

"THE DAVE SANTOS SMALL BUSINESS ENHANCEMENT ACT"

1. Q: ~~WHAT IS THE DAVE SANTOS SMALL BUSINESS ENHANCEMENT ACT?~~

A: Under Public Law 24-12, the Dave Santos Small Business Enhancement Act amended and added the following provisions to the Business Privilege and Use Tax Laws:

- (1) From a monthly to a quarterly filing of Gross Receipts Tax and Use Tax returns;
- (2) The monthly deposit of Gross Receipts Tax;
- (3) Payment of Use Tax is due immediately upon the property's importation or use;
- (4) Exemption of the first Fifty Thousand Dollars (\$50,000) of Gross Receipts for certain businesses;
- (5) Penalty for failing to make a timely Gross Receipts Tax deposit;
- (6) Penalty for failing to supply a identification number.

2. Q: WHEN IS THE EFFECTIVE DATE OF THE DAVE SANTOS SMALL BUSINESS ENHANCEMENT ACT ?

A: The Dave Santos Small Business Enhancement Act is effective October 01, 1997.

3. Q: WHAT ARE THE GROSS RECEIPTS TAX EXEMPTIONS PROVIDED UNDER THE DAVE SANTOS SMALL BUSINESS ENHANCEMENT ACT ?

A: The Gross Receipts Tax Exemptions provided under the Dave Santos Small Business Enhancement Act consists of the following:

- (1) Rental Real Property (Line Four (4) of FORM BRQ). The first Fifty Thousand Dollars (\$50,000) earned or received per taxable year by any person as rental income from real property, is exempted from Gross Receipts Tax, provided that the gross annual rental income from real property is less than Five Hundred Thousand Dollars (\$500,000) during the most recent tax year.

- (2) Retailing (Line Two (2) of FORM BRQ). The first Fifty Thousand Dollars (\$50,000) earned or received per taxable year by any person as income from retailing, is exempted from Gross Receipts Tax, provided that the gross annual retail income is less than Five Hundred Thousand Dollars (\$500,000) during the most recent tax year.
- (3) Service (Line Three (3) of FORM BRQ and other businesses dealing with service such as profession and contracting). The first fifty Thousand Dollars (\$50,000) earned or received per taxable year by any person as income from service, is exempted from Gross Receipts Tax, provided that the gross annual service income is less than Five Hundred Thousand Dollars (\$500,000) during the most recent tax year.
- (4) Rental Others (Line Five (5) of FORM BRQ). The first Fifty Thousand Dollars (\$50,000) earned or received per taxable year by any person as rental income from other than real property, is exempted from Gross Receipts Tax, provided that the gross annual rental income is less than Five Hundred Thousand Dollars (\$500,000) during the most recent tax year.

4. Q: HOW DOES ONE QUALIFY FOR ANY OF THE EXEMPTIONS ?

A: To qualify for any of the exemptions, your annual gross income from your business must be less than Five Hundred Thousand Dollars (\$500,000) during your most recent taxable year.

EXAMPLE 1

Art, a calendar year taxpayer operates a service auto repair shop on Guam. Art's annual gross income from his auto shop for calendar year 1997 totaled \$375,000. Because Art's annual gross income of \$375,000 (his most recent tax year 1997) is less than \$500,000, Art is eligible to exempt the First Fifty Thousand Dollars (\$50,000) of service income in 1998.

5. Q: MAY A PERSON BE ENTITLED TO MORE THAN ONE OF THE EXEMPTIONS PROVIDED UNDER THE DAVE SANTOS SMALL BUSINESS ENHANCEMENT ACT ?

A: Yes, a person may qualify for more than one of the exemptions under the Dave Santos Small Business Enhancement Act, provided that each business annual gross income is less than \$500,000.

6. Q: IS THERE A LIMIT AMOUNT OF EXEMPTION THAT CAN BE TAKEN UNDER THE DAVE SANTOS SMALL BUSINESS ENHANCEMENT ACT ?

A: Yes, the aggregate amount of exemption allowed under real property, retailing, service and rental others for a calendar year shall not exceed Fifty Thousand Dollars (\$50,000). In other words, a person is limited to a Fifty Thousand Dollars (\$50,000) exemption per calendar year.

