

AN ACT

To provide a 90-day amnesty period for the filing of delinquent returns under Title 4, Chapters 2, 3, 4, 5 and 7, Division 1 of the Revenue and Taxation Act of 1982, as amended, and the payment of delinquent taxes without imposition of penalty and interest, with certain exceptions and for the waiver of penalty for failure to obtain a business license; and for other purposes.

BE IT ENACTED BY THE TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Legislative Findings. The Legislature finds that the CNMI tax system depends on the voluntary compliance of taxpayers and that, for the most part, taxpayers accurately and timely report their tax liabilities on a voluntary basis. The Legislature further finds that unfavorable economic conditions in the CNMI over the last several years have caused tremendous hardship on CNMI businesses and residents and made it difficult for taxpayers to willingly step forward and address their tax obligations. Some taxpayers fell off of the tax rolls and others have never been included in the tax rolls. Although the CNMI could pursue more vigorous enforcement of its tax laws, such action would require the expenditure of scarce resources. Another alternative is to bring taxpayers into compliance through an incentive program such as an amnesty program.

The Legislature finds that an amnesty program would be more cost-effective for the government because the taxpayers would be allowed to voluntarily come forward and take action to comply with the tax laws. Many states in the United States have successfully used tax amnesty programs for limited periods to bring taxpayers into compliance with the law and re-establish their status with the taxing authority. Amnesty programs usually allow a waiver of penalties and interest on unpaid or unreported taxes. Amnesty programs usually result in accelerated collection of overdue tax revenues to the government although the programs'

primary objective is to bring taxpayers back into compliance thus strengthening future revenue collection.

This Bill would encourage the payment of taxes by allowing taxpayers who have delinquent tax liabilities to pay their taxes to the government without penalties. Within 15 days of the effective date of this Act, the Department of Finance will make available to the public the special returns required by this Act. Thereafter, the amnesty period would be open for 90 days and would apply to all taxes imposed by CNMI law. Taxpayers would be required to immediately pay the delinquent tax within the 90-day period of time or enter into a payment plan acceptable to Revenue and Taxation and the taxpayers. Taxpayers in the examination process and/or the appeals process could utilize the amnesty provision for taxes currently subject to audit or on appeal. Taxpayers who have filed returns with under-reported income could amend those returns and pay any tax due thereon within the amnesty period. This bill would not, however, protect taxpayers from fraud committed in connection with the tax laws and in certain other situations.

The Legislature also finds that many persons and entities have failed to pay business license fees, obtain a business license or renew business licenses as required by law due to the economic downturn in the CNMI. As a result of their failure to comply with the requirements of the business license law, many business have incurred penalties and have ceased operations or are operating in violation of the law. This Act will also encourage those person and entities to come into compliance with the business license law by providing a period of amnesty within which they may pay all past due license fees required by 4 CMC section 5611 and thereby obtain a waiver of all penalties incurred by 4 CMC section 5613.

Section 2. Tax Amnesty.

Unless otherwise provided, the following provisions shall apply to all taxes, including withholding taxes and all returns, including deductions, exemptions, credits erroneously claimed in returns filed for all tax years prior to the 2001 calendar year:

(a) Voluntary Statement of Wages, Salary, or Earnings. Any person who has not filed a return as required under Chapter 2 of Title 4, Division 1 of the CNMI Code or who, having

filed such return, failed to report all wages, salaries and/or earnings or pay all taxes as required shall have the option to file a special return. The special return shall state the amount of wages and salaries and/or earnings and the taxable years or period in which such wages and salaries and/or earnings were earned, derived or received. The special return shall be accompanied by the payment of taxes owed thereon in accordance with subsection (f).

(b) Voluntary Statement of Gross Revenue. Any person who has not filed a return as required under Chapter 3 of Title 4, Division 1 of the CNMI Code or who, having filed such a return, failed to report all gross revenue or pay all taxes as required shall have the option to file a special return. The special return shall state the amount of gross revenue and the taxable years or period in which such gross revenue was received, accrued or earned. The special return shall be accompanied by the payment of taxes owed thereon in accordance with subsection (f).

(c) Voluntary Statement of Room, Bar, and Jackpot Taxes. Any person who has not filed a return as required under Chapter 5 of Title 4, Division 1 of the CNMI Code or who, having filed such return, failed to report all revenue and/or winnings or failed to pay the tax shall have the option to file a special return. The special return shall state the amount of revenue and/or winning and the taxable years or period in which such revenue and/or winning was accrued or received. The special return shall be accompanied by the department of taxes owed thereon in accordance with subsection (f).

(d) Voluntary Declaration of Excise Tax. Any taxpayer who has not declared an article subject to excise tax under Chapter 4, Title 4, Division 1 of the CNMI Code or who, having made such a declaration, failed to declare all articles or pay all tax as required shall have the option of filing a special return. The special return shall state the article subject to excise tax, it's taxable worth, and the corresponding tax. The special return shall be accompanied by the payment of taxes owed thereon in accordance with subsection (f).

(e) Voluntary Statement of Income and/or Tax Pursuant to the NMTIT. Any person who has not filed a return as required under Chapter 7 of Title 4, Division 1 of the CNMI Code or who, having filed such a return, failed to report all income or had claimed excessive

deductions or credits or failed to pay all tax as required shall have the option to file a special return. The special return shall state the amount of taxable income and the taxable years or period in which such income was accrued or received. The special return shall be accompanied by the payment of taxes owed thereon in accordance with subsection (f).

