. Dueñas 

Frank Blas, Jr. 

Thomas J. Fisher 

Chris Barnett 

**AN ACT TO ADD A NEW § 26203 (f) TO ARTICLE 2,  
CHAPTER 26, TITLE 11 GUAM CODE ANNOTATED,  
RELATIVE TO EXPANDING THE BUSINESS  
PRIVILEGE TAX EXEMPTIONS LIST TO INCLUDE  
PRESCRIPTION DRUGS.**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds

that due to the many challenges faced by patients in need of prescription drugs as well as local pharmacies on Guam, it is imperative to amend the current list of Business Privilege Tax Exemptions to include prescription drugs and medicines.

*I Liheslaturan Guåhan* further finds that pharmacies often do not determine the price charged to patients when insurances are billed, and the reimbursement issued doesn't always cover the cost of shipping or the medication cost itself. By amplifying the local pharmacy's ability to generate revenue and savings, they can expand their healthcare services and increase the availability of specialist pharmaceuticals to patients, thus effectively facilitating healthcare accessibility.

1            *I Liheslaturan Guåhan* further acknowledges the disparity of exempting non-  
2 resident or mail-order pharmacies operating in Guam but taxing local providers,  
3 leaving them and the patients they serve at a disadvantage. *I Liheslaturan Guåhan*  
4 is determined to ensure equitable treatment for our local pharmacies and address this  
5 inequality by leveling the competitive landscape.

6            *I Liheslaturan Guåhan* further finds that medical and healthcare services are  
7 critical to a stable economy and healthy population. Accordingly, *I Liheslaturan*  
8 *Guåhan* seeks to achieve consistency in tax policy by caring for outpatient needs at  
9 pharmacies as well as their inpatient counterparts at hospitals.

10           *I Liheslaturan Guåhan* further finds that by decreasing the cost of prescription  
11 drugs, we can increase public health awareness and benefits. Making prescription  
12 drugs more affordable can enable better control of chronic conditions, encourage  
13 compliance with prescribed medication regimens, and reduce the spread of  
14 infectious diseases, ultimately resulting in healthier communities and an improved  
15 state of public health on Guam.

16           Therefore, it is the intent of *I Liheslaturan Guåhan* to magnify access to  
17 indispensable medications, improve public health, cultivate a more equitable  
18 business environment for local providers, and elevate the healthcare infrastructure  
19 of Guam.

20           **Section 2.** The existing §§ (f), §§ (g), §§ (h), §§ (i), §§ (j), §§ (k) of §26203  
21 of Article 2, Chapter 26, Title 11, Guam Code Annotated are hereby renumbered as  
22 §§ (g), §§ (h), §§ (i), §§ (j), §§ (k), §§ (l), respectively.

23           **Section 3.** A new §§ (f) to §26203 to Article 2, Chapter 26, Title 11, Guam  
24 Code Annotated is hereby amended to read as:

25           § 26203. Exemptions. The provisions of this Article, and the taxes levied  
26 thereunder, shall not apply to the following persons: (a) The government of Guam,  
27 except as authorized in § 60114.1(a) of Article 1 of Chapter 60, Title 21, Guam Code

1 Annotated; the government of the United States; the government of any foreign  
2 sovereignty; and any agency or instrumentality of any of the foregoing governments  
3 in regard to any activity or function engaged in.

4 (1) Notwithstanding this Subsection

5 (a), taxes shall not be levied against any autonomous agency, public  
6 corporation, and other public instrumentalities of the government of Guam  
7 with existing leases where a tax levy may affect the revenue neutrality of that  
8 autonomous agency, public corporation, and other public instrumentalities of  
9 the government of Guam to the potential detriment of existing bond ratings.

10 (b) Fraternal benefit societies, orders or associations, operating under  
11 the lodge system, or for the exclusive benefit of the members of the fraternity  
12 itself which provide for the payment of death, sick, accident or other benefits  
13 to the members of such fraternity and their dependents.

