

NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

THIRD SPECIAL SESSION, 1995

H.B. NO. 9-420, H.D.3
PUBLIC LAW NO. 9-57

AN ACT

To amend Section 1402 (a) of P.L. 9-22; and for other purposes.

**BE IT ENACTED BY THE NINTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE:**

Section 1. Amendment. Section 1402 (a) of Public Law 9-22 is hereby amended to read as follows:

"(a) General. For the privilege of first sale, use, manufacture, lease or rental of goods, commodities, resources, or merchandise in the Commonwealth for business purposes or for personal use exceeding the value specified in subsection (c), there is imposed an excise tax as follows:

- (1) Soft drinks, one-half of one cent (\$0.005) per fluid ounce or fractional equivalent thereof;
- (2) Foodstuffs, one percent (1%) ad valorem;
- (3) Commodities used in the production of agricultural products, including fertilizers, seed, animal feeds, pesticides and herbicides, agricultural equipment, machinery, tools, irrigation equipment and accessories intended specifically for agricultural use, one percent (1%) ad valorem.
- (4) Perfumery, articles of perfumery including cologne and other fragrances whether in sachets or otherwise, twenty-three percent (23%) ad valorem;
- (5) Cosmetics, including all preparations used as applications to the hair or skin, lipsticks, eye shadows, mascara, pomades, powders, makeup and other preparations not having medicinal properties or hygienic purposes, seventeen and one-quarter percent (17.25%) ad valorem;
- (6) Hygiene Products and Toiletries, one percent (1%) ad valorem;
- (7) Prescription drugs and medicines, one percent (1%) ad valorem;
- (8) Construction equipment, construction materials, and construction machinery, three percent (3%) ad valorem;
- (9) Leather goods or related products, five and three quarters percent (5.75%) ad valorem;
- (10) Jewelry, five and three-quarters percent (5.75%) ad valorem;
- (11) Precious metals, precious or semi-precious stones or related commodities, five and three-quarter percent (5.75%) ad valorem;
- (12) Passenger vehicle having a value not exceeding \$30,000 per unit, five percent (5%) ad valorem;

(13) Passenger vehicle having a value in excess of \$30,000 per unit, five and three-quarters percent (5.75%) ad valorem;

(14) Boats and yachts, whether capable of being powered by sail or motor, and having a value in excess of \$500,000 per unit, five and three-quarters percent (5.75%) ad valorem;

(15) Goods, commodities, resources, or merchandise manufactured grown or entirely derived from sources within the Commonwealth, one percent (1%) of retail price, unless otherwise specified within this Chapter.

(16) Cigarettes, fifty (50) cents per every twenty (20) cigarettes or fractional equivalent thereof for three years after the passage of this Act into law; thereafter twenty-five (25) cents per every twenty (20) cigarettes or fractional equivalent thereof;

(17) Tobacco or tobacco substitute or chewable tobacco product, or other smokable or snuffable substance, material or product, other than cigarettes, fifty percent (50%) of the invoice price;

(18) Beer and malt beverages 1.67 cents (\$0.0167) per fluid ounce or fractional equivalent thereof;

(19) Distilled alcoholic beverages, 12 cents per fluid ounce or fractional equivalent thereof;

(20) Wine and sake, 3 cents per fluid ounce or fractional equivalent thereof;

(21) All other goods, commodities, resources, or merchandise not otherwise provided by law, five percent (5%) ad valorem;"

Section 2.

(a) Repealer. 4 CMC Section 1708 (d) (3) as amended by Public Law 9-22 is hereby repealed. Such repealer to be effective retroactively from the date on which PL 9-22 first became effective as law.

(b) Amendment. 4 CMC, Division 1, Chapter 4, Article 2 is hereby amended to add a new section 1422 to read as follows:

"§1422. Non-refundable Credit.

(a) Except as provided in subsection (c) of this section, a person may take the User Fee imposed under this Article as a non-refundable credit against the NMTIT before calculation of the rebate allowed under section 1708 of this Division.

(b) For purposes of this section, the amount of the non-refundable credit shall be the lesser of:

(1) The amount of the NMTIT paid with respect to gross revenues for which a rebate is allowed under this Division; or

(2) The amount of User Fees required under Section 1421 during the taxable year.

(c) A person may not take the credit allowed under this section if the person has deducted the User Fee in determining taxable income under the NMTIT. The person may elect any deduction allowed under the NMTIT or the credit allowed under this section."

Current subsections 1422 and 1423 are renumbered accordingly.

(c) Amendment. Section 1708(c) is hereby amended to read as follows:

"§1708(c) Rebate Base. 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 amount of non-refundable credit allowable under Section 1205, 1307 or Section 1422 of this Act.

(d) Amendment. 4 CMC, Division 1, Chapter 4, Article 2 is hereby amended to add a new section 1425 to read as follows:

"§1425. Regulations.

The Secretary or his designee may issue regulations consistent with the purposes of this Article."

(e) Amendment. 4 CMC, Division 1, Chapter 3, section 1307(a) is hereby amended to read as follows:

(a) Except as provided in subsection (c) of this section, a person may take any tax imposed on gross revenues under section 1301 or any other Commonwealth tax or fee imposed in lieu of such tax (such as 4 CMC 2002(h)) as a non-refundable credit against the NMTIT imposed under Chapter 7 of this Division.

(f) Amendment. 4 CMC, Division 1 is hereby amended to substitute the words "rebate offset" for the word "rebate" wherever it may occur.

Section 3. Amendment. Section 1401 (n) of Public Law 9-22 is hereby amended to read as follows:

(n) "Soft Drink" means any readily drinkable carbonated or non-carbonated or non-alcoholic beverage other than drinkable dairy products, fruit, or vegetable juices, bottled drinking water, or beverages containing tea or tea products, and those items that are not fit for consumption without mixing with other drinkable products (i.e. fruit punch concentrate, cocktail mixers, etc.).

Section 4. Amendment. 4 CMC, Division 1, Chapter 7, as amended, is hereby amended to contain a new §1714 and §1715 to read as follows:

"§1714. Special Rebate Trust Account. At least 95% of all amounts paid to the Government with respect to taxes imposed under this Chapter shall not be placed into the General Fund or commingled with other funds, but shall be deposited by the Secretary of Finance into one or more FDIC or FSLIC insured special purpose trust accounts in banks within the Commonwealth. The proceeds may be withdrawn from the trust accounts only for the purpose of:

(1) making rebates as provided in this Chapter;

(2) payment into the General Fund, but only after a final determination, including a judicial determination if requested by any taxpayer, that the amount in question is not validly subject to rebate under this Chapter, or

(3) payments into the General Fund of the interest or earnings derived from such trust accounts.

§1715 Shortfall in Trust Account. With regard to the trust accounts created and authorized by § 1714 of this Chapter, if the Secretary of Finance deems it necessary because there are insufficient trust account proceeds, he may withdraw funds from the General Fund

to meet any liabilities of the trust accounts.

Section 5. 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 6. 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.

Section 7. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

ATTESTED BY:

/s/ Diego T. Benavente
DIEGO T. BENAVENTE
Speaker
House of Representatives

/s/ Evelyn C. Fleming
EVELYN C. FLEMING
House Clerk

Approved this 6th day of October, 1995

/s/ Froilan C. Tenorio
FROILAN C. TENORIO
Governor
Commonwealth of the Northern Mariana Islands