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DEPARTMENT OF

REVENUE AND TAXATION

GOVERNMENT OF GUAM

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CHECKLIST FOR LICENSING AND RENEWWAL OF PAWN SHOPS OR PAWNBROKERS

- Pawn shops or pawnbrokers are lending institutions under the Gross Receipts Tax Law. (Please see 22 GCA Section 49101; 11 GCA Section 26202 (f), (f) (1) and (f) (2).
- Lending institutions are allowed to charge interest rates of 3% per calendar month on the first \$300.00 outstanding on any loan and 2% per calendar month on the balances of loans in excess of \$300.00
- The Guam Police Department has found some stolen jewelries being pawned or used as collateral to obtain loans from pawn shops or pawnbrokers.
- As a matter of policy, in order to protect the consumers the issuance or renewal license for application for pawn shops or pawnbrokers shall require the following:
 1. Police Clearance from the principal owner or controlling stockholders of the applicant pawn shops or pawn brokers to prevent persons convicted of felony from engaging in the lending business.
 2. Financial Statement to show that the pawn shop or pawnbroker is capable of making loans secured by valuable articles and returning the articles pawned in case of full payment of loan obtained.
- Remind owners of pawn shops or pawnbrokers to keep a transaction registry, showing the date, duration, amount, rate of interest of every loan, accurate description of every property pledged or estimated value of property purchased, of the name and residence of the borrower pawning the article or seller or to provide the borrower pawning the article or seller a written copy of such entry.

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CHAPTER 49
PAWNBROKERS AND JUNK DEALERS

- § 49101. Pawnbroking Without a License.
- § 49102. Pawnbrokers, Register to be Kept.
- § 49103. Pawnbrokers, What Charges May Make.
- § 49104. Retention, Redemption and Sale of Pledged Goods.
- § 49105. Refusing to Disclose Particulars of Sale. (Repealed)
- § 49106. Inspection of Register by Officer.
- § 49107. Junk Dealers, Application of Code Sections to.

§ 49101. Pawnbroking Without a License.

It *shall* be a misdemeanor to carry on the business of a pawnbroker or to receive goods in pledge for loans upon which interest is charged, without a license as a pawnbroker. The annual license fee for a pawnbroker *shall* be Five Hundred Dollars (\$500.00). A pawnbroker *shall* pay business privilege tax upon its revenues and sales of pawned merchandise as a lending institution, as provided for in § 26202, subsections (f), (f)(1) and (f)(2) of 11 GCA Finance and Taxation.

SOURCE: GC § 50001 added by P.L. 13-187:247 as R/R by P.L. 17-81:22. Amended by P.L. 29-002:V:I:105 (May 18, 2007). 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.

§ 49102. Pawnbrokers, Register to be Kept.

Every person who carries on the business of a pawnbroker, or who purchases gold bars, gold quartz or gold bullion or mineral containing gold, who fails at the time of transaction to enter in a register kept by him for that purpose, in the English language, the date, duration, amount, and rate of interest of every loan made by him, or an accurate description of the property pledged, or estimated value of property purchased, of the name and residence of the pledgor or seller, or to delivery to the pledgor or seller a written copy of such entry, or to keep an account in writing of all sales made by him, is guilty of a misdemeanor.

SOURCE: GC § 50002 enacted by P.L. 13-187:247.

§ 49103. Pawnbrokers, What Charges May Make.

Notwithstanding any other provision of law, a pawnbroker may charge for pawn loans, including consumer loans:

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(a) A pawnbroker may legally charge interest at the rate of up to three percent (3%) per calendar month or part thereof on the first \$300 outstanding on any loan, and two percent (2%) per calendar month or part thereof on balances of loans in excess of \$300.00.

(b) In addition to the interest and other charges allowed herein, a pawnbroker may charge a set-up and loan origination charge of Ten dollars (\$10.00), or such minimum charge as may be permitted to be charged by any bank, finance company, or small loan company pursuant to any law or regulation, whichever is greater.

(c) In addition to the interest and other charges allowed herein, a pawnbroker may charge up to fifty cents (\$.50) per day per item pawned for storage, insurance, and handling. Such amount shall be disclosed in writing to the pledgor, but need not be treated as interest in computing the rate of interest to be disclosed to the pledgor by the pawnbroker.

