

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

§ 1708. Tax Relief.

(a) *General Rule.* Every person subject to the NMTIT shall be entitled to a rebate in the amount determined under subsection (b) of this section. Every taxpayer shall be entitled to apply all or part of any rebate due to any tax reported on the return (including penalties and interest) and not previously paid; provided, that this right of offset shall not reduce or eliminate any penalty or liability under the NMTIT on account of underpayment.

(b) *Rebate Offset Amount.*

(1) The rebate offset amount shall be:

(i) In the case of a taxpayer who is not a Free Trade Zone licensee or an Exclusive Gaming Licensee:

<i>If the rebate base is:</i>	<i>The rebate amount is:</i>
Not over \$20,000	90 percent of the rebate base.
Over \$20,000 but not over \$100,000	\$18,000 plus 70 percent of the rebate base over \$20,000.
Over \$100,000	\$74,000 plus 50 percent of the rebate base over \$100,000.

(ii) In the case of a taxpayer who is a Free Trade Zone licensee, the rebate offset amount shall be the sum of:

(A) the computation set forth in subparagraph (i) applied to that portion of the rebate base attributable to income of the business from activities conducted outside a Free Trade Zone, and

(B) an amount determined by multiplying that portion of the rebate base attributable to income of the business from activities conducted within Free Trade Zone(s) by the yearly average proportion which citizen or permanent resident worker employees of the licensee comprise of the licensee's total workforce within Free Trade Zone(s). For purpose of this clause, "citizen or permanent resident worker" means the same as defined in [3 CMC § 4412\(n\)](#).*

(iii) In the case of a taxpayer who paid tax pursuant to the Revenue and Taxation Act of 1982, as amended, on cash compensation received from the sale of the taxpayer's private land to the Commonwealth government for a public purpose on or after January 1, 1944, the rebate offset base is the amount paid by the government to the landowner notwithstanding subsection (c) of this section, and the rebate offset amount is 100 percent of the rebate offset base.

(iv) In the case of a taxpayer who is an Exclusive Gaming Licensee, the rebate offset amount for non-gaming revenue shall be the amount calculated under subsection (b)(1)(i). For casino gaming revenue, the rebate offset amount shall be 100% of the income tax imposed on net gaming revenue taxable income up to fifteen million dollars. For casino net gaming revenue taxable income in excess of fifteen million dollars the rebate offset amount shall be the amount calculated under subsection (b)(1)(i).

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

(2) Notwithstanding subsection (a) of this section, a person shall not be entitled to any rebate offset under this section with respect to:

(i) NMTIT taxes collected upon income effectively connected with the sale of diesel fuel for use in any vessel's commercial operations that are primarily outside the territorial waters of the Commonwealth.

(c) The rebate base is:

(1) The income tax under Subtitle A of the NMTIT imposed on income derived from sources within the Commonwealth, less

(2) The total amount of nonrefundable credits taken pursuant to [4 CMC §§ 1205, 1307](#) and [1422](#).

(d) *Limitations.*

(1) Notwithstanding subsection (a) of this section,

(i) A person is not entitled to any rebate offset with respect to any accumulated earnings tax paid by the person pursuant to Section 531 of the NMTIT.

(ii) A person, who has any income from sources within the Commonwealth that is not subject to any taxes under chapter 2 [[4 CMC §§ 1201 et seq.](#)] or 3 [[4 CMC §§ 1301 et seq.](#)] of this division, shall not be entitled to any rebate offset under this section with respect to the tax on such income. This subsection shall not apply to income:

(A) Exempted from the definition of earnings under [4 CMC § 1202\(b\)\(6\)](#).

(B) Exempted from the gross revenues tax under [4 CMC § 1305\(a\)](#) or (d).

(C) Taxed under article 2 of chapter 4 of this division [[4 CMC §§ 1421 et seq.](#)].

(D) From the sale of private land to the Commonwealth Government for public purpose.

(2) Notwithstanding subsection (d)(1)(ii) of this section, a person, who has any income from sources within the Commonwealth that is not subject to any taxes under chapter 2 [[4 CMC §§ 1201 et seq.](#)] or 3 [[4 CMC §§ 1301 et seq.](#)] of this division, may elect to have that income taxed as if it were subject to the applicable tax under chapter 2 or 3 of this division. If a person so elects and pays the applicable tax, such person shall be entitled to the rebate allowed under subsection (a) of this section. A person shall make the election in a manner and on a form prescribed by the secretary. This subsection shall not apply to income:

(i) Exempted from the definition of earnings under [4 CMC § 1103\(f\)\(8\)](#).

(A) Exempted from the definition of earnings under [4 CMC § 1202\(b\)\(6\)](#).

(ii) Exempted from the gross revenue tax under [4 CMC § 1305\(a\)](#) or (d).

(iii) Taxed under article 2 of chapter 4 of this division [[4 CMC §§ 1421 et seq.](#)].

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

(e) *Sources Within the Commonwealth.* For purposes of determining the rebate offset, the term “sources within the Commonwealth,” except as provided in [4 CMC § 1712](#), shall be determined by regulations prescribed by the secretary. Such regulations prescribed shall be similar to those sourcing rules of the NMTIT in Section 861 *et seq.*

(f) The Secretary shall prescribe by regulation the procedure, manner, and requirements of obtaining a rebate under § 1708 of NMTIT taxes claimed on amended returns filed after the due date prescribed by law for the filing of the original of such returns.