14 (c) Corporations, associations or societies organized and operated  
15 exclusively for religious, charitable, scientific or educational purposes, or the  
16 preservation of the culture historically indigenous to Guam.

17 (d) Business leagues, chambers of commerce, boards of trade, civic  
18 leagues, public schools, and organizations operated exclusively for the benefit  
19 of the community and for the promotion of social welfare, provided that no  
20 profit accrues to the benefit of the private stockholder or individual.

21 (e) Hospitals, infirmaries and sanitariums.

22 “(f) Prescription medicines. Amounts received for prescription  
23 medicines, whether received, in whole or in part, by an insurer or by the  
24 person for whom the medicine is furnished. As used in this Subsection,  
25 prescription medicines are defined as:

26 (1) a drug that is required under federal law to be labeled with  
27 either of the following statements prior to being dispensed or delivered:

1                    (i) Rx Only; or

2                    (ii) Caution: Federal law restricts this drug to use by, or on  
3                    the order of, a licensed veterinarian; or

4                    (2) a drug that is required by any applicable federal or state law  
5                    or rule to be dispensed pursuant only to a prescription drug order or is  
6                    restricted to use by practitioners only; or

7                    (3) medicines pursuant to a prescription drug order or medication  
8                    order from a licensed practitioner, including licensed physicians,  
9                    dentists, optometrists, podiatrists, osteopaths, pharmacists,  
10                   veterinarians, physician assistants, and advanced registered nurse  
11                   practitioners. The exemption shall apply only when sold or furnished  
12                   under one of the following conditions:

13                   (i) dispensed in accordance with law on a prescription  
14                   filled by a pharmacist with a currently valid and unrevoked  
15                   license, or

16                   (ii) furnished by or sold to a practitioner who is authorized  
17                   by a currently valid and unrevoked license to prescribe the  
18                   medicines to his or her own patient, or

19                   (iii) furnished by or sold to a health facility for treatment  
20                   of any patient pursuant to the order of a practitioner who is  
21                   authorized by a currently valid and unrevoked license to  
22                   prescribe the medicines.”

23                   ~~(f)~~ (g) Totally blind, with respect to the first Three Thousand Dollars  
24                   (\$3,000.00) of gross income for each tax year.

25                   ~~(g)~~ (h) Agricultural producers and fisheries.

26                   ~~(h)~~ (i) Manufacturers, producers or importers, who shall have paid the  
27                   taxes levied by Articles 3 or 6 of this Chapter on the manufacture, production

1 or importation of alcoholic beverages, and tobacco; provided that any such  
2 taxpayer claiming exemption under this Section may claim it only to the extent  
3 of the gross proceeds of sales accruing to him from the sale to a wholesaler or  
4 retailer of the product taxes under such other sections; provided further, that  
5 a person claiming exemption under this Section shall keep accounts of such  
6 sales separately and support them by sales receipts for each separate  
7 transaction which is taxable under Articles 3 or 6 of this Chapter.

8 ~~(i)~~ (j) Any person doing business as home industry and holding a  
9 business license issued pursuant to § 72157 of 11 GCA.

10 ~~(j)~~ (k) The exemption of § 26203(b), (c), (d) and (e), shall apply only to  
11 the gross income of any person included in any such subsection received:

12 (1) from the regular activities of such person, or

13 (2) from a lottery authorized under 9 GCA, Chapter 64, or

14 (3) from a carnival, fiesta, dance, athletic performance, or other  
15 similar entertainment, sponsored by such person, the profits of which  
16 are to be used exclusively for, or in furtherance of, the regular activities  
17 of such person, and shall not accrue in whole or in part to the benefit of  
18 any private stockholder or individual. Such exemptions shall be  
19 allowed only upon application to the Tax Commissioner in accordance  
20 with § 26117. The within Subsection ~~(j)~~-(k) shall not be construed to  
21 exempt from the taxes levied by this Article any person having a  
22 concession or contract from an exempt person for the furnishing or sale  
23 of any tangible property, or the furnishing of any service, from which  
24 gross income accrues to such person.