SOURCE: GC § 50003, enacted by P.L. 13-187:247 and R/R by P.L. 17-81:23.

§ 49104. Retention, Redemption and Sale of Pledged Goods.

Every pawnbroker must retain in his possession all articles pledged to him in accordance with the loan agreement, and shall have a security interests therein. If the pledgor fails to redeem his pledge when due, the pawnbroker shall hold the pledge for redemption for a period of at least forty-five (45) days after notice of default of payment has been mailed by registered or certified mail, return receipt requested, to the last known mailing address of the pledgor. If within the forty-five (45) day period after mailing, the pledgor does not redeem the articles pledged by paying the sums due along with all accrued interest, other charges, and a charge of Ten Dollars (\$10.00) plus postage costs for the notice of default, which amount the pawnbrokers is authorized to charge to the delinquent pledgor, then the pawnbroker shall, notwithstanding any other provision of law, own the articles(s) pledged based upon his Uniform Commercial Code Security Interest therein. Notwithstanding any other provision of law, the pledgor shall thereafter have no more interest whatsoever in the article(s) pledged, title to the pledged article shall be in the pawnbroker, and the debt of the pledgor to the pawnbroker shall be discharged. The pawnbroker shall not be entitled to a deficiency judgment if the value of the item pawned is less than the total sum owed.

SOURCE: GC § 50004; enacted by P.L. 13-187:247 and R/R/ by P.L. 17-81:24.

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§ 49105. Refusing to Disclose Particulars of Sale.

[Repealed].

SOURCE: GC § 50005. Repealed by P.L. 17-81:25.

§ 49106. Inspection of Register by Officer.

Every pawnbroker or person who purchases gold bullion, gold bars, or gold quartz or mineral containing gold, who fails, refuses or neglects to produce for inspection his register, or to exhibit all articles received by him in pledge, or his account of sales, to any officer holding a warrant authorizing him to search for personal property, or an order of a committing judge directing such officer to inspect such register, or examine such articles or account of sales, is guilty of a misdemeanor..

SOURCE: GC § 50006 enacted by P.L. 13-187:247. Amended by P.L. 25-16:49.

§ 49107. Junk Dealers, Application of Code Sections to.

Sections 49102, 49105, and 49106 are applicable to the persons carrying on the business of junk dealers, their clerks, employees, or servants, and to persons acting as brokers or commission agents for such persons, and apply to their transactions of purchase and sale as well as to those of pledge or mortgage.

SOURCE: GC § 50007 enacted by P.L. 13-187:247.

NOTE: As enacted, this section referred to "Sections 50002, 50005, and 50006" as being applicable to junk dealers. Former § 50005 was repealed by P.L. 17-81:25.

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(b) Information may be made available or furnished pursuant to this Section only if it is to be used solely for the administration of the tax laws of the state, Federal Government, or other territory or possession of the United States and only if such above-mentioned tax jurisdiction by law prohibits the unauthorized divulging of such information and imposes penalties for the violation of such prohibition.

(c) Any person who divulges, except as authorized in this Section, or when testifying in any judicial or administrative proceeding at which Guam or any of its officials, bodies or commissions, as such, are a part, any information acquired by him or another under the provisions of this Section shall be guilty of a misdemeanor.

SOURCE: §19526 Subsection (c) amended by P.L. 13-187:34.

§ 26120. Inspection of Tax Returns and Information: Prohibition.

Tax returns and other information required to be filed or furnished by the taxpayer, or any other person, shall not be open for public inspection or divulged except when testifying in any judicial or administrative proceeding in which the government of Guam, or any of its officials in an official capacity, are a party, and in which the government of Guam has an interest in the result; except that any committee of the Legislature, duly created, authorized by resolution of the Legislature, may require that it be furnished any data contained in any tax return for use by such committee in executive session only.

SOURCE: GC § 19532.

ARTICLE 2
BUSINESS PRIVILEGE TAXES

- § 26201. Levy.
- § 26202. Rates.
- § 26202.1. Exemption to Increase in BPT
- § 26203. Exemptions.
- § 26204. General Provisions.
- § 26205. Statute of Limitations for Collections.
- § 26206. Penalty for Non-Filing of Business Privilege Tax Return.

