

TITLE 4: ECONOMIC RESOURCES
DIVISION 3: BUSINESS AND PROFESSIONS

§ 1308. Nonrefundable Credit.

(a) A person may take the tax imposed on gross revenues under [4 CMC § 1301](#), or any other Commonwealth tax or fee imposed under other divisions or titles of the Commonwealth Code in lieu of such tax (such as [4 CMC § 2202\(e\)](#)), as a nonrefundable credit against the tax imposed on Commonwealth source income under Subtitle A of the NMTIT pursuant to Chapter 7 of this division ([4 CMC §§ 1701 et seq.](#)). No such credit shall be allowed for any amount deducted in determining taxable income under the NMTIT as shown on the taxpayer's return.

(b) Partners and S corporation shareholders may take their respective share of taxes imposed on gross revenues reported and paid by their respective partnerships and S corporations under [4 CMC § 1301](#), or any other Commonwealth tax or fee imposed under other divisions or titles of the Commonwealth Code in lieu of such tax (such as [4 CMC § 2202\(h\)](#)), as a nonrefundable credit against the tax imposed on Commonwealth source income under Subtitle A of the NMTIT pursuant to chapter 7 of this division [[4 CMC §§ 1701 et seq.](#)]; provided, that the total of all such credits shall not exceed the total taxes and fees paid. No credit shall be allowed under this subsection (b) of this section for the amount of any taxes and fees taken as a credit under subsection (a) of this section. No such credit shall be allowed for any amount deducted in determining taxable income under the NMTIT as shown on the taxpayer's return.

Source: [PL 9-59](#), § 2, modified (repealing [PL 9-22](#), § 1 (§ 1307), as amended by [PL 9-57](#), § 2); amended by [PL 10-73](#), § 2(b) (redesignated § 1307 as § 1308); (a) amended by [PL 19-76](#) § 3 (Jan. 12, 2017), modified.

Commission Comment: [PL 9-59](#), which was enacted October 6, 1995, took effect (retroactively) January 1, 1995. According to a provision in [PL 9-59](#), § 2(b) (enacting the section above): "This subsection shall supersede and be effective notwithstanding Section 2(e) of H.B. 9-420 as amended in the event both shall become law." When enacted October 6, 1995 (prior to [PL 9-59](#)), House Bill 9-420 became [PL 9-57](#); as noted above, [PL 9-57](#), § 2 amended this section.

According to [PL 9-59](#), § 1:

Section 1. **Findings and Purpose.** The Legislature finds that several changes were made to the tax relief provisions of the Northern Marianas Territorial Income Tax (NMTIT) as part of the 1995 Tax Reform Act with an intent to improve tax administration and placate certain viewpoints in Washington, DC. Unfortunately, under the intense pressures of time, complexity, and conflicting interests attending the urgent passage of the 1995 tax reform, the Legislature was unable to deliberate fully on whether these changes would actually attain their lofty goals or might instead create unfairness in the tax system and headaches, increased costs, and confusion for local businesses. The reversal of the

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direction of operation of the nonrefundable tax credits is one of the changes that has had unintended consequences. Further, its advantages are merely cosmetic, at best, so that strong policy and substantive grounds support restoring the operation of these credits to their previous status. Indeed, unless reversed for the current tax year, many taxpayers will be forced to make additional NMTIT tax payments equal to amounts already paid under Chapters 2 and 3 of the tax code, and then wait for a refund later.

The purpose of this Act is to make the tax system fairer and ensure that tax administration is effective and efficient not only for the government but also for private entities which play such a significant role in the overall operation of the tax system. Further, the previous system of nonrefundable credits better reflects the fact that the Commonwealth's primary tax system, from both revenue generation and policy standpoints, is not the NMTIT but the local taxes. Because this Act concerns tax administration alone and is not designed to increase or decrease revenues, it does not have any impact on the Commonwealth budget or FY 1995 projected revenues.

In codifying [PL 19-76](#), the Commission changed brackets to parentheses in (a) pursuant to [1 CMC § 3806\(g\)](#).