



HOUSE OF REPRESENTATIVES
FOURTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FIRST REGULAR SESSION, 2004

PUBLIC LAW NO. 14-28
H. B. No. 14-114, HD1, SD2

AN ACT

To provide a 120-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 FOURTEENTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE:**

Section 1. Legislative Findings. In an effort to collect outstanding tax revenues, Public Law 12-51 established a tax-amnesty program. That law expired on the 106th day after its effective date of May 7, 2001. The legislature finds that the program was highly successful. The Legislature also finds that, for various reasons, not all eligible persons and entities took advantage of the law. Many delinquent taxpayers would welcome a second opportunity to pay their taxes under an amnesty law. The Legislature finds that a second amnesty program should be established because an amnesty period is still the most cost-effective way for the government to collect tax revenue during these difficult economic times. The provisions of this Act are identical to those of Public Law 12-51 and should, like Public Law 12-51, encourage persons and entities to come into compliance with the law.

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 2004 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, its 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 hereon is made to the CNMI government, 100 percent of all penalty and interest charges shall be waived, notwithstanding any previous or existing agreement by the taxpayer for the payment thereof.

(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 taxpayer's 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 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 twenty (120) days. This Act shall expire on the 121st day.

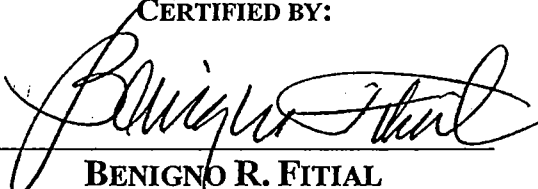
Section 7. Rules and Regulations. The Secretary of Finance is authorized to promulgate rules and regulations to administer this Act.

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.

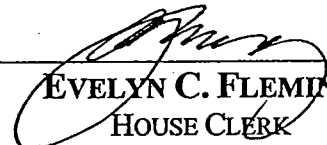
Section 9. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect 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 at the date this Act, becomes effective.

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

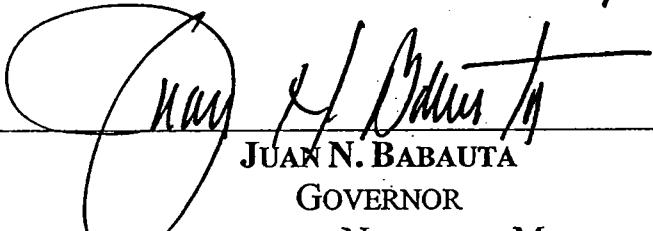
CERTIFIED BY:


BENIGNO R. FITIAL
SPEAKER OF THE HOUSE

ATTESTED TO BY:


EVELYN C. FLEMING
HOUSE CLERK

Approved on this 21st day of September, 2004


JUAN N. BABAUTA
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS