

**NINTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE**

**PUBLIC LAW NO. 9-59**

**H. B. NO. 9-484**

**FOURTH REGULAR SESSION, 1995**

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**AN ACT**

To amend Title 4, Division 1, Chapter 7 of Public Law No. 9-22, the 1995 Tax Reform Act, to return the operation of the non-refundable credit to its previous status and thereby avoid double payment of some 1995 tax by both businesses and ordinary taxpayers, and eliminate administrative nightmares and excessive burdens on the private sector; and for other purposes.

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

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 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.

Section 2. Amendments.

(a) 4 CMC § 1205, as enacted by Public Law No. 9-22, is hereby repealed and reenacted as follows:

"§ 1205. Non-refundable Credit.

A person may take the tax imposed on wages and salaries or earnings under this chapter as a nonrefundable credit against the tax imposed on

Commonwealth source income under Subtitle A of the NMTIT pursuant to Chapter 7 of this Title. 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) 4 CMC § 1307, as enacted by Public Law No. 9-22, is hereby repealed and reenacted as follows:

"§ 1307. Non-refundable Credit.

(a) A person may take the tax imposed on gross revenues under section 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 Title. 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 section 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 Title; 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) 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."

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.

(c) A new section 1424 is added to Title 4, Division 1 of the Commonwealth Code, to read:

"§ 1424. Non-refundable Credit.

A person may take the user fee imposed under section 1421 as a nonrefundable credit against the tax imposed on Commonwealth source income under Subtitle A of the NMTIT pursuant to Chapter 7 of this Title. No such credit shall be allowed for any amount deducted in determining taxable income under the NMTIT as shown on the taxpayer's return."

This subsection shall supersede and be effective notwithstanding Section 2(b) of H.B. 9-420 as amended in the event both shall become law.

(d) 4 CMC § 1708(d)(3), as enacted by Public Law No. 9-22, is repealed.

(e) A new section 1425 is added to Title 4, Division 1 of the Commonwealth Code, to read:

"§ 1425. Regulations.

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

This subsection shall supersede and be effective notwithstanding Section 2(d) of H.B. 9-420 as amended in the event both shall become law.

(f) 4 CMC § 1708(c), as enacted by Public Law No. 9-22, is hereby amended to read:

"(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 non-refundable credits taken pursuant to sections 1205, 1307, and 1424 of this Division."

This subsection shall supersede and be effective notwithstanding Section 2(c) of H.B. 9-420 as amended in the event both shall become law.

(g) 4 CMC § 1202(b)(6), as enacted by Public Law No. 9-22, is hereby amended by adding a new subparagraph (E) to read:

"(E) distributive shares of partnerships and S Corporations to respective partners and shareholders."

Section 3. 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 4. Effective Date. Upon its approval by the Governor or upon its becoming law without such approval, this Act shall take effect January 1, 1995.

**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