EXAMPLE 2

Larry, a calendar year taxpayer operates a retail store, an auto repair shop, and rents real property on Guam. Larry's 1997 annual gross income from his businesses are as follows:

	1997 Annual Gross Income
Retail store	\$300,000
Auto repair shop	\$485,000
Rental real property	\$600,000

In 1998, Larry is eligible to exempt the First Fifty Thousand Dollars (\$50,000) of retail income since his most recent tax year annual gross income of \$300,000 is less than \$500,000. Larry is also eligible to exempt the First Fifty Thousand Dollars (\$50,000) of service income since his most recent tax year annual gross income of \$485,000 is less than \$500,000. Larry, however, may not exempt any of his real property rental income since his most recent annual gross income of \$600,000 exceeds the \$500,000 ceiling. Larry's aggregate amount of retail and service exemptions shall not exceed Fifty Thousand Dollars (\$50,000) for the calendar year 1998.

EXAMPLE 3

Tina, a calendar year taxpayer operates a retail store and TV repair shop on Guam. Assume Tina is eligible for both retail and service exemptions. Assume also that Tina's 1998 first quarter monthly gross receipts from her businesses are as follows:

	<u>1998</u>		
	<u>January</u>	<u>February</u>	<u>March</u>
Retail Store	\$7,000	\$8,000	\$7,500
TV repair shop	\$10,000	\$12,000	\$15,000
Total	\$17,000	\$20,000	\$22,500

In 1998, Tina is eligible to exempt all of her gross receipts for the months January \$17,000 and February \$20,000. In March, Tina may only exempt the first \$13,000 earned or received (\$50,000 limit less \$37,000 taken). Tina will have to make a deposit payment for March of \$380 (\$22,500 gross receipts less \$13,000 exemption X 4%) on or before April 15, 1998.

7. Q: WHEN MAY A PERSON BEGIN EXEMPTING THE FIRST FIFTY THOUSAND DOLLARS (\$50,000) OF QUALIFIED BUSINESS INCOME PROVIDED UNDER THE DAVE SANTOS SMALL BUSINESS ENHANCEMENT ACT ?

A: Although the Dave Santos Small Business Enhancement Act begins on October 01, 1997, a calendar year taxpayer may begin to exempt the first Fifty Thousand Dollars (\$50,000) of qualified business income on January 01, 1998. A calendar year is one that begins on January 01, and ends on December 31 of the same tax year.

Taxpayers with a Fiscal Year beginning October 01, 1997 or thereafter, the first Fifty Thousand Dollars (\$50,000) of qualified business income may be exempted beginning the first day of their fiscal year. A fiscal year consists of a period of Twelve (12) months ending on the last day of any month other than December.

8. Q: WHEN DOES THE GROSS RECEIPTS TAX MONTHLY DEPOSIT BEGIN ?

A: All taxpayers against whom a tax is levied by the provisions of the Gross Receipts tax laws shall make monthly deposits of Gross Receipts taxes. The taxes due for any calendar month must be deposited no later than the fifteenth (15th) day of the following month.

The first monthly Gross Receipts tax deposit is due no later than November 15, 1997 for the calendar month October 1997.

9. Q: WHERE CAN YOU MAKE YOUR MONTHLY DEPOSITS ?

A: Gross Receipts Tax deposits can be made at any authorized banks, financial institutions, the Treasurer of Guam or at designated offices of the government of Guam.

List of authorized Banks:

(ESTIMATED EFFECTIVE DATE JANUARY 1, 1998)

Bank of Guam
Bank of Hawaii
First Hawaiian Bank
Union Bank
Citizens Security Bank
Guam Savings and Loan
Citibank

10. Q: IS THERE A PENALTY FOR DEPOSITING LATE ?

A: Yes, A person who fails to make a timely deposit is subject to a penalty equal to Ten Percent (10%) of the amount of the underpayment. Underpayment is the excess of the amount of the tax required to be deposited over the amount, if any, deposited on or before the due date.

EXAMPLE 4

Frank, a calendar year taxpayer failed to make timely Gross Receipts Tax deposits for his retail business for the months January \$500, February \$400, and March \$600. Frank's penalty for depositing late is computed as follows:

January	\$500 underpayment	X	10%	=	\$50
February	\$400 underpayment	X	10%	=	\$40
March	\$600 underpayment	X	10%	=	<u>\$60</u>
Total penalty					\$150
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Frank is liable for \$150 of late deposit penalty. If Frank, however, establishes that the late deposit was due to a reasonable cause and not willful negligence, the late deposit penalty may not apply.

