

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

§ 1103. Definitions.

In this division, unless otherwise specifically expressed:

(a) “Amusement machines” means any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object in it, or upon payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens, extra games or use, or anything of value, whether the payoff is made automatically from the machine or in any other manner.

(b) “Business” shall have the same meaning as a “trade or business” as that term is applied under § 162 of the Northern Marianas Territorial Income Tax; thus, “business” normally means any regular and continuous activity carried on by a person for the purpose of earning a profit. Except as otherwise provided, an employee shall not be considered as operating a business and a partnership or a corporation shall be considered as operating a business.

(c) “CNMI real property interest” means any “interest (other than as a creditor) in real property” located in the Commonwealth. An “interest in real property” includes a fee simple estate, an estate for life, a multi-year lease including an option to acquire the same, or any interest defined in §897(c)(1)(A)(ii) of the NMTIT;

(d) “Commonwealth,” for purposes of this Division, means the Commonwealth of the Northern Mariana Islands, including the government thereof, which lies within the area north of 14 degrees north latitude, south of 21 degrees north latitude, west of 150 degrees east longitude and east of 144 degrees east longitude, as extended by the Marine Sovereignty Act (commencing at Section 1101 of Title 2 of this Code).

(e) “Covenant” means the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

(f) “Division” for purposes of this Act and Pub. L. 9-22 means Chapter 1 through Chapter 9 and Chapter 11 of Title 4 of the Commonwealth Code except as expressly provided otherwise.

(g) “Employee” means any individual, who under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.

(h) “Employer” means the person for whom an employee performs or performed any service of whatever nature.

(i) “Financial institution” means any savings and loan association, or any incorporated savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation.

(j) Gross Revenue.

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

(1) “Gross Revenue” means:

(A) The total amount of money or the value of other consideration, without deduction for any expenses, received or accrued from:

(i) Selling or leasing any interest in real property, including the assignment of any CNMI, real property interest, in the course of carrying on a business;

(ii) Selling any interest in personal property, tangible or intangible, in the Commonwealth in the course of carrying on a business;

(iii) Leasing any interest in personal property, tangible or intangible, including the assignment of any lease, located in the Commonwealth in the course of carrying on a business;

(iv) Performing services in the Commonwealth in the course of carrying on a business; and

(v) Selling more than one property, as provided under Section 1301.

(B) The total amount of money or the value of other consideration, without deduction for any expenses, received or accrued as interest, dividends, rents, royalties, gross receipts of a business derived from trade, business, commerce, or sales, or similar income earned in and derived from a person in the Commonwealth and received by a resident in the course of carrying on a business.

(C) That portion of the distributive share of gross revenue of a partnership, as provided in the NMTIT on the effective date of this Act, that is derived from the conduct of a business in the Commonwealth, to a partner who is not an individual. Such portion shall be determined under regulations prescribed by the Secretary.

(2) Gross revenue includes the total revenue received or accrued, as recognized under the taxpayer’s system of tax accounting that is consistent with the Secretary’s regulations, and without deduction for any expenses, by a person who by ocean-going vessel delivers property or transports individuals in or out of the Commonwealth. The gross revenue included by this paragraph shall be no more than the amount that according to regulations prescribed by the Secretary bears a reasonable relationship to the activity performed by the person in the Commonwealth.

(3) Gross revenue includes:

(A) For inventory property, the amount of money or other consideration received by a resident as insurance proceeds for fire or other casualty, theft, embezzlement, and the like; and

(B) For all property other than inventory property, the amount of money or other consideration received by a resident as insurance proceeds for fire or other casualty, theft, embezzlement, and the like of such property to the extent the amount of money or other consideration received exceeds the adjusted basis of such property.

(4) Gross revenue shall not include:

(A) Refunds and cash discounts allowed and taken; or

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

(B) Money received and held in a fiduciary capacity; or

(C) The amount of money or the value of other consideration received by an employee as wages and salaries.

(D) Income subject to the earnings tax.