Source: PL 9-22, § 1 (§ 1708); amended by PL 9-57, § 2; PL 9-58, § 2; PL 9-59, § 2; PL 10-74, § 3; subsection (d)(1)(ii)(A) amended and new subsections (d)(1)(ii)(D) and (d)(2)(ii)(A) added by PL 11-93, §§ 2, 3, and 4, respectively; new subsection (b)(1)(iii) added by PL 12-16, § 2; subsection (b) amended by PL 12-20, § 28(e); new subsection (b)(1)(iii) added by PL 12-31, § 2; (f) added by PL 14-35, § 6(I); (b)(1)(ii)(B) amended by global amendment PL 15-108, § 5; subsection (b)(1) amended and (b)(iv) added by PL 18-38 § 4 (Mar. 21, 2014); subsections (b)(1)(i) and (b)(1)(iv) amended by PL 18-43 § 2 (Apr. 1, 2014), modified; subsections (b)(1)(i) and (b)(1)(iv) amended by PL 18-56 §§ 2, 6 (July 11, 2014), modified.

Commission Comment: PL 9-58, § 2(b) repealed a former subsection (b)(2), enacted by PL 9-22; the Commission accordingly redesignated subsection (b)(3) as subsection (b)(2). The references to “[4 CMC § 1103\(f\)\(8\)](#)” in subsection (d)(1)(ii)(A) and subsection (d)(2)(i), specified in PL 9-22, are plainly incorrect; neither [4 CMC § 1103](#) nor any other section of this division contains a subsection (f)(8).

The Commission substituted section numbers pursuant to [1 CMC § 3806\(d\)](#). The Commission struck the figure “\$15,000,000” from subsection (b)(1)(iv) pursuant to [1 CMC § 3806\(e\)](#).

PL 10-74 amends subsection 1708(b)(1)(A) of PL 9-22 which is codified at subsection 1708(b)(1)(i). Sections 1 and 2 of PL 10-74 states as follows:

Section 1. Title. This Act may be referred to as “The Tax Equity Amendment Act of 1997.”

Section 2. Legislative Purpose and Intent. Public Law 9-22 amended the CNMI Code, among other ways, by reducing the amount of tax relief or rebate that persons are entitled to in the CNMI. The new formulation of the rebate base had the unfortunate side-effect of increasing individual tax burdens in some cases as much as tenfold while, in contrast, the corporate burden was only doubled. Moreover such a large overall increase in the general amount of revenues collected by the government represents an unjustified demand upon the hard earned resources of CNMI citizens. It is the purpose of this Act to re-entitle taxpayers, other than corporations, to the rebate levels that existed prior to the enactment of Public Law 9-22. To accomplish this end, 4 CMC Section 1708(b)(1)(A), as enacted by Public Law 9-22, is amended by this Act to so provide for this

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

purpose. Section 1708(b)(1)(B) of 4 CMC as enacted by Public Law 9-22 regarding tax relief or rebates for taxpayers who are corporation, is not intended to be affected in any way by this Act.

PL 10-74 also contained severability and savings clauses as follows:

Section 4. 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 5. 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. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

PL 11-93 which amended subsection (d)(1)(ii)(A) and added new subsections (d)(1)(ii)(d) and (d)(2)(i)(A) of this section took effect on August 13, 1999. But see PL 11-93, § 5 on application which states as follows:

Section 5. Application. This Act shall apply to all sales of private property to the Commonwealth Government for public purpose on or after January 1, 1994.

PL 11-93 also contained findings and purpose, savings, and severability clauses as follows:

Section 1. Findings and Purpose. The Legislature finds that the purpose of Public Law 11-36 is to relieve taxpayers from the tax consequences in transactions involving the purchase of private land for public purpose. That law inadvertently did not take into consideration the impact under the Northern Marianas Territorial Income Tax. The purpose of this amendment is to clarify that the tax relief provision under the Northern Marianas Territorial Income Tax shall apply to the sale of land to the CNMI government for public purpose.

...

Section 6. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying any liability, civil or criminal, which shall already be in existence at the date this Act becomes law.

Section 7. Severability. If any provision of this Act or the application of any such provision to any person or circumstances should be held in-

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

valid 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.

PL 12-16 which added new subsection (b)(1)(iii) to this section took effect on August 25, 2000. PL 12-16 contained findings and purpose, savings and severability clause provisions as follows:

Section 1. Findings and Purpose. The Legislature finds that private landowners who received cash compensation from the Commonwealth government in exchange for their private land were required to pay tax on such gains, while landowners who received public land in exchange for their private land were not required to pay tax. This inequity was partially remedied by Public Laws 11-36 and 11-93. The purpose of this act is to further remedy this inequity by providing a 100 percent tax rebate on taxes paid on cash compensation received from the sale of private land to the government on or after January 1, 1994.

...

Section 3. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract, under statutes repealed, or under any rule, regulations or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.

Section 4. Severability. If any provision of this Act or the application of any such provision to any person or circumstances 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 which is held invalid shall not be affected thereby.

PL 12-20 took effect September 22, 2000. PL 12-31 became effective December 1, 2000.

See the comment to [4 CMC § 1101](#) regarding PL 14-35.

*The Commission changed references in subsection (b)(1)(ii)(B) from “resident worker” to “citizen or permanent resident worker” as required by PL 15-108, § 5. However, the Commission notes that [3 CMC § 4412](#) was repealed by PL 15-108, § 4. Following the codification of PL 15-108, “permanent resident” is defined in [3 CMC § 4511\(j\)](#).