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- § 26207. Liability of Officers, Directors and Employees for Corporate Business Privilege Taxes.
- § 26208. Creation of the Guam Memorial Hospital Authority Pharmaceuticals Fund.
- § 26208.1 Appropriation to the Guam Memorial Hospital Authority Pharmaceuticals Fund.
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- § 26209. Appropriation of School Operations Fund.
- § 26210. Creation of Performance Incentive Fund.
- § 26211. Appropriation of Performance Incentive Fund.
- § 26212. Capital Improvement Fund.
- § 26213. Appropriation of Capital Improvement Fund.
- § 26214. Immediate Construction of New Schools.
- § 26215. Business Privilege Tax Credit for Services Purchased from Competing Telecommunications Companies.
- § 26216. Health Care Service Provider.

NOTE: Effective July 17, 2007, reference to Gross Receipts Tax (GRT), amended to Business Privilege Tax (BPT) pursuant to P.L. 29-002:VI:28 (May 18, 2007).

§ 26201. Levy.

There is hereby levied and shall be assessed and collected monthly privilege taxes against the persons on account of their businesses and other activities in Guam measured by the application of rates against values, gross proceeds of sales or gross income, as the case may be.

SOURCE: GC § 19540. Amended by P.L. 27-41:2. Subsections (b), (c) and (d) repealed by P.L. 29-002:VII:1(b) (May 18, 2007). Subsection (a) remains as the paragraph above.

NOTE: Apportionment of Gross Receipts Tax, see *Asiatic Trans-Pacific, Inc. v. Maddox* (1967), 371 F.2d. 132.

§ 26202. Rates.

The following rates shall apply in computing, assessing and collecting the business privilege tax:

- (a) Tax on the business of selling tangible personal property. Upon every person engaging or continuing within Guam in the business of selling any tangible property whatsoever (not including however, bonds or other evidence of indebtedness or stocks), there shall be a tax equivalent to four percent (4%) of gross proceeds of

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sales; except that on the gross proceeds of the operation of poker machines, there shall be a tax equivalent to eight percent (8%) on the gross proceeds of each machine, as determined by subtracting the winnings, pay-outs and malfunction refunds from total receipts of each machine.

(1) *Provided*, that gross proceeds of export sales of tangible property in foreign commerce shall not constitute a part of the measure of the tax imposed. Although not constituting a part of the measure of the tax imposed, all such sales shall be reported in the manner provided for the reporting of the tax imposed by § 26202(a).

(2) *Provided*, that any person engaging or continuing in business as a retailer and a wholesaler shall pay the tax required solely on the gross proceeds of sales of the retail business, and his books must be kept so as to show separately the gross proceeds of sale of each business.

(3) *Provided*, that a manufacturer or producer engaging in the business of selling his manufactured products at retail in Guam shall be required to make returns of the gross proceeds of such retail sales and pay the tax imposed by this Chapter for the privilege of engaging in the business of selling such products at retail in the territory of Guam; and

(4) *Provided*, that a manufacturer or producer, other than a manufacturer of alcoholic beverages, engaging in the business of selling his products to manufacturers, wholesalers, or licensed retailers, or persons actually selling the products to the United States Government, shall not be required to pay the tax imposed in this Act for the privilege of selling such products at wholesale. Nor shall any such manufacturer or producer, other than a manufacturer of alcoholic beverages, be required to pay the tax imposed in this Act for the privilege of selling products for delivery to the purchaser outside of Guam. The point of delivery for a purchaser outside of Guam may be on Guam, if the product's ultimate destination or consumption is outside of Guam.

NOTE: This subsection was amended by P.L. 17-67, effective September 7, 1984.

(b)(1) [Repealed.]

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(2) [Repealed.]

(3) Tax upon boxing. The tax levied and assessed under Subsections (b)(1) and (b)(2) (repealed) of this Section shall not apply to boxing for which a tax equivalent to twelve percent (12%) of the gross income of such boxing business is hereby levied and assessed.

(c) Tax on service business. Upon every person engaging or continuing within Guam, in any service business or calling not otherwise specifically taxed under this Section, [there shall be] a tax equivalent to four percent (4%) of the gross income of such business.