(f) Filing of a Special Return and Release from the Payment of Penalty and interest. Within fifteen (15) days of the effective date of this Act, the Department of Finance shall make available to the public the special returns required by this Act. Except as otherwise provided by this section, any person who files a special return, together with a request for waiver of penalties and interest, and pays the tax owed thereon to the CNMI prior to the expiration of this Act is released from the payment of penalties and interest as follows:

(1) where a special return is properly filed and full payment of all tax owed thereon is made to the CNMI government, 100 percent of the penalty and interest charges shall be waived.

(2) where a special return is properly filed but payment of less than 100 percent of all tax owed thereon is made to the CNMI government, 100 percent of the penalty shall be waived along with the that portion of the interest attributable to the principal paid with the special return, provided that the taxpayer has first entered into an agreement with the Director of Revenue and Taxation in the Department of Finance for the payment of the remaining balance of the tax and interest charges. Any agreement executed shall be based on the taxpayers ability to pay.

(3) interest due pursuant to the NMTIT shall not be waived.

(4) penalties may be waived under the NMTIT only upon a showing of *reasonable cause*.

(5) this act shall not apply to:

- (i) any person who is a party to in a civil or criminal tax action;
- (ii) any person who is being investigated for fraud; or
- (iii) any person who has had a civil or criminal judgment rendered against them and who has not paid such judgment in full.

(g) Immunity.

(1) Grant of Immunity. Except as otherwise provided, any person who complies with the provisions of this Section shall not be subject to civil or criminal penalties under the tax laws of the CNMI.

(2) Scope of Immunity. The immunity granted in this section shall be limited to the amount declared and determined according to subsection (a), (b), (c), (d), or (e).

(3) Limitation. Immunity may only be obtained within the effective period of this Act.

(4) Exclusion. The following persons are not entitled to immunity under the provisions of this Act:

(i) any person against whom a criminal or civil action has been initiated and is pending for any violation of the tax laws of the CNMI or any person being investigated for fraud;

(ii) any person who has been convicted of tax fraud;

(iii) any person whose source of income is illegal;

(iv) any person who fraudulently files a special return under this Act.

Section 3. Compliance Requirements.

(a) Future Compliance with the Tax Laws. Notwithstanding any other provision of this Act, the Director of Revenue and Taxation may assess and collect from a taxpayer all penalties and interest forgiven through the tax amnesty program established in this Act, within three years after the expiration of this Act:

(i) The taxpayer who received amnesty under this Act fails to file a return or pay a tax due for two or more consecutive periods and the taxpayer has not contested the liability on a timely basis in an administrative or judicial proceeding; or

(ii) The taxpayer who received amnesty under this Act is six months or more late in the filing of a return due on an annual basis or the payment of taxes due thereon and the taxpayer has not contested the liability on a timely basis in an administrative or judicial proceeding.

(iii) Any person who has had penalties and/or interest waived pursuant to this Act, and who has entered into an installment agreement pursuant to subsection (f)(2) of this Act and who has defaulted in making payment as required under such agreement shall be assessed and required to pay the penalty and interest previously waived.

Section 4. Limitations.

(a) Previously paid interest and penalties. No person is entitled to a refund of or credit on interest or penalties paid to the CNMI prior to the effective date of this Act.

(b) Proceedings relating to tax amnesty return barred. A taxpayer who elects to take advantage of the amnesty program established by the provisions of this Act shall waive any right he or she may otherwise have to seek administrative or judicial relief in connection with returns filed or tax or interest paid under the provisions of this Act.

(c) Undisclosed Liabilities. Nothing in this Act shall be construed to prohibit the department from instituting civil or criminal proceedings against any taxpayer with respect to any amount of tax that is not disclosed on the tax amnesty program.

(d) Limitation of Deficiency Assessment. If after the expiration of this Act, the department issues a deficiency assessment with respect to a special return filed under the provisions of this Act, the department may seek penalty and interest charges or pursue civil or criminal action only with respect to the difference between the tax shown on that amnesty return and the correct amount of tax.

Section 5. Waiver of Penalties for Payment of Business License Fees. During the effective period of this Act, any person or entity that is required to obtain a business license pursuant to Public Law 11-73, as codified in 4 CMC, Division 5, Chapter 6, and that has failed to comply is entitled to a waiver of all penalties imposed by Public Law 11-73, as codified in 4 CMC section 5613, if such person or entity pays all the business license fees due under 4 CMC section 5611.

Section 6. Expiration of Application. The provisions of this Act shall become effective upon its becoming law and shall remain in effect for a period of one hundred and five (105) days. This Act shall expire on the 106th day.

Section 7. Rules and Regulations. The Secretary of Finance is authorized to promulgate rules and regulations to administer this Act.

Section 8. 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 9. 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 on the date this Act becomes effective.

Section 10. Effective Date. This Act shall take effect upon its approval by the Governor or its becoming law without such approval.

CERTIFIED BY:

ATTESTED TO BY:

/s/ _____

BENIGNO R. FITIAL
SPEAKER OF THE HOUSE

/s/ _____

EVELYN C. FLEMING
HOUSE CLERK

Approved this 7th day of May, 2001

/s/ _____

PEDRO P. TENORIO
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS