

Public Law 25-104

Bill No. 328 (COR)

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AN ACT TO AMEND §26603 OF ARTICLE 6, CHAPTER 26, DIVISION 2 OF TITLE 11 OF THE GUAM CODE ANNOTATED, RELATIVE TO EQUALIZING THE TOBACCO TAX ON CIGARS TO A LEVEL COMPARABLE TO OTHER FORMS OF TOBACCO.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that Guam ranks among the top ten percent (10%) in terms of taxes on cigars. Only five (5) states have higher tax rates than Guam. These states are Massachusetts (75%), Alaska (75%), Washington (74.9%), Oregon (65%) and New Jersey (48%). Cigar sales by businesses operating in these States are non-existent, while mail order sales to their residents are the highest in the Nation. Six (6) States have rates as low as One Cent (\$0.01) to Sixty-four Cents (\$0.64) per ten (10) cigars, depending on the size of the cigar. The high taxes mean that cigar clubs in Guam's hotels typically retail cigars at prices between Fifteen Dollars (\$15.00) to Sixty Dollars (\$60.00) for high-end products, and Six Dollars (\$6.00) to Twelve Dollars (\$12.00) on the lower-end. The manufacturer's suggested retail price of similar products on the high-end range from Eight Dollars (\$8.00) to Sixteen Dollars (\$16.00) and Two Dollars and Fifty Cents (\$2.50) to Four Dollars (\$4.00) on the lower end.

While Guam's economy depends on tourism and tourists purchasing products in local stores, Guam's tax rate of forty percent (40%) of landed costs make it virtually impossible for local businesses to sell cigars at prices competitive with other destinations, Internet/mail order companies or U.S. Military Exchanges and Commissaries. Included in the tax base is the cost of shipping that is traditionally higher than other commodities, as cigars are perishable items. Since Guam continues to be marketed abroad as a Duty Free destination, many visitors take advantage of the low taxes on commodities, such as alcoholic beverages, cigarettes, fragrances, jewelry, designer clothing and leather goods. Cigar tax rates comparable to other tobacco items would create similar export opportunities that Guam businesses enjoy with regards to the sale of alcoholic beverages and cigarettes to tourists.

The facts are that with the tax on a carton of cigarettes being Seventy Cents (\$0.70), and other tobacco at Thirty-five Cents (\$0.35) per pound, the tax for a box of cigars with at similar volume and a landed cost, including shipping, of One Hundred Dollars (\$100.00) would be Forty Dollars

(\$40.00). This is over a hundred times the tax on other tobacco, and over fifty-seven (57) times the tax on a carton of cigarettes. As an equalization of the tobacco taxes will make local retailers competitive with Internet/mail order companies and military commissaries and exchanges, as well create new markets for Island visitors, the process should result in an increase in gross domestic product and government revenues. It is the intent of *I Liheslaturan Guåhan* to simply equalize the tobacco tax on cigars to a rate comparable to other forms of tobacco based products that are based on volume, weight or quantity, and *not* on costs.

Section 2. Section 26603 of Article 6, Chapter 26, Division 2 of Title 11 of the Guam Code Annotated is hereby *amended* to read as follows:

“Section 26603. Rates. The following rates shall apply in computing, assessing and collecting Tobacco Tax:

- (a) **Cigarettes.** A tax at the rate of Thirty-five Cents (\$0.35) per one hundred (100) cigarettes to be prorated in accordance with the number of cigarettes contained in the individual package taxed.
- (b) **Cigars.** The tax rates for cigars shall be based on the following sizes:
 - (1) **Mini Cigars: Five Cents (\$0.05) Per Cigar.** ‘*Mini Cigars*’ are defined as cigars with a ring size of forty (40) or less, or a length of less than four and one-half inches (4 ½”), regardless of ring size as specified by the manufacturer’s label.
 - (2) **Standard Cigars: Seven Cents (\$0.07) Per Cigar.** ‘*Standard Cigars*’ are defined as cigars with a ring size of more than forty (40), but *less than* sixty-four (64) as specified by the manufacturer’s label.
 - (3) **Large Cigars: Ten Cents (\$0.10) Per Cigar.** ‘*Large Cigars*’ are defined as cigars with a ring size of more than sixty-four (64), or a length of more than eight inches (8”), regardless of the ring size as specified by the manufacturer’s label.

Where no ring size or length is specified by the manufacturer’s label, the tax shall be Seven Cents (\$0.07) per cigar.

For purposes of this Section, ring size shall be defined as the usually accepted measure used by cigar manufacturers for determining the diameter of a cigar at its widest point. A ring size of One (1) is equal to One sixty-fourth (1/64) of an inch.

- (c) **Other Tobacco Products.** A tax at the rate of Thirty-five Cents (\$0.35) per pound for all other tobacco products to be prorated in accordance with the size of the package to be taxed.”