(d) Professions. Upon every person engaging or continuing within Guam in the practice of a profession, excluding those expounding the religious doctrines of any church, [there shall be] a tax equivalent to four percent (4%) of the gross income of such practice. ["There shall be" added by editor, 1970 Ed. of the Government Code]

(e) Tax on Contractors. There shall be levied, assessed and collected a tax rate of four percent (4%) measured against the gross income of any contractor; *provided*, that there shall be deducted from the gross income of the taxpayer so much thereof as has been included in the measure of tax levied under this Subsection on another taxpayer who is a contractor; as defined in § 26101(b); *provided*, that any person claiming a deduction under this Subsection shall be required to show in the person's return either the name and contractor's license number or the registration number for a professional engineer, architect or land surveyor or the Certificate of Authorization (COA) number for a business authorized to provide engineering, architecture or land surveying services by the Guam Board of Registration for Professional Engineers, Architects, Land Surveyors of the person paying the tax on the amount deducted by the person.

(f) Tax on banks, banking institutions, small lenders and building and loan associations. Upon every person engaging or continuing within Guam in the business of operating any bank, banking institutions, building and loan association, small lending

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business, or lending institutions, there shall be a tax equivalent to four percent (4%) of the net income received from business.

(1) Net Income. For the purpose of this Section, net income shall mean the gross income of such taxpayer received from all sources less the following deductions therefrom:

(A) Salaries or bonuses paid and other compensation from personal services.

(B) Interest or discount paid.

(C) Rents paid.

(D) Ordinary operating expenses such as supplies, utility services, insurance premiums other than for life insurance, provided that any deductible insurance expense shall be allowable only to the extent that such a premium is applicable to the tax period against which it is claimed.

(E) Loans or obligations charged off the books of the bank as losses unless charged against reserves then in existence.

(F) Losses other than loan losses, such as those occasioned by fire or other casualty, theft, embezzlement, and the like, but only to the extent not covered by insurance proceeds collected.

(G) Transfers from earnings to reserve for bad debts or other contingencies provided for.

(H) Miscellaneous direct expenses such as legal, advertising, auditing, and the like.

(I) Loss on property sold and depreciation on property owned.

(2) A person liable for the payment of taxes levied under this Section shall be required to file an annual return, and shall not be required to file monthly returns. The tax year shall be calendar year except that the taxpayer may use his annual accounting period when prior permission is obtained from the Tax Commissioner. The annual return under this Subsection

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shall be filed not later than ninety (90) days following the close of the taxpayer's tax year.

(g) Dealing in foreign currency. Upon every person engaging or continuing within Guam in the business of purchasing and selling foreign money, there shall be a tax equivalent to four percent (4%) of the gross profit of such business represented by the difference between the cost and selling price of the foreign currency measured in United States dollars.

(h) Tax on other business. Upon every person engaging or continuing within Guam in any business, trade, activity, occupation or calling not specifically included in any other provision of this Article, there shall likewise be a tax equivalent to four percent (4%) of the gross income of such business. This Section shall apply to the gross income of persons taxable under other provisions of this Chapter but which gross income is not derived from the exercise or privilege taxable thereunder.

(i) Insurers. Upon every person engaged or continuing within Guam in the business of an insurer, there shall be a tax at the rate of four percent (4%) of gross income received as premium for the writing of insurance, less returned premiums and less all commissions attributable to the sale and purchase of an insurance policy or policies of the insurer paid by said insurer to agents of the same, and four percent (4%) of any other gross income earned or derived on Guam.

(j) Tour Agencies. Upon every person engaging or continuing within Guam in the business of a tour agency or travel agency, where tourism-related services are furnished to consumers by independent vendors through arrangements made by a travel agency, or tour packager, and the gross income is divided between the provider of the services on the one hand and the travel agency or tour packager on the other hand, a tax equivalent of four percent (4%) shall be imposed on each person with respect to such person's respective portion of the proceeds, and no more.

Where transient accommodations are furnished through arrangements made by a travel agency or tour packager, the gross income is divided between the provider of the transient accommodations on the one hand and the travel agency, or tour