

**30 GAR REVENUE AND TAXATION
DIVISION I TAX COMMISSIONER
CH. 1 INCOME TAX**

**DIVISION I
TAX COMMISSIONER**

- Chapter 1. Income Tax.
2. General Tax.
3. Guam Economic Development Authority.
4. Tax Preparers Act.

**CHAPTER 1
INCOME TAX**

NOTE: Rule-making authority is granted to the Governor of Guam by 48 U.S.C.A. §1421 (i)(2) of Title 48 the formulation of income tax regulations which are not inconsistent with the Federal regulations prescribed under § 7654(e) of the Internal Revenue Code of 1954. In turn, the Department of Revenue and Taxation is made responsible under the Governor for the enforcement of the Guam Territorial Income Tax through 11 GCA § 1104.

Although no formal rules and regulations on Guam's Income Tax have been filed with the Legislative Secretary at the time of this original publication, the Director of Revenue and Taxation did submit the following income tax rulings.

These rulings may have become obsolete due to changes in the Federal Internal Revenue Code.

CRT Ruling No. 71-1 (Published March 23, 1971).

Purpose: The purpose of this ruling is to clarify the question of nontaxability of bonus received by members of Guam Combat Patrol or their survivors for Guam income tax purposes.

Authority for payment: Public Law 10-101, Tenth Guam Legislature, effective August 17, 1969.

Ruling: An inquiry has been made as to whether bonus received by members of the Guam Combat Patrol, who assisted the armed forces of the United States during World War II is excludable from gross income under § 102 of the Guam Income Tax Law. It is quite apparent from an analysis of the provisions of Public Law 10-101 and its historic background that its intent and objective was to provide a gratuitous award to those who served their country in time of war without regard to specific hours of duty. In other words, this was a recognition of dedication, loyalty, and valor in volunteering to defend home and country in time of

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need. Accordingly, it is held that the so-called “bonus” paid to recipients authorized by Public Law 10-101 in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) represents a gift and is not includible in the recipients’ gross income. See Rev. Ruling 68-158, CB 1968-147, and § 102 of the Guam Territorial Income Tax Law.

CRT Ruling No. 71-2 (Published April 19, 1971).

Purpose: The purpose of this ruling is to clarify the treatment of visa symbol H-2 aliens for Guam income tax purposes.

Definition of H-2 Alien: Section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101), defines visa Symbol H-2 as that of “an alien having residence in a foreign country which he has no intention of abandoning, who is coming temporary to the United States to perform other temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country.”

Ruling: In the light of the above definition, it is the established policy of this Department that aliens coming to Guam under visa symbol H-2, shall be treated as non-resident alien individuals for Guam income tax purposes, regardless of the extended period of stay of such alien in Guam. The residence requirements as stated before in reference to the two years or more will not be applicable to aliens under visa symbol H-2.

This ruling is effective for tax years commencing after December 31, 1970.

CRT Ruling No. 71-3 -- revised (Published September 14, 1971).

Purpose: The purpose of this ruling is to clarify the treatment of Visa Symbols E-1 and E-2 Aliens for Guam Income Tax purposes.

Definition of E-1 and E-2 Aliens: Section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101), defines visa Symbol E as that of “an alien entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of

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which he is a national and spouse and children of an such alien if accompanying or following to join him:

E-1 Treaty trader, spouse and children

(i) solely to carry on substantial trade, principally between the United States and the foreign state of which he is a national;

E-2 Treaty investor, spouse and children

(ii) solely to develop and direct the operations of an enterprise in which he has invested, or of an enterprise in which he is actively in the process of investing, a substantial amount of capital.”

Ruling: In the light of the above definition, it is the established policy of this Department that aliens coming to Guam under visa symbols E-1 and E-2, shall be treated as non-resident alien individuals for Guam Income Tax purposes, regardless of the extended period of stay of such aliens in Guam. The residence requirements in reference to the two years or more rule will not be applicable to aliens under visa symbols E-1 and E-2.

This ruling is effective for tax years commencing after December 31, 1970.

CRT Ruling No. 71-4 -- revised (Published November 11, 1971).

Purpose: The purpose of this ruling is to clarify the treatment of the so called paroled alien employees who have been or are employed in Guam under contracts with military agencies of the United States or with contractors who are performing services for United State military agencies.

Condition of extensions: Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1101) states that “The Attorney General may in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purpose of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled

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and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.”