11. Q: WHEN IS THE QUARTERLY GROSS RECEIPTS TAX RETURN DUE ?

A: Each taxpayer against whom a tax is levied by the provisions of the Gross Receipts Tax laws shall make and file quarterly Gross Receipts Tax Returns. Gross Receipts Taxpayers shall file quarterly Gross Receipts Tax returns summarizing the tax due and deposits made for the quarter.

Quarterly Returns and Due Dates:

<u>Quarter</u>	<u>Due Date</u>
1st Qtr. (Jan., Feb. and Mar.)	April 30, 19XX
2nd Qtr. (Apr., May and Jun.)	July 31, 19XX
3rd Qtr. (Jul., Aug. and Sep.)	October 31, 19XX
4th Qtr. (Oct., Nov. and Dec.)	January 31, 19XX

The first quarterly gross receipts tax return for all taxpayers is due no later than January 31, 1998 for the calendar months October through December 1997.

12. Q: IS THERE A PENALTY FOR FAILURE TO SUPPLY IDENTIFYING NUMBER?

A: Yes, Every person required to file returns or pay taxes shall include his identification number on such return, statement or other document. Any person who fails to comply with such requirement shall pay a penalty of \$50.00 for each failure. The penalty applies to monthly returns for Alcoholic Beverage Tax, Liquid Fuel Tax, Automotive Surcharges, Tobacco Tax, Quarterly returns for Gross Receipts Tax, Annual Information Return, and Deposit of Gross Receipts Taxes. However, the penalty may not apply if the failure is due to reasonable cause and not to willful neglect.

13. Q: IS A DEPOSITORY RECEIPT (FORM BMD) REQUIRED EVEN IF NO INCOME WAS EARNED OR RECEIVED DURING THE CALENDAR MONTH?

A: No, a depository receipt is required only when there is a tax due.

14. Q: IS A DEPOSITORY RECEIPT (FORM BMD) REQUIRED IF ALL OF THE INCOME EARNED OR RECEIVED DURING THE CALENDAR MONTH IS EXEMPT?

A: No, see answer to question 13 above.

15. Q: IS A QUARTERLY TAX RETURN REQUIRED TO BE FILED IF NO INCOME WAS EARNED OR RECEIVED DURING THE CALENDAR QUARTER?

A: No, a quarterly tax return is not required, however a written statement of no income must be filed for business license renewal purposes.

16. Q: IS A QUARTERLY TAX RETURN REQUIRED TO BE FILED IF ALL OF THE INCOME EARNED OR RECEIVED DURING THE CALENDAR QUARTER IS EXEMPT?

A: No, a Quarterly tax return is not required to be filed, however a written statement of exempt income must be filed for business license renewal purposes.

17. Q: WHEN IS PAYMENT DUE FOR USE TAX?

A: Taxes levied under the provisions of the use tax law is due immediately upon the property's importation or use.

EXAMPLE 5

Jim, a calendar taxpayer runs a transportation business on Guam. On March 14, 1998, Jim imported a bus for his transportation business. The bus is value at \$275,000. Jim must pay use tax of \$11,000 ($\$275,000 \times 4\%$) on March 14, 1998.

EXAMPLE 6

Mariana, a calendar year taxpayer and a resident of Guam disclosed the following information for 1998:

<u>Location</u>	<u>Date imported</u>	<u>Item</u>	<u>Value</u>	<u>Exempt</u>	<u>Use Tax</u>
Airport	Jan. 22, 1998	Jewelry	\$800	\$800	-0-
Airport	Mar. 10, 1998	Jewelry	\$600	\$600	-0-
Port	May. 11, 1998	computer	\$1,200	\$1,000	\$8.00
Airport	Jul. 14, 1998	Luggage	\$900	\$900	-0-
Airport	Aug. 08, 1998	lap Top	\$1,900	\$1,000	\$36.00
Airport	Nov. 27, 1998	video	\$1,100	\$700	\$16.00
Total			\$6,500	\$5,000	\$60.00

Based on the above information, Mariana is exempt from paying use tax for the months January, March and July. Value of property per month did not exceed the \$1,000 per month limit, nor did it exceed the annual limit of \$5,000.