(k) “Gross Winnings” means:

(1) The total amount of money or the fair market value of other property received from each gaming, lottery, raffle, or other gambling event, transaction, or other activity, less the amount of the wager which directly results in winnings; or

(2) The total amount of money or the fair market value of other property received, if the amount received from any gaming, lottery, raffle, or other gambling event, transaction, or other activity does not include the wager. No other cost or expense may be deducted from the winnings of that event, transaction or other activity.

(l) “Jackpot winnings” means winnings where the machine of the licensed owner-operator pays back one-thousand dollars and over;

(m) “Individual” means, unless otherwise provided, a natural person, an estate, a trust, or a fiduciary acting for a natural person, trust, or estate.

(n) “Leasing or Renting” means any arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property.

(o) “Licensed owner-operator” means the owner of amusement machines licensed pursuant to 4 CMC § 1503 to commercially operate the same or an operator licensed pursuant to 4 CMC § 1503 to commercially operate amusement machines that is not the owner of the machines, and does not mean a person playing such machines;

(p) “Local Territorial Income Tax” means the income tax laws in force in the United States which came into effect in the Commonwealth pursuant to Section 601 of the Covenant as a local income tax of the Commonwealth and may be cited as the “Northern Marianas Territorial Income Tax” (“NMTIT”).

(q) “Manufacturer” means any person engaged in combining or processing components or materials in large quantities by means of industrial machines to increase their value for sale in the ordinary course of business and who sells such items to others for resale and not to the final consumer. This definition of the term “manufacturer” does not require that the “manufacturer” be the actual entity that sells the items manufactured. The definition applies to the actual process of combining and processing components and materials in large quantities by means of industrial machines and applies whether the “manufacturer” is providing the services to another entity, or is a subsidiary of the seller or actually sells the items itself.

(r) “Month” means calendar month.

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

(s) “Off-shore banking corporation” means an entity incorporated in the Commonwealth, whose principal purpose is:

(1) Negotiating, making and extending loans to borrowers who are not residents or citizens of the Commonwealth; or

(2) Borrowing from lenders who are not residents or citizens of the Commonwealth; and who is not transacting business as a retail bank within the Commonwealth.

(t) “Pachinko slot machine” means the slot machine whose outer structure has three reels with symbols to be matched by pressing three buttons to stop the rotation of the spinning reels, or a video or computerized equivalent designed to be played in a similar manner. It is a machine that requires a degree of skill in order for the winner to win a prize;

(u) “Payment activated” means a machine offering a product upon the payment of a monetary amount by coin, bill, or credit or debit payment;

(v) “Person” means:

(1) An individual, corporation, partnership, cooperative association, chest, fund, foundation, or other association or entity; or

(2) A foreign country, the United States, any state, commonwealth, territory, or possession of the United States, the Trust Territory of the Pacific Islands or any governmental unit or subdivision, or agency, department, or instrumentality thereof.

(w) “Property” means any interest in real property, tangible personal property, or intangible personal property. Intangible personal property includes, but is not limited to, licenses, franchises, patents, trademarks, copyrights, stocks, bonds, or other commercial paper and partnership interests.

(x) “Rebate offset” means an adjustment, reduction, return, credit, nontaxable refund, or other nontaxable payment of all or part of any tax, as provided by the Commonwealth of such amount of the taxes paid by a person. The term “rebate offset” shall apply only to any tax imposed on income from sources within the Commonwealth. The term “rebate offset” shall not apply to any tax imposed on income exempted by subsection (dd)(1) of this section.

(y) “Resident” for purposes other than the NMTIT and Chapter 7, means:

(1) An individual who is domiciled in the Commonwealth; or

(2) A business which is located, directed, or managed in the Commonwealth.

(z) “Sale” means the transferring, giving, or exchanging of personal or real property or services of any kind for an agreed sum of money or other valuable consideration.

(aa) “Secretary” means the Secretary of Finance.

(bb) “Taxpayer” means any person subject to tax under this division.

