

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

§ 1305. Exemptions.

Notwithstanding any other provision, 4 CMC §§ 1301(a), 1302 and 1303 shall not apply to the gross revenue:

(a) Derived from the revenue generated by the export of goods, resources, food, fish or agricultural products produced or manufactured in the Commonwealth and exported by the manufacturer or producer regardless of whether or not the manufacturer or producer is deemed the 'seller' of such goods, resources, fish or agricultural products.

(b) From the sale of diesel fuel for use in any vessel's commercial operations that are primarily outside the territorial waters of the Commonwealth.

(c) Earned by a foreign sales corporation, from its operations.

(d) From de minimis transactions as determined by the secretary by regulations.

(e) Earned by offshore banking corporations.

(f) To the extent that they are treated as sources from without the Commonwealth under 4 CMC § 1712.

(g) Earned by a person exempt from the NMTIT under NMTIT Sections 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(8), or 501(c)(10) or as a qualified plan under NMTIT Section 401(a) and to the extent allowed under Section 527 of the NMTIT. This exemption, however, does not apply:

(1) To gross revenue from any trade or business, the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption, except for trade or businesses carried on by the organization primarily for the convenience of its members, students, patients, officers, or employees, or

(2) To a person who does not apply for exempt status and comply with the procedures prescribed by the secretary for the exemptions under this subsection.

The secretary may prescribe by regulation that persons exempt under Internal Revenue Code Sections 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(8), 501(c)(10) shall also be exempt under this section.

(h) Earned by a business licensed by the Free Trade Zone Authority established by the Northern Mariana Islands Free Trade Zone Act of 1999, to the extent of any gross receipts tax exemption granted by the Authority in accordance with law. This exemption shall not apply to:

(1) Gross revenue from construction operations conducted within a Commonwealth Free Trade Zone.

(2) Gross revenue from sales, whether retail or wholesale, made within a Commonwealth Free Trade Zone, except with respect to sales by a Free Trade Zone licensee to another Free Trade Zone licensee.

No exemption under this subsection shall be effective for a period in excess of 20 years or for a period or in an aggregate amount greater than that determined

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by the Commonwealth Free Trade Zone Authority at time of granting the exemption.

(i) Derived by employers from employees as reimbursement to the employer for food and housing to the extent the collection of such reimbursement is permitted by United States and CNMI law and regulations.

Source: PL 9-22, § 1 (§ 1305) (repealing PL 3-37, § 10, as amended by PL 4-15, § 4, and PL 4-31, § 4); subsection (h) added by PL 12-20, § 28(a); subsection (a) amended and subsection (i) added by PL 12-79, §§ 4 and 5, respectively, modified.

Commission Comment: With respect to the references to the “secretary” 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.

PL 12-79, which took effect 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.

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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.