25 ~~(k)~~(l) The provisions of this Article and the taxes levied hereunder, shall  
26 not apply to the following gross income or gross proceeds of sale:

1                   (1) Amounts received under life insurance policies and contracts  
2 paid by reason of the death of the insured.

3                   (2) Amounts received (other than amounts paid by reasons of  
4 death of the insured) under life insurance, endowment or annuity, or  
5 upon surrender of the contract.

6                   (3) Amounts received by any persons under any accident  
7 insurance or health insurance policy or contract, or under worker's  
8 compensation acts or employer's liability acts, as compensation for  
9 personal injuries, death or sickness, including also the amount of any  
10 damages or other compensation received, whether as a result of action  
11 or by private agreement between the parties on account of such personal  
12 injuries, death or sickness.

13                   (4) The value of all property of every kind and sort acquired by  
14 any person by gift, bequest or devise, and the value of all property  
15 acquired by any person by descent or inheritance.

16                   (5) Amounts received by any person as compensatory damages  
17 for any tort injury to him, or to his character or reputation, or received  
18 by any person as compensatory damages for any tort injury to or  
19 destruction of property, whether as the result of action or by private  
20 agreement between the parties; provided, however, that amounts  
21 received by any person as punitive damages for tort injury or breach of  
22 contract injury shall be included in gross income.

23                   (6) Amounts received as salaries or wages for services, rendered  
24 by an employee to an employer.

25                   (7) Amounts received as alimony and other similar payments and  
26 settlements.

1           (8) Amounts received by a distributor from the sale of liquid fuel  
2 when the tax levied by Article 4 of this Chapter has been paid thereon  
3 by the distributor. A distributor for purposes of this Section excludes  
4 all retailing activities of any business entity. This exemption shall not  
5 apply to the sale by a retailer or a retailing subdivision of a distributor  
6 of any liquid fuel on which a tax is levied under Article 4 of this  
7 Chapter.

8           (9) The first Forty Thousand Dollars (\$40,000) earned or  
9 received per taxable year by any person as rental income from real  
10 property whose gross annual rental income from real property is less  
11 than Fifty Thousand Dollars (\$50,000) during the most recent tax year.  
12 The exemption shall apply annually, commencing at the first day of the  
13 month of the new tax year, based on the gross annual rental income of  
14 a person during the most recent year, and shall end on the last day of  
15 the last month of the same tax year.

16           (10) All of the gross proceeds received by contractors for the  
17 construction of residential buildings developed, owned, and operated  
18 by non-profit corporations or associations, which construction is  
19 pursuant to a program approved by the Secretary of Housing and Urban  
20 Development pursuant to § 221 (d)(3) of the Housing Act, as amended.

21           (11) The amounts collected by persons required to collect taxes  
22 imposed under Chapter 30.

23           (12) All the gross proceeds received by those persons selling  
24 goods, arts or crafts in the Guam and Micronesian Cultural Village  
25 established by 12 GCA § 9302 for a period of ten (10) years  
26 commencing on the date that any business privilege tax would  
27 otherwise be required to be paid to the government of Guam.



1 (13) Amounts received from the sales of liquid fuel to the United  
2 States of America, to the government of Guam or for commercial  
3 aviation purposes.

4 (14) Amounts received from the sale of residual fuel for marine  
5 purposes. As used in this Subsection, residual fuel means that liquid  
6 which is the heaviest grade petroleum product used in marine oil-  
7 burning boilers. It consists of the residue of certain crude oils after the  
8 lighter fractions such as benzine, kerosene, gas-oils and lubricating oils  
9 have been removed by distillation.

10 (15) Amounts received from the sales of personal property to the  
11 government of Guam.

12 (16) Amounts received as contributions or received from fund  
13 raising activities by political candidates, committees, parties,  
14 corporations, associations, organizations or funds and which are  
15 expended for political campaign purposes and reported to the Election  
16 Commission pursuant to the laws of Guam.

17 (17) (A) Amounts received from the sale or resale of products  
18 processed or manufactured at the Guam Rehabilitation Workshop  
19 Center by registered clients of the Center, or certified as disabled  
20 worker products, and products processed and manufactured  
21 independently by registered clients of the Center where fifty percent  
22 (50%) of the value of the product is added by the client.

23 (B) The Director of the Department of Vocational  
24 Rehabilitation shall certify that such products were processed or  
25 manufactured at the Guam Rehabilitation Workshop Center by  
26 registered clients of the Center, or certified as disabled worker  
27 products, or else processed and manufactured independently by

1 registered clients of the Center where fifty percent (50%) of the  
2 value of the product is added by the client.

3 (18) Export Trading companies as defined by § 26101(d) of this  
4 Title and goods and services exported by them.

5 (19) All of the foreign trade income of a FSC, as defined in 12  
6 GCA § 60101 (b).

7 (20) All of the investment income of a FSC as defined in 12 GCA  
8 § 60101(f) and carrying charges as defined in 12 GCA § 60101(g).

9 (21) Amounts received from the sale of liquid fuel to vessels  
10 engaged in commercial fishing.

11 (22) Amounts received from engaging or continuing in business  
12 as a wholesaler, except that if such persons are, in addition, engaging  
13 or continuing in business as a retailer, the provisions of this Subchapter  
14 and the taxes levied thereunder shall apply to that part of the businesses  
15 of such persons that involve retail.

16 (A) Amounts received from engaging or continuing in  
17 business as a wholesaler shall include the sales of tangible  
18 personal property to contractors.

19 (23) The amount of winnings, payouts or malfunction refunds  
20 reported pursuant to § 26110(g) of this Title.

21 (24) Amounts paid by the contractor out of the contract gross  
22 proceeds to individual clients or to the rehabilitation center or workshop  
23 pursuant to the provisions of 17 GCA § 41106.

24 (25) Amounts received by a participant in the Guam-Micronesia  
25 Island Fair from sales of goods or services at the Fair.

26 (26) Amounts received from the sale of betelnut (pugua), pepper  
27 tree leaf (pupulu), and lime (afok) for use with pugua.

1 (27) All of the gross income of a Foreign Sales Corporation  
2 (FSC) from sources without Guam, as determined under 12 GCA §  
3 60102(c).

4 (28) The first Forty Thousand Dollars (\$40,000) earned or  
5 received per taxable year by any person as income from retailing whose  
6 gross annual retail income is less than Fifty Thousand Dollars  
7 (\$50,000) during the most recent tax year. The exemption shall apply  
8 annually, commencing at the first day of the month of the new tax year,  
9 subject to the gross annual retail income of a person during the most  
10 recent year, and shall end on the last day of the last month of the same  
11 tax year.

12 (A) Fifty percent (50%) of the amounts received from the  
13 retail sale of local produce, as defined in this Subdivision.

14 (B) Local produce as used in this Subdivision shall mean  
15 the following: locally produced crops, including, but not limited  
16 to, plants and plant products collectively grown or cared for and  
17 used for food and other useful purposes; locally raised livestock,  
18 including but not limited to, cattle, carabao, swine, sheep, goats,  
19 equine and poultry raised for food or other purposes; and locally  
20 caught fish to include any aquatic animal life, including, but not  
21 limited to, oysters, clams, mollusks, mussels, crustaceans and  
22 other shellfish

23 (29) The first Forty Thousand Dollars (\$40,000) earned or  
24 received per taxable year by any person as income service, which  
25 includes, but is not limited to, legal; medical; dental; accounting;  
26 consulting and engineering fees; commissions on real estate sales or  
27 property management; fees charged by barbershops, beauty parlors,

1 shoe shining parlors, dry cleaning and laundry establishments; and  
2 automobile, appliance, electronics and computer repair shops, whose  
3 gross annual service income is less than Fifty Thousand Dollars  
4 (\$50,000.00) during the most recent tax year. This exemption shall  
5 apply annually, commencing at the first day of the month of the new  
6 tax year, subject to the gross annual service income of the person during  
7 the most recent tax year, and shall end on the last day of the month of  
8 the same tax year.

9 (30) The first Forty Thousand Dollars (\$40,000) earned or  
10 received per taxable year by person as rental income whose gross  
11 annual rental income is less than Fifty Thousand Dollars (\$50,000.00)  
12 during the most recent tax year. This exemption shall apply annually,  
13 commencing at the first day of the month of the new tax year, based on  
14 the gross annual rental income of a person during the most recent year,  
15 and shall end on the last day of the last month of the same tax year.

16 (31) The first Forty Thousand Dollars (\$40,000.00) earned or  
17 received per taxable year by a person, partnership or corporation as  
18 commission income whose gross annual commission income is less  
19 than Fifty Thousand Dollars (\$50,000.00) during the most recent tax  
20 year. This exemption shall apply annually, commencing at the first day  
21 of the month of the new tax year, subject to the gross annual income of  
22 the person during the most recent tax year, and shall end on the last day  
23 of the month of the same tax year.

24 (32) The first Forty Thousand Dollars (\$40,000) earned or  
25 received per taxable year by a licensed insurance company as insurance  
26 premium income whose gross annual insurance premium income is less  
27 than Fifty Thousand Dollars (\$50,000.00) during the most recent tax

1 year. This exemption shall apply annually, commencing at the first day  
2 of the month of the new tax year, subject to the gross annual income of  
3 the person during the most recent tax year, and shall end on the last day  
4 of the month of the same tax year.

5 (33) Any amounts received by businesses participating in the  
6 Performance of BOS Activities, defined in 12 GCA § 58128.7, as a  
7 BOS Contractor, or Subcontractors of the BOS Contractor, provided  
8 that such business is a ‘Guam-based Contractor or Guambased  
9 Subcontractor’ for purposes of 12 GCA § 58128.7.

10 (34) [Repealed.]

11 (35) Amounts received from the sale of telecommunication  
12 services including telephony, internet, data transmission line,  
13 wired/wireless/cable television and satellite service, two-way radios,  
14 paging and wired and wireless data communications and related  
15 services to customers outside of Guam.

16 (36) All the gross proceeds received by child care facilities and  
17 group care homes which are duly licensed pursuant to Article 4 – Child  
18 Welfare Services Act, of Chapter 2, Division 1 of Title 10, Guam Code  
19 Annotated, commencing on the date that any business privilege tax  
20 would otherwise be required to be paid to the government of Guam.  
21 This Item shall continue to be effective beyond its initial expiration date  
22 of November 17, 2016.

23 (37) Official Vehicle Inspection Safety (OVIS) fees collected by  
24 safety inspection stations on behalf of the government of Guam under  
25 16 GCA § 3602(b)(1).

26 (38) Amounts received from the sale of medical equipment,  
27 machines, and appliances, including beds, examination or treatment

1 chairs, or telemedicine technology for use in hospitals or clinics.  
2 Clinics, for purposes of this Subsection, include those operated by  
3 healthcare professionals, licensed under the provisions of 10 GCA  
4 Chapter 12, who accept Medicare, Medicaid, and Medically Indigent  
5 Program (MIP) patient coverage when applicable.

6 (39) Amounts received from homeowner association  
7 membership dues and common area fees. (l) The amounts collected on  
8 behalf of the government as tipping fees imposed under Chapter 51 of  
9 Title 10 of the Guam Code Annotated. (m) A Subcontractor as defined  
10 pursuant to § 26101(b)(1).

11 § 26203.1. Exemption Limitation. The aggregate amount of exemption  
12 allowed under Items (9), (28), (29) and (30) of Subsection 26203~~(k)~~(l) of this  
13 Chapter for the taxable year shall not exceed Fifty Thousand Dollars (\$50,000.00).

14 **Section 4. Severability.** If any provision of this Act or its application to any  
15 person or circumstance is found to be invalid or inorganic, such invalidity shall not  
16 affect other provisions or applications of this Act that can be given effect without  
17 the invalid provision or application, and to this end the provisions of this Act are  
18 severable.

19 **Section 5. Enactment Date.** This Act shall be effective upon enactment.