(cc) “Transient occupant of a room or rooms in a hotel, lodging house or similar facility” means those persons who occupy such facilities in a specific location for less than 90 consecutive days.

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

(dd) “Wages and Salaries” means the total amount of money or the value of other consideration received by an employee to the extent that such money or other consideration is received for services sourced within the Commonwealth. Wages and salaries shall not include:

(1) Wages and salaries received from the United States by active members of the Armed Forces of the United States.

(2) Reasonable per diem and travel allowances to the extent that they do not exceed any comparable Commonwealth Government rates.

(3) Rental value of a home furnished to any employee or a reasonable rental allowance paid to any employee to the extent the allowance is used by the employee to rent or provide a home.

(4) Any payment of medical or hospitalization expenses or insurance premium paid by an employer or insurance company to or on behalf of an employee or insured.

(5) Payments made to or on behalf of an employee or to his beneficiary from the CNMI Retirement program or a plan that qualifies under Subchapter D, Subtitle A of the NMTIT to the extent allowed under NMTIT § 402(G)(1).

(6) Any payment in the form of a scholarship, fellowship, grant, stipend or the like made to any student while he is a full-time, bona fide student at an educational institution as defined by § 170(b)(1)(A)(ii) of the NMTIT. Provided, however, that if the payment is made for services rendered, the student must receive college credit(s) for the performance of the services and the services must further the student’s education, curriculum, or course of study.

(7) Any benefit payment from the United States, Trust Territory, or Northern Marianas Social Security Administration.

(ee) “Wholesaler” means any person engaged in the sale of large quantities of tangible personal property to another for resale for direct or indirect economic benefit. A wholesaler does not sell to the final consumer.

(ff) “Year” or “yearly” means calendar year.

Source: PL 3-11, § 104; amended by PL 3-28, § 3; PL 3-37, §§ 3, 4, 5, 6, 7, 8; PL 3-58, §§ 2, 3; PL 9-57, § 2, modified; subsection (n) amended by PL 12-79, § 2; repealed and reenacted by PL 14-35, § 3(1103); new (l), (o), (t), and (u) added by PL 15-78 § 2, thus former (l) and (m) renumbered to (m) and (n), former (n)-(q) renumbered to (p)-(s), and former (r)-(bb) renumbered to (v)-(ff), respectively, modified.

Commission Comment: With respect to the references to the “Director of Finance” and the “director” of the Department of Finance, see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

PL 12-79, which became effective December 31, 2001, contained purpose, tax periods affected, severability, and savings clause provisions. According to PL 12-79:

Section 1. Purpose. It has come to the attention of the CNMI Legislature that the Commonwealth Department of Revenue and Taxation has implemented policies and taken positions misconstruing the amount of taxation to be imposed upon goods produced or manufactured in the Commonwealth solely for export to destinations outside of the Commonwealth. The Legislature finds that in this time of economic hardship when the Commonwealth is attempting to attract new foreign investment with the creation of a Free Trade Zone and the offering of other tax incentives, that the actions taken by Revenue and Taxation are potentially damaging to the Commonwealth's efforts to attract investment. The Legislature has been made aware that the Department of Revenue and Taxation has imposed a double taxation on companies producing and manufacturing goods in the Commonwealth for export by assessing both the Gross Revenue Tax of 4 CMC §1301 and the Customs Certification User Fee of 4 CMC §1421 on goods produced in the Commonwealth for export. The Legislature wishes to clarify that the production or manufacture of goods in the Commonwealth that are shipped to buyers outside the Commonwealth does not presently and has never, under CNMI tax statutes, subjected the producer or manufacturer of such goods to the Gross Revenue Tax or any similar flat tax.

Section 6. Tax periods affected. This act shall be construed as affecting and controlling any and all future as well as existing returns, audits, assessments and disputes between the Department of Finance, Division of Revenue and Taxation and any taxpayers.

Section 7. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 8. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes.

For more information regarding PL 15-78, which was enacted on August 7, 2007, see comment to 4 CMC § 1503