

TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

Public Law 12-79

THIRD REGULAR SESSION, 2001

H. B. NO. 12-391, CD1, SD1

AN ACT

To clarify provisions of the CNMI tax laws and ensure that no double taxation is imposed on exporters of goods, fish and agricultural products produced in the Commonwealth and exported to buyers outside the Commonwealth; and for other purposes.

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

Section 1. Purpose. It has come to the attention of the CNMI Legislature that the Commonwealth Department of Revenue and Taxation has implemented policies and taken positions misconstruing the amount of taxation to be imposed upon goods produced or manufactured in the Commonwealth solely for export to destinations outside of the Commonwealth. The Legislature finds that in this time of economic hardship when the Commonwealth is attempting to attract new foreign investment with the creation of a Free Trade Zone and the offering of other tax incentives, that the actions taken by Revenue and Taxation are potentially damaging to the Commonwealth's efforts to attract investment. The Legislature has been made aware that the Department of Revenue and Taxation has imposed a double taxation on companies producing and manufacturing goods in the Commonwealth for export by assessing both the Gross Revenue Tax of 4 CMC §1301 and the Customs Certification User Fee of 4 CMC §1421 on goods produced in the Commonwealth for export. The Legislature wishes to clarify that the production or manufacture of goods in the Commonwealth that are shipped to buyers outside the Commonwealth does not presently and has never, under CNMI tax statutes, subjected the producer or manufacturer of such goods to the Gross Revenue Tax or any similar flat tax.

Section 2. Definition of “Manufacturer”. Title 4 CMC § 1103(n) is hereby amended to read as follows:

Definition of “Manufacturer”.

“(n) ‘Manufacturer’ means any business engaged in combining or processing components or materials to increase their value for sale in the ordinary course of business. This definition of the term ‘Manufacturer’ does not require that the ‘Manufacturer’ be the actual entity that sells the items manufactured. The definition applies to the actual process of combining and processing components and materials and applies whether the ‘Manufacturer’ is providing the services to another entity, or is a subsidiary of the seller or actually sells the items itself.”

Section 3. Avoidance of Double Taxation. A new section is hereby added to Title 4, Division 1, Chapter 4, Article 2 to read as follows:

“§ 1426. No Double Taxation.

Manufacturers (as defined in 4 CMC § 1103(n)) that pay the user fee set forth in this Article on goods produced or manufactured in the Commonwealth and exported shall not be subject to the Tax on Gross Revenue or Earnings set forth in Title 4, Division 1, Chapters 2 and 3 of the Commonwealth Code or any other comparable flat tax imposed under the Commonwealth tax laws.”

Section 4. Clarification of Taxation on Manufacturing and Necessarily Related Activities. 4 CMC § 1305(a) is hereby amended as follows:

“(a) Derived from the revenue generated by the export of goods, resources, food, fish or agricultural products produced or manufactured in the Commonwealth and exported by the manufacturer or producer regardless of whether or not the manufacturer or producer is deemed the ‘seller’ of such goods, resources, fish or agricultural products.”

Section 5. Reimbursement to Employer. Title 4 CMC § 1305 is hereby amended by adding a new subsection [h] to read as follows:

“[h] Derived by employers from employees as reimbursement to the employer for food and housing to the extent the collection of such reimbursement is permitted by United States and CNMI laws and regulations.”

Section 6. Tax periods affected. This act shall be construed as affecting and controlling any and all future as well as existing returns, audits, assessments and disputes between the Department of Finance, Division of Revenue and Taxation and any taxpayers.

Section 7. 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 8. 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.

Section 9. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

ATTESTED TO BY:

/S/ _____

BENIGNO R. FTIAL
SPEAKER OF THE HOUSE

/S/ _____

EVELYN C. FLEMING
HOUSE CLERK

Approved this 31st day of December, 2001

/S/ _____

PEDRO P. TENORIO
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS