CHAPTER 28
USE TAX LAW

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§ 28101. Definitions: Generally.

Whenever used in this Chapter, unless otherwise required by the context:

(a) "Cargo" means any load of commodities carried by ship or aircraft that has a bill of lading or master airway bill.

(b) "Luggage" means any suitcase, trunk or container used to carry personal items while traveling.

(c) "Import" (or any nounal, verbal, adverbial, adjective or other equivalent of the term) includes importation into Guam from any other part of the United States or its possessions or from any foreign country, whether in interstate or foreign commerce, or both.

(d) "Person" includes any individual, firm, copartnership, joint venture, association, corporation, trust or any group or combination action as a unit, and the plural as well as the singular number as may be appropriate.

(e) "Property" means tangible personal property, but does not include newspapers or other periodical publications purchased on the subscription plan, issued at stated intervals as frequently as four (4) times a year.

(f) "Purchaser" means any person purchasing property, but does not include the government of Guam, or the United States, its wholly owned agencies or instrumentalities, or any person immune from the tax imposed by this Chapter under the Constitution and laws of the United States.

(g) "Representation" refers to any or all of the following:

(1) a seller's being present in Guam, and

(2) a seller's having in Guam a salesman, commission agent, manufacturer's representative, broker or other person who is authorized or employed by such seller to assist such seller in selling property for use or consumption in Guam, by procuring orders for such sales, making collections or deliveries or otherwise, and

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(3) a seller's having in Guam a person upon whom process directed to such seller from the courts of Guam may be served.

(h) "Seller," as used in §§ 28107 and 28110, means any person engaged in the business of selling tangible personal property, wheresoever engaged, and any person authorized by a seller to collect the price, but does not include the United States or any of its departments or wholly owned agencies, the government of Guam, or any person who, under the Constitution and laws of the United States, is immune from the duty, imposed by § 28110, of collecting the tax.

(i) "Taxpayer" means any person liable for any tax hereunder, and where the taxable use of the property is not to be or is not made by the owner thereof, then both the person making such use and such owner shall be deemed the taxpayers taxable under this Chapter, and both shall be jointly and severally liable for such tax.

(j) "Value" means fair and reasonable cash value at the time of accrual of the tax.

(k) "Commissioner" means the Commissioner of Revenue and Taxation, Department of Revenue and Taxation, Government of Guam.

(l) "Transient Visitor" means a person who is on Guam for not more than three (3) months consecutively or six (6) months within one (1) calendar year, and does not include those persons who have voted or for other purposes maintained official residency outside of Guam but are in Guam for six (6) months or longer under employment contracts whereby they are employed within Guam.

(m) "Contractor" means a person who contracts to erect, construct, repair, or improve buildings, highways, and other structures and includes those engaged in the practice of architecture, professional engineering, land surveying, landscape architecture, and pest control or fumigation. A contractor is any person or business making repairs, alterations or additions to real property. For purposes of discussion, the term contractor means construction contractor.

(n) "Construction Equipment" means light and heavy, off-road and on-road, gas, diesel, electric or other powered equipment or tools.

(o) "Landed value" means the greater amount between the insured value or fair market value the item has at the time it arrives on Guam, based on industry standards used to assess items.

SOURCE: GC § 19600. Amended by P.L. 25-041:1, 2 (June 8, 1999). Subsections (m),(n) and (o) added by P.L. 31-077:XII:37(b) (Sept. 20, 2011).

2026 NOTE: Reference to "territory" omitted pursuant to 1 GCA § 420. Designations in subsection (g) modified pursuant to authority granted by 1 GCA § 1606.

§ 28102. Definitions: Use, Consumption, Defined.

Wherever used in this Chapter, unless otherwise required by the context, "use" or "consumption" (and any verbal, adjective, adverbial and other equivalent from of any of these terms), herein used interchangeably, means any use, whether such use is of such nature as to cause the property to be appreciably consumed or not, or the keeping of such property for such use or consumption; but shall not include:

(a) the sale or the keeping solely for the sale of such property.

(b) the use or keeping for use of property as material which is or is to be incorporated by the taxpayer into a finished or saleable product, including the container or package in which the product is contained during the course of its preservation, manufacture or processing, including preparation for market, and which remains or will remain in such finished or saleable product in such form as to be

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perceptible to the senses, and which finished or saleable product is or is to be sold and not otherwise used by the taxpayer.

(c) temporary use of property, not of a perishable or quickly consumable nature, where such property is imported into Guam for temporary use (not sale) therein by the person importing the same and is not intended to be, and is not, kept permanently in Guam (as for example without limiting the generality of the foregoing language):

(1) in the case of moving picture films imported for use in theaters in Guam with intent or under contract to transport the same out of Guam after completion of such use;

(2) in the case of a transient visitor importing an automobile or other belongings into Guam to be used by him while therein but which are to be and are removed upon his departure from Guam.

(d) use by the taxpayer of property acquired by him solely by way of gift.

(e) use which is limited to the receipt of articles and the return thereof, to the person from whom acquired, immediately or within a reasonable time either after temporary trial or without such trial.

(f) use of goods imported into Guam by the owner of a vessel or vessels or of an aircraft or aircrafts engaged in interstate or foreign commerce and held for and used only for repair or replacement of said vessels or aircrafts or as ship or aircraft stores for such vessels or aircraft.

(g) the use or keeping for use of materials or commodities which are to be incorporated by a contractor into the finished work or project required by the contract and which will remain in such finished work or project in such forms as to be perceptible to the senses.

(h) the use or keeping for use of household goods, personal effects and private automobiles imported into Guam for nonbusiness use by a person who

(1) acquired them in another state, territory, district or country,

(2) at the time of such acquisition was a bona fide resident of another state, territory, district or country,

(3) acquired the property for use outside Guam, and

(4) made actual and substantial use thereof outside Guam; provided, that, as to an article acquired less than three (3) months prior to the time of its importation into Guam it shall be presumed, until and unless clearly proved to the contrary, that it was acquired for use in Guam and that its use outside Guam was not actual and substantial.

(i) the use or keeping for use of property by a bona fide farmer engaged in agriculture in Guam and used or held for use only for agricultural purposes.

SOURCE: GC § 19601. Subsection (i) added by P.L. 10-087:1 (Aug. 16, 1969). Subsection (f) amended by P.L. 20-012 (June 6, 1989). Subsection (c)(1) repealed and renumbered subsections (c)(2) and (c)(3) appropriately by P.L. 31-077:XII:37(c) (Sept. 20, 2011).

2026 NOTE: Former title "Same" replaced by the Compiler with "Definitions" for clarity.

§ 28103. Levy of Tax.

There is hereby levied on the landed value of, and shall be paid and collected, in the manner, at the times, and by the persons, hereinafter provided a use tax upon the use or consumption of all property (as hereinabove defined) in Guam.

SOURCE: GC § 19602. Amended by P.L. 31-077:XII:37(d) (Sept. 20, 2011).

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§ 28104. Rate of Tax.

The rate of the tax hereby imposed shall be four percent (4%). Effective April 1, 2003, the rate of the tax hereby imposed shall be six percent (6%) through March 31, 2004, after which the rate shall revert to four percent (4%).

SOURCE: GC § 19603. Amended by P.L. 27-005:V:8 (Feb. 28, 2003); P.L. 27-076:7 (Mar. 10, 2004).

§ 28105. Persons Taxable; Computation of Tax; Payable When.

Every person who imports into Guam, or acquires in Guam from any other person to taxable under 11 GCA, Chapter 26, in respect to the transaction by which the former acquired the same, any property for his use or consumption, shall be subject to a tax in respect to such use or consumption at the rate in this Chapter provided, measured by the landed value of such property, which tax shall be payable:

(a) In the case of property imported in foreign commerce, at the time such property loses its character as an import and its immunity as such from taxation by the government of Guam;

(b) In the case of property imported in interstate commerce, at the time such property comes to rest in Guam and ceases to have its character as an article in interstate commerce; and

(c) In the case of property acquired otherwise than through importation into Guam by the taxpayer in foreign or interstate commerce, at the time of such acquisition;

(d) In the event that the tax may not legally be levied in respect to the property concerned at the time and under the circumstances provided in Paragraphs (a), (b) or (c) of this Section, the tax shall be levied and become payable at the commencement by the taxpayer of any use or consumption of the property which is taxable by the government of Guam.

(e) The Guam Customs and Quarantine Agency shall collect the use tax mandated by this chapter on behalf of the Department of Revenue and Taxation on:

(1) taxable property which comes in at the Jose D. Leon Guerrero Commercial Port, or any other seaport in Guam, with any tax for which an exemption is not claimed, to be collected prior to release;

(2) taxable property which comes in as freight or unaccompanied baggage at the Antonio B. Won Pat International Airport Authority, Guam, or any other airport in Guam; and

(3) taxable property which comes in as accompanied baggage at the Antonio B. Won Pat International Airport Authority, Guam, or any other airport in Guam.

(f) The Director of the Department of Revenue and Taxation is authorized to promulgate rules and regulations in accordance with the Administrative Adjudication Law to enforce the intent of this law within 90 days of enactment of this Act.

(g) The Customs and Quarantine shall collect the Use Tax on construction equipment for the performance of a construction contract as mandated by this Chapter, and will maintain a database of the inventory of taxed equipment to reconcile with tax collected.

The value of property at the time the tax first becomes payable in respect thereof, shall be the value used for the computation of the tax.

SOURCE: GC § 19604. Subsections (e), (f), and (g) added by P.L. 24-014:5(a) (Mar. 21, 1997). Subsection (g) repealed by P.L. 24-059:III:21 (Sept. 12, 1997). First paragraph amended and subsection (g) added by P.L. 31-077:XII:37(e) (Sept. 20, 2011).

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2026 NOTE: Reference to "A.B. Won Pat International Airport" replaced with "Antonio B. Won Pat International Airport Authority, Guam" pursuant to 12 GCA § 1102(a) and reference to "Guam Commercial Port" replaced with "Jose D. Leon Guerrero Commercial Port" pursuant to 1 GCA § 835.

§ 28106. Exemptions.

The tax imposed by this Chapter shall not apply to:

(a) Any property, or to any use 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; and

(b) Any person in respect to property acquired in or imported into Guam by him prior to July 1, 1967;

(c) Any use or consumption of personal property the transfer of which property to, or the acquisition of which by, the person so using or consuming the same has actually been or actually is taxed or exempted under Title 11 GCA, Chapter 26.

(d) When a tax has been imposed under this Chapter it shall not again be imposed upon or in respect to the same property under this Chapter; but nothing in this Chapter shall be construed to exempt any property or its use or consumption from taxation under any other law.

(e) the personal non-business use or keeping for personal non-business use of any property of One Thousand Dollars ($1,000) value or less, acquired outside Guam during any one (1) month period, for a maximum of Five Thousand Dollars ($5,000) per any given calendar year, by an individual who is a bona fide resident of Guam at the time of the acquisition.

(f) Property belonging to and being brought into Guam by residents returning to Guam after completion of studies under government scholarships or in-service training is exempted from the provisions of this Act.

(g) All property imported into Guam by a FSC which is "non-Guam property" as defined in 12 GCA §2431(d).

(h) All Passenger Luggage. Cargo traveling with a passenger is not exempt from the provisions of this Chapter.

(i) Any medical equipment, machines, or appliances, including beds, examination or treatment chairs, or telemedicine technology for use in hospitals or clinics. Clinics, for purposes of this Subsection, include those operated by healthcare professionals, licensed under the provisions of 10 GCA Chapter 12, who accept Medicare, Medicaid, and Medically Indigent Program (MIP) patient coverage when applicable.

SOURCE: GC § 19605, Subsection (g) added by P.L. 17-063:7 (Aug. 29, 1984). Subsection (e) repealed and reenacted by P.L. 20-221:64(b) (Dec. 31, 1990). Subsection (h) added by P.L. 25-041:3 (June 8, 1999). Subsection (i) added by P.L. 36-045:3 (Aug. 16, 2021).

§ 28107. Tax in Addition to Other Taxes.

The tax imposed by this Chapter shall be in addition to any other taxes imposed by any other laws of Guam, except as otherwise specifically provided herein; provided, that if it be finally held by any court of competent jurisdiction, that the tax imposed by this Chapter may not legally be imposed in addition to any other tax or taxes imposed by any other law or laws with respect to the same property or the use or consumption thereof, then this Chapter shall be deemed not to apply to such property and the use or consumption thereof under such specific circumstances, but such other laws shall be given full effect with respect to such property, use and consumption.

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SOURCE: GC § 19606.

§ 28108. Returns.

Each taxpayer against whom a tax is levied by the provisions of this Chapter shall make and file monthly tax returns with the Tax Commissioner, no later than the twentieth (20th) day of the following month, summarizing the tax due. The monthly return shall be filed and any tax then due shall be paid no later than the twentieth (20th) day of the following month.

SOURCE: GC § 19607. Repealed and reenacted by P.L. 24-012:10 (Mar. 21, 1997). Amended by P.L. 27-076:8 (Mar. 10, 2004).

NOTE: The effective date for filing under this amended section is for returns covering the month of April 2004 (P.L. 27-076:11).

§ 28108.1. Payment of Use Tax.

All taxpayers against whom a tax is levied by the provisions of this Chapter shall pay Use Taxes immediately upon the property's importation or use. The Use Taxes shall be paid at authorized banks, financial institutions or at designated offices of the government of Guam.

SOURCE: Added by P.L. 24-012:11 (Mar. 21, 1997).

§ 28109. Reports by Importers and Others.

For the purpose of enabling the Commissioner to determine whether or not the provisions of this Chapter are being complied with and to prevent evasion of the tax hereby imposed, every person who imports any property into Guam or who acquired property in Guam from any other person not taxable under 11 GCA, Chapter 26, in respect to the transaction by which the former acquired the same (whether or not he then is, or can then legally be, taxed in respect to such property or the use or consumption thereof under this Chapter) shall make a report to the Commissioner, setting forth, in such reasonable detail as the Commissioner by regulation may prescribe, the description, quantity, character and value thereof, and such information as may be reasonably necessary to determine the taxability or non-taxability of the person making such report in respect to the property covered thereby.

SOURCE: GC § 19608.

§ 28110. Collection of Tax by Seller; Penalty.

(a) Every seller having in Guam, regularly or intermittently, any property, tangible or intangible, any place of business, or any representation (and irrespective of his having or not having qualified to do business in Guam), shall, if such seller makes sales of property for use or consumption in Guam (whether or not such sales are made in Guam), collect from the purchaser the tax imposed by this Chapter on the use or consumption of the property so sold by him. Such collection shall be made within twenty (20) days after the accrual of the tax or within such other period as shall be fixed by the Commissioner upon the application of the seller, and such seller shall give the purchaser or receipt therefor in the manner and form prescribed by the Commissioner.

(b) The Commissioner, in his discretion, upon application therefor and under terms and conditions prescribed by him, may relieve any seller of the duty of collecting and paying over the tax imposed by this Chapter, if he is satisfied that the tax can be effectively collected by other means. Exemption from the duty of collecting the tax may be canceled at any time when the Commissioner finds that the tax cannot be effectively collected by other means. The Commissioner likewise may terminate the duty and authority of any seller to collect and pay over the tax imposed by this Chapter if he shall find, as to such seller, that the tax cannot be effectively collected by such means.

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(c) The Commissioner, in his discretion, upon application therefor and under terms and conditions prescribed by him, may authorize the collection of the tax imposed by this Chapter by a seller not otherwise required to collect the tax. The seller, when so authorized, shall have the duty of collecting and paying over the tax in the same manner and subject to the same requirements as set out in Subsection (a). Such authority may be canceled at any time, when, in the judgment of the Commissioner, the tax can more effectively be collected by other means.

(d) In case any seller required or authorized to collect the tax under this Chapter fails to collect the same, or having collected the tax fails to pay over the same as provided by this Chapter, he shall nevertheless be personally liable to the government of Guam for the amount of such tax, but it shall be a defense to such liability that the indebtedness for the price is a worthless account actually charged off for income tax purposes, if and to the extent that the collections of the price do not equal the tax.

(e) Every seller required or authorized to collect the tax shall make returns and payment of the tax at the same time and in the same manner as is provided with respect to taxpayers by § 28108. All provisions of this Chapter with respect to returns, reports, records, payments, penalties and interest, appeals, investigations and audits, assessments, tax collection procedure, criminal offenses and the general administrative powers and duties of the Commissioner, shall apply to such sellers the same as to taxpayers.

(f) The tax collected pursuant to this Section shall be held in trust for the government of Guam and for payment to the Commissioner in the manner and at the time required by this Chapter. Any person collecting such tax who shall appropriate or cover the same to his own use or to any use other than the payment of the tax as herein provided, and who shall fail to pay over the amount of tax so collected at the time required by this Chapter, shall be deemed guilty of theft and may, in addition to any other penalty provided by law, be fined not more than five (5) times the amount of money so stolen and any failure by the person so collecting the tax to pay the same over within the time provided by this Chapter, after demand therefor, shall be taken and held to be prima facie evidence of the theft.

SOURCE: GC § 19609, Subsection (f) amended by P.L. 13-187:136 (Sept. 2, 1976).

§ 28110.1. Failure to Supply Identifying Number.

Every person required to file returns or pay taxes, as prescribed under Sections 28108 and 28108.1 of this Chapter, shall include his taxpayer identification number on such return, statement or other document. If any person fails to comply with such requirement, such person shall, unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of Fifty Dollars ($50.00) for each failure.

SOURCE: Added by P.L. 24-012:12 (Mar. 21, 1997).

§ 28111. Other Provisions of Chapter 26 Applicable.

In respect of

(a) the examination of books and records and of taxpayers and other persons,

(b) the procedure and powers upon failure or refusal by a taxpayer to make a return or a proper return, and

(c) the general administration of this Chapter,

the Commissioner shall have all the rights and powers conferred upon him by 11 GCA, Chapter 26, with respect to taxes thereby or thereunder imposed; and, without restriction upon the aforesaid rights and powers all hearings and appeals shall be in conformity with the provisions of 11 GCA, Chapter 26.

SOURCE: GC § 19610.

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§ 28112. Continuing Appropriation.

Upon enactment of this Act, and each fiscal year thereafter:

(a) Sums based on twenty percent (20%) of the total Use Tax collected in the previous fiscal year shall be appropriated to the "Customs, Agriculture and Quarantine Inspection Services Fund" to cover costs associated with Use Tax collection inspection activities. This appropriation is continuous, but is contingent on the annual submission of a detailed budget to I Liheslaturan Guåhan by the Director of the Customs and Quarantine Agency.

(b) Sums based on twenty percent (20%) of the total Use Tax collected in the previous fiscal year shall be appropriated to the "Department of Public Works Services Village Roadway Funds" to cover costs associated with improvements, repairs, and general maintenance to roads on Guam not covered by Office of Federal Highway Funds. This appropriation is continuous, but is contingent on the annual submission of a detailed budget to I Liheslaturan Guåhan by the Director of the DPW.

(c) Sums based on twenty percent (20%) of the total Use Tax collected in the previous fiscal year shall be appropriated to the "Guam Environmental Trust Fund" to cover costs associated with preserving Guam's natural resources. This appropriation is continuous, but is contingent on the annual submission of a detailed budget to I Liheslaturan Guåhan by the Administrator of the GEPA. Notwithstanding any other provision of law, the monies appropriated by this section, *supra*, shall be placed in the Guam Environmental Trust Fund within twenty (20) days following the end of the month that the funds where collected.

(d) Sums based on twenty percent (20%) of the total Use Tax shall be appropriated to the Guam Department of Education to prioritize capital improvement and deferred maintenance, strengthen safe learning environments and Americans with Disabilities Act (ADA) compliance, support instructional needs without duplicating federally funded services, and fund the maintenance-of-effort requirements for Head Start and Special Education (SPED) programs. The appropriation is continuous and contingent on the annual submission of a detailed budget. The Superintendent of Education shall annually submit a detailed budget to I Liheslaturan Guåhan.

Enactment Date. This Act shall be effective on October 1, 2027.

(e) Sums based on ten percent (10%) of the total Use Tax shall be appropriated to the Department of Public Health and Social Services (DPHSS), Environmental Health Revolving Fund to cover costs associated with regulatory activities, including inspections of all food, drugs, cosmetics, and medical devices imported, distributed, and sold on Guam, training and building workforce capacity, and other activities authorized for use from the Environmental Health Revolving Fund. The appropriation is continuous and contingent on the annual submission of a detailed budget. The Director of the Department of Public Health and Social Services shall annually submit a detailed budget to I Liheslaturan Guåhan.

Enactment Date. This Act shall be effective on October 1, 2027.

SOURCE: Added by P.L. 25-138:4 (May 22, 2000). Amended by P.L. 31-077:XII:37(f) (Sept. 20, 2011). Subsection (c) amended by P.L. 38-060:XII:54 (Sept. 29, 2025). Subsection (d), (e) added by P.L. 38-136:XII:69, 68 (Aug. 28, 2026), effective October 1, 2027.

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