Ruling: In the light of the condition set forth above, it is the established policy of this Department that parolee type aliens who would be subject to said conditions shall continue to be treated as non-resident alien individuals for Guam income tax purposes for the entire duration of their extended period of stay in Guam. The residence requirements in reference to the “two year or more” rule will not apply to such type of aliens regardless of the length of the extension granted them by the Attorney General, provided, however, that if such parolee has been granted a visa reflecting a status equivalent to that of an immigrant pursuant to the U.S. Immigration rulings and requirements, and is able to show evidence of such new status in lieu of such parole status, the Director of Revenue and Taxation will accordingly, permit such parolee to claim residence for Guam income tax purposes.

This ruling is effective for tax years commencing after December 31, 1970.

CRT Ruling No. 72-1.

Purpose: The purpose of this ruling is to clarify a question of non-taxability of interest on obligations of political subdivisions or subsidiary governmental units of the Government of Guam, such as the Guam Housing Corporation.

Background: A closely related question arose early in 1971, when the local manager of the First Hawaiian Bank wrote to the Department on January 12, 1971, asking if obligations of the Government of Guam are not subject to income tax. The relevant portions of the reply of this Department are quoted below:

“Before giving you our informal opinion on this matter, we trust that you will appreciate the necessity for limiting our conclusions to a specific set of facts or circumstances. It is our understanding that you are referring to the obligation of the Government of Guam in a proposed loan of \$941,176 for the purchase of one used diesel electric Paceco 30 LT Portainer container crane for the use of the Commercial Port. It is my

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understanding that the following is one of the conditions of this loan: ‘The Government of Guam shall pay an amount equal to 3½ % of the total purchase price every quarter for 60 consecutive quarters, the first payment to be due three months following the date of the signing of the contract, and for every quarter in consecutive order thereafter until the sixtieth (60th) quarterly payment shall have been made.’

For United States tax purposes, interest on obligations issued by the Government of Guam is tax free by virtue of Section 103(a)(1) of the Internal Revenue Code of 1954, since Guam is a possession of the United States. You will note that the interest on obligations of a territory or possession of the United States is not to be included in gross income. Therefore, such interest would not be taxable by the United States Government.

However, for Guam tax purposes, interest on obligations issued by the Government of Guam is not tax free because of the specific provisions of Sections 103(a)(2) and 103(b) of the Guam Territorial Income Tax Law. Under Section 31 of the Organic Act of Guam, the income tax laws in force in the United States of America at the time of that Act and those which are enacted thereafter shall be held likewise to be in force in Guam. Subsection (e) of Section 31 of the Organic Act states that ‘applicable provisions of the Internal Revenue Code of 1954...shall be read as to substitute “Guam” for “United States”...’ Thus, in the light of these requirements in Section 31 of the Organic Act of Guam, we now read Section 103(b) of the Guam Territorial Income Tax Law as follows:

‘Section 103(b) Exception.--Subsection (a)(2) shall not apply to interest on obligations of Guam issued after September 1, 1917...unless under the respective Acts authorizing the issuance thereof such interest is wholly except from the tax imposed by this subtitle’ (Guam substituted for U.S.).

In view of all the foregoing provisions of the Guam Territorial Income Tax Law, it is my view that interest on this loan is not tax free for Guam tax purposes.”

Recently, the Guam Housing Corporation has been giving consideration to the possibility of obtaining a loan from banking

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institutions in Guam, for the purpose of providing it with funds urgently needed in the execution of the lawful functions which have been delegated to it under the Guam Housing Corporation Act. Specifically, the President of the Guam Housing Corporation has asked whether the interest income derived from payments of obligations of the corporation on such a loan is or is not includable in the gross income of any such lender. In other words, this question in effect relates to the taxability of such interest income to such lenders under the provisions of the Guam Territorial Income Tax Law.

Ruling: The legislative intent reflected in the substantive provisions of Section 103 of the United States Internal Revenue Code appears to establish legal concepts which distinguish between taxability for Federal income tax purposes of interest on obligations of the Federal Government, as contrasted with non-taxability under these same statutory provisions of interest on obligations of political subdivisions or subsidiary governmental units such as States, Territories, Possessions, and further political subdivisions of these units. Accordingly, in mirroring, or applying, or translating the Federal Income Tax Laws as the Guam Territorial Income Tax Laws from an overall and substantive viewpoint, we necessarily come to the conclusion that while the interest on obligations of the Government of Guam would generally be taxable, interest on obligations of its political subdivisions or subsidiary governmental units would be non-taxable. The only exceptions to these conceptual views would be where a specific legislation would intervene, as in the case of Section 11 of the Organic Act of Guam, which provides that interest on bonds issued by the Government of Guam are non-taxable not only for Federal income tax purposes but also for Guam Territorial income tax purposes.

Therefore, it is held that obligations on interest income derived from repayment of obligations of the Guam Housing Corporation to banking institutions is not includable in the gross income of such lending institutions under the Guam Territorial Income Tax Laws. This ruling is limited to the specific facts in this case and will not be applicable to other cases unless the relevant facts and circumstances are the same.

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CRT Ruling No. 72-1 (Published March 17, 1972).

Purpose: The purpose of this ruling is to clarify the processing of Guam income tax returns by the Taxpayer Assistance and Processing Branch.

Clarification of processing of Guam Income Tax Returns: The following items listed below will be the sole responsibility of the Taxpayer Assistance and Processing Branch to take whatever appropriate action is deemed necessary to accomplish the processing of tax returns prior to classification:

1. Non-resident alien individuals filing regular form 1040.
2. Dual-status tax year taxpayers filing as full-year residents.
3. Medical expenses without the 1% and 3% adjusted gross income limitation.
4. Auto mileage rates for trade or business transportation in excess of 124 per mile for the first 15,000 miles or 94 per mile over 15,000 miles.
5. Expenses for care of children or certain disabled dependents on a "married filing separate return".
6. Dividend (from Guam corporation) exclusion in excess of \$100 on a separate return or \$200 on a joint return.
7. Income on Form W-2 or 1099 incorrectly reported on tax return.
8. Fractional exemptions.
9. Tax returns without proper identification numbers.
10. Any irregularity found to have been overlooked by the classifier may be returned to Audit for further review.

Ruling: In order to expedite the process of tax returns before and after classification, the above mentioned items will be handled by the Taxpayer Assistance and processing Branch upon receipt of income tax returns. It will be that Branch's responsibility to notify the taxpayers concerned of any adjustments they may make

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so that there will be no cause for hardship or embarrassment on the part of this Branch for failure to send such notifications. It must be clearly understood that only those items mentioned on page one will be handled by the Taxpayer Assistance and Processing Branch. Other adjustments that require audit examination must be referred to the Tax Audit Branch. Under no circumstances should the Taxpayer Assistance and Processing Branch make adjustments when it is an audit matter.

CRT Ruling No. 72-2 (Published December 19, 1972.)

Purpose: The purpose of this ruling to clarify the types of employee deductions that may be allowable to nonresident alien individuals defined under CRT Rulings number 71-2, 71-3 and 71-4 as revised.

Authority for allowance: Section 873 of the Guam Income Tax Law.

Ruling: The following guidelines apply to nonresident alien individuals whose entry permit to Guam is governed by the U.S. Immigration and Nationality Act and in accordance with CRT No. 71-2, 71-3, 71-4 approved. These rules are not applicable to citizens of the U.S. who are classified as aliens, on Guam, for tax purposes.

These rules are to be used in audits involving returns for 1971 and future years.

Taxpayers living and eating in the barracks maintained by their employer normally pay for this by deductions from their wages. These taxpayers will be allowed to deduct this amount, from their gross wages, on their income tax return. The amount for meals and lodging must be specifically stated by the employer in W-2 forms.

The following rules which involve lodging and meals apply to the nonresident alien taxpayer who is not living and eating in quarters provided by his employer and cannot produce substantiation of his actual expenses.

A--Lodgings—"Off Camp"

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(1) A single occupant in a rented house will be allowed a maximum of \$3.00 per day which would include rent and utilities, without substantiation.

(2) Multiple occupants may be allowed a deduction for house rent and utilities. Computation of the amount allowable for each individual occupant is on the basis that the monthly rental charges be divided by the number of occupants in the rented house. The amount allowed per day must not exceed \$3.00 for each individual.

B--Meals—"Off Camp"

(1) The maximum amount allowable for food is \$14.00 per week inclusive of the nonworking days, without substantiation.

C--Transportation: Deductions will be allowed for transportation with substantiation. A minimum of 124 per mile will be allowed provided records or other evidence of mileage is submitted.

D--Laundry: No deductions will be allowed for laundry without substantiation.

(Amendment to CRT Ruling No. 72-2(D) (Published March 1, 1973)

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Memorandum

To: Supervisor, Tax Audit Branch
Via: Chief, General Taxes Division
From: Deputy Commissioner of Revenue and Taxation
Subject: Amendment to CRT Ruling No. 72-2, Relative to
Nonresident aliens.