Mariana, however must pay the following use tax on:

- (1) May 11, 1998 for computer \$8.00 ($\$1,200$ less $\$1,000$ exemption $\times 4\%$).
- (2) August 08, 1998 for Lap Top \$36.00 ($\$1,900$ less $\$1,000$ exemption $\times 4\%$).
- (3) November 27, 1998 for video \$16.00 ($\$1,100$ less $\$700$ remaining exemption ($\$5,000$ limit less $\$4,300$ exemption

taken) X 4%).

18. Q: WHERE CAN USE TAX PAYMENTS BE MADE ?

A: Use Tax payments can be made at any authorized banks, financial institutions or at designated offices of the Government of Guam. (See item 9 above for a list of authorized banks)

19. Q: WHEN IS THE FIRST QUARTERLY USE TAX RETURN DUE ?

A: The first Quarterly Use Tax return is due January 31, 1998 for the calendar months October through December 1997.

20. Q: IS THERE A PENALTY FOR FAILURE TO SUPPLY IDENTIFICATION NUMBER UNDER USE TAX ?

A: Yes, Every person required to file Use Tax returns or pay Use tax, shall include his identification number on such return, statement or other document. Any person who fails to comply with such requirement must pay a penalty of \$50.00 for each failure. The penalty, however, may not apply if the failure is due to a reasonable cause and not willful neglect.

EXAMPLE 7

Joe, a cash method calendar year taxpayer, operates a retail store on Guam. His annual gross retail income for calendar year 1997 amounted to \$450,000. Because Joe's annual gross income of \$450,000 (His most recent tax year 1997) is less than \$500,000, Joe may exempt the first Fifty Thousand Dollars (\$50,000) of retail income received during the taxable year 1998. Joe may begin the exemption on January 01, 1998 and end when he exhausts the first \$50,000 of retail income he received during the calendar year 1998.

During the first quarter of calendar year 1998, Joe received the following gross income from retail:

January	\$20,000
February	\$20,000
March	\$40,000

Joe's gross retail income for the first quarter totaled \$80,000. Since Joe is eligible for the retail exemption, he may exempt the first Fifty Thousand Dollars (\$50,000) of retail gross income.

Joe's gross receipts tax for the quarter is as follows:

	<u>Gross Receipts</u>	<u>Exemption</u>	<u>Taxable</u>	<u>Tax</u>
January	\$20,000	\$20,000	-0-	-0-
February	\$20,000	\$20,000	-0-	-0-
March	\$40,000	\$10,000	\$30,000	\$1,200

Joe's gross income of \$20,000 in January, \$20,000 in February, and the first \$10,000 earned or received in March are exempted from the Gross Receipts Tax under the Dave Santos Small Business Enhancement Act. Joe is not required to make any deposit for the months January and February. Joe, however is required to make a deposit of \$1,200 ($\$40,000 - \$10,000 = \$30,000 \times 4\%$) on or before April 15, 1998. Assume Joe made a timely deposit of \$1,200 for the month of March 1998. Joe must file his Quarterly Gross Receipts Tax Return (Form BRQ), disclosing his \$1,200 deposit, on or before April 30, 1998.

EXAMPLE 8

Joe's total retail gross income for calendar year 1997 is \$550,000. Joe is not eligible for the retail exemption since his most recent tax year 1997 gross income of \$550,000 exceeded the \$500,000 ceiling. Joe must make the following Gross Receipts Tax deposits for the months January through March 1998.

	<u>Deposit</u>	<u>Due On or Before</u>
January 1998	\$800 ($\$20,000 \times 4\%$)	February 15, 1998
February 1998	\$800 ($\$20,000 \times 4\%$)	March 15, 1998
March 1998	\$1,600 ($\$40,000 \times 4\%$)	April 15, 1998

Assume Joe made timely deposits for the months January through March 1998. Joe must file his Quarterly Gross Receipts Tax Return (Form BRQ), and disclose his \$3,200 ($\$800 + \$800 + \$1,600$) deposits on the return, on or before April 30, 1998.

Assume Joe failed to make deposits for the months January through March 1998. Joe must file his Quarterly Gross Receipts Tax Return and pay \$3,200 of Gross Receipts Tax on or before April 30, 1998. In addition to the \$3,200 of Gross Receipts tax, Joe owe's late deposit penalty of \$320 ($\$80 + \$80 + \160) computed as follows

January

Gross Receipt Tax (\$20,000 X 4%)	\$800
Less Total Deposits	<u>-0-</u>
Underpayment of Tax	\$800
Rate of Penalty for Late Deposit	X <u>10%</u>
Late Deposit Penalty	<u>\$ 80</u>
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February

Gross Receipt Tax (\$20,000 X 4%)	\$800
Less Total Deposits	<u>-0-</u>
Underpayment of Tax	\$800
Rate of Penalty for Late Deposit	X <u>10%</u>
Late Deposit Penalty	<u>\$ 80</u>
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March

Gross Receipt Tax (\$40,000 X 4%)	\$1,600
Less Total Deposits	<u>-0-</u>
Underpayment of Tax	\$1,600
Rate of Penalty for Late Deposit	X <u>10%</u>
Late Deposit Penalty	<u>\$ 160</u>
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Assume Joe failed to include his identifying number on his Quarterly Gross Receipts Tax Return (Form BRQ). In addition, Joe failed to include his identification number on his monthly depository receipts, when making his timely monthly deposits for the months February and March 1998. Joe did not have reasonable cause for not including his identification number on form BRQ and depository receipts. Joe is liable for \$150.00 penalty, computed as follows:

Failure to include identifying number on Form BRQ	\$ 50
Failure to include identifying number on Form BMD-Feb	50
Failure to include identifying number on Form BMD-Mar	<u>50</u>
Total Penalty	\$150

Example 9

X Corporation, an accrual method fiscal year taxpayer, operates a Auto Repair Shop on Guam. X Corporation begins its fiscal year on August 01. For fiscal year ending July 31, 1998, X's Corporation gross service income totaled \$480,000. Because X Corporation's gross income of \$480,000 (the company's most recent tax year) is less than \$500,000, X corporation may exempt the first Fifty Thousand Dollars (\$50,000) of service income it earned during the Fiscal Year ending July 31, 1999. X Corporation begins exempting the first \$50,000 of service income earned on August 01, 1998.

X Corporation received the following service income for months July through October 1998:

	<u>Gross Receipts</u>	<u>Exemption</u>	<u>Taxable</u>	<u>Deposit</u>
Jul 1998	\$40,000	-0-	\$40,000	\$1,600
Aug 1998	\$30,000	\$30,000	-0-	-0-
Sep 1998	\$30,000	\$20,000	\$10,000	\$400
Oct 1998	\$35,000	-0-	\$35,000	\$1,400

X Corporation's gross income of \$30,000 in August and the first \$20,000 of gross income in September are exempted from the Gross Receipts Tax under the Dave Santos Small Business Enhancement Act. X Corporation is not required to make any deposit for the month August 1998. X Corporation, however, is required to make a deposit of \$400 [(\$30,000 - \$20,000) X 4%] for the month of September 1998 on or before October 15, 1998. X Corporation must also make a deposit of \$1,400 (\$35,000 X 4%) for the month of October 1998 on or before November 15, 1998.

Assume X Corporation made timely deposits for the months July and September 1998, X Corporation must file a Quarterly Gross Receipts Tax Return for months July, August and September, disclosing \$2,000 deposit, on or before October 31, 1998.

Assume X Corporation failed to make deposits for the months July and September 1998, X Corporation must file a quarterly Gross Receipts Tax Return and pay \$2,000 on or before October 31, 1998. In addition to the \$2,000 Gross Receipts Tax, X Corporation owes late deposit penalty of \$200 (\$160 + \$40) computed as follows:

	<u>July</u>	<u>September</u>
Gross Receipt Tax	\$1,600	\$400
Less Deposit	<u>-0-</u>	<u>-0-</u>
Underpayment of Tax	\$1,600	\$400
Rate of Penalty for Late Deposit	<u>X 10%</u>	<u>X 10%</u>
Late Deposit Penalty	<u>\$ 160</u>	<u>\$40</u>
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