In a meeting held in my office on February 5, 1973, attended by representatives of H & R Block, Inc., Sav-U-Tax Service, Income Tax Specialist, Mr. Chaco and myself, we discussed several matters relating to Guam Income Tax filing requirements. One of the problems brought out in this meeting concerns the question of allowance of laundry expenses as an allowable deduction to nonresident alien employees in Guam. The Tax Preparers have expressed the position that because of extenuating circumstances, it is not entirely possible at all times to obtain receipts from self-service laundry establishments and for this reason the mandatory requirements to furnish records of such expenses would deprive eligible taxpayers from the benefit of such deductions.

The purpose of this memorandum, therefore, is to amend item D of CRT Ruling No. 72-2, as follows:

D - Laundry: Deductions for laundry expenses may be allowed to the extent such deductions are properly substantiated by records of the taxpayer, and that such deduction has met the requirements of law that it constitutes ordinary and necessary expense in connection with the taxpayer's employment or business in Guam; provided, however, that with respect to laundry expenses claimed in an amount not exceeding Fifty Dollars (\$50.00) for each taxable period will be allowed as a reasonable deduction without substantiation from records.

E - Safety Equipment and Tools: A deduction will be allowed for all substantiated purchases of safety equipment and tools.

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If substantiation of the expenses is not available a minimum deduction may be allowed at the discretion of the revenue agent following the guidelines on schedule attached.

F - Charitable Contributions: Contributions to charitable and other like organizations registered on Guam are deductible.

A contribution to an organization outside of Guam is not deductible. Charitable contributions properly substantiated will be allowed.

G - Visas: Cost of visa fees required to enter Guam are deductible.

This deduction is subject to verification by the examiner.

APPLICABLE ONLY TO THOSE NONRESIDENT ALIEN INDIVIDUALS WHO ARE NOT PROVIDED THE REQUIRED TOOLS AND EQUIPMENT BY THEIR EMPLOYERS, NOT REQUIRED BY THEIR EMPLOYERS.

TOOLS AND EQUIPMENT USED BY ALIEN LABORERS

Saw (Manual)			\$5.98	
Screwdriver (Philips)	S \$.60	M	\$ 1.20	L \$2.20
	3 pc. set		\$ 5.05	
Screwdriver (Plain)	S \$.85	M	\$ 1.39	L \$2.29
Plane			\$11.90	
Hammer, ball			\$ 4.50	
Hammer, reg.			\$ 4.00	
Level	24"		\$ 8.35	
	8"		\$ 3.65	
Plumb			\$ 2.20	
Pipe cutter			\$25.49	
Pliers, reg.			\$ 2.98	
pinch			\$ 4.69	
Paint brushes	2"		\$ 1.70	
	3-4"		\$ 2.95	
	6"		\$ 5.95	
Gloves, Welder			\$ 7.35	
Mason			\$ 1.98	
Rule, metal			\$ 3.10	

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Sheet metal shears				\$ 4.70
Carpenter apron				\$ 1.50
Files, various				\$ 1.50
Putty knives	S \$1.39	M	\$ 1.59	L \$2.69
Pipe threader				\$44.95
Trowel	S \$2.95	M	\$ 4.50	L \$7.95
Chisel, cold				\$ 3.25
T-square				\$ 3.05
Amp. tester				\$.73
Volt meter				\$18.90
Plumbers wrench	14"			\$ 9.39
Socket S3" to 1"	\$1.00	M	1" to 12"	\$3.25
L 12" and over	\$6.00			
Replacement heads (socket)				\$ 1.00
Wrenches, regular	14 pc. set			\$55.00
	S \$3.00	M	\$ 6.00	L \$8.00
Wrenches, socket sets	7 pc. up to 1"			\$19.95
	7 pc. up to 12"			\$22.08
	12 pc. mechanics			\$34.75

CRT ruling No. 73-1 (Published January 29, 1973).

Purpose: The purpose of this ruling is to establish guidelines in accepting the processing of returns filed by person or persons requiring the use of "chop" signatures.

Authority: § 6061 of the Guam Income Tax Law.

Ruling: Income tax returns filed or to be filed by employees of Central Pacific Development and Investment Corporation having signature "chop" instead of script or printed signatures utilizing the Roman alphabet will be accepted and processed, if such signatures are attested by an authorized officer of the said corporate employer under a sworn statement.

Other income tax returns in a similar situation should be accepted and processed in the same manner.
