

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS**



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**COMMONWEALTH REGISTER**

**VOLUME 42  
NUMBER 02  
FEBRUARY 28, 2020**

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# COMMONWEALTH REGISTER

VOLUME 42  
NUMBER 02  
FEBRUARY 28, 2020

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## PUBLIC NOTICE OF ADOPTION OF EMERGENCY REGULATION

Emergency regulation amending section 80-20.1-240  
of the Northern Marianas Administrative Code regarding Reductions-in-Force

**EMERGENCY ADOPTION AND IMMEDIATE EFFECT:** The Department of Labor, through the Secretary of Labor, finds that the attached Emergency Regulation amending NMIAC § 80-20.1-240 shall be adopted immediately on an emergency basis because the public interest so requires, for the reasons stated below (1 CMC § 9104(b), (c); 1 CMC § 9105(b)(2)). These emergency regulations shall become effective immediately upon filing with the Commonwealth Register and delivery to the Governor, (1 CMC § 9105(b)(2)), and shall remain in effect for 120 days. (1 CMC § 9104(b)).

**AUTHORITY:** Pursuant to 3 CMC § 4530, the Department of Labor is authorized to promulgate necessary regulations.

1 CMC § 9104(b) of the Administrative Procedure Act provides that:

If an agency finds that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days notice, and states in writing its reasons for that finding, it may, with the concurrence of the Governor, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency regulation. The regulation may be effective for a period of not longer than 120 days, but the adoption of an identical regulation under subsections (a)(1) and (a)(2) of this section is not precluded.

**REASON FOR EMERGENCY ADOPTION:** The outbreak of the novel coronavirus (2019-nCoV) in the People's Republic of China and its spread to other countries has caused the President of the United States and the Governor of the CNMI to take actions suspending entry into the CNMI of most persons traveling from mainland China. As mainland China is a major tourism source market for the CNMI, the CNMI's tourism based economy has suffered a major disruption and downturn. More than just China, many potential tourists from Hong Kong, Korea and Japan have cancelled reservations or are refusing to travel to the CNMI, apparently unwilling to risk infection on the flight to the CNMI. These cancellations have further disrupted and caused an unexpected, sharp and immediate downturn in the tourist based economy of the CNMI.

OFFICE OF THE ATTORNEY GENERAL  
Civil Division

**RECEIVED**

BY

DATE

2/11/2020



In order to survive the economic downturn caused by the novel coronavirus outbreak, many businesses are finding it necessary to scale back operations including, unfortunately, reducing their work forces. However, NMIAC § 80-20.1-240 is hindering businesses ability to immediately and flexibly reduce their work forces in order to survive the present economic downturn; many businesses do not have 60 or 30 days of lead time before they must downsize, and such downsizing is necessary just for the survival of the business until the disruptive economic effects of the novel coronavirus outbreak dissipate.

The emergency amendment serves the public interest. Immediately amending NMIAC § 80-20.1-240 to eliminate sub-sections (c) and (d) for the duration of the term of this emergency regulation will provide businesses the ability to immediately and flexibly respond to the sharp, but hopefully temporary, downturn in the economy caused by the novel coronavirus outbreak.

**THE TERMS AND SUBSTANCE:** The Emergency Regulation will amend NMIAC § 80-20.1-240 to eliminate sub-sections (c) and (d) for the duration of the term of this emergency regulation, that is, for a term of 120 days unless withdrawn earlier.

NMIAC § 80-20.1-240(c) of the Northern Mariana Islands Administrative Code states that “[b]efore commencement of a reduction of force, an employer shall give at least 60 days written notice to the Department [of Labor] and at least 30 days notice to each affected employee on the standard form provided by the Department.”

NMIAC § 80-20.1-240(d) of the Northern Mariana Islands Administrative Code states that “[t]he effective date of a reduction in force is a date at least 30 days after the employees to be laid off have received notice of termination due to reduction in force, downsizing, or closure of the business.”

Amending NMIAC § 80-20.1-240 to eliminate sub-sections (c) and (d) for the duration of the term of this emergency regulation will provide businesses the ability to immediately and flexibly respond to the sharp, but hopefully temporary, downturn in the economy caused by novel coronavirus outbreak. The amendment will do this by allowing for a business to immediately reduce its workforce. Such an immediate reduction may be the difference between insolvency and survival of the business. The amendment will not affect the rest of the regulation and its provisions protecting U.S citizen, CNMI permanent residents and U.S permanent residents.


**DIRECTIONS FOR FILING AND PUBLICATION:** The Secretary of Labor will take appropriate measures to make these Emergency Regulations known to the persons who may be affected by them. (1 CMC § 9105(b)(2)).

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The attached Emergency Regulations are approved by the Secretary of Labor on the date listed below.

Submitted by:   
Vicky Benavente  
Secretary of Labor

Feb. 7, 2020  
Date

Received by:   
Mathilda A. Rosario  
Special Assistant for Administration

02/10/2020  
Date

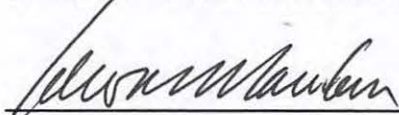
Concurred by:   
Ralph DLG. Torres  
Governor

2/10/2020  
Date

Filed and  
Recorded by:   
Esther SN. Nesbitt  
Commonwealth Register *ran*

02.10.2020  
Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) the Emergency Regulations attached hereto have been reviewed and approved as to form and legal sufficiency.

  
Edward Manibusan  
Attorney General

2/10/2020  
Date



EMERGENCY REGULATION AMENDING NMIAC § 80-20.1-240

\* \* \*

**TITLE 80: DEPARTMENT OF LABOR**

**SUBCHAPTER 80-20.1**

**EMPLOYMENT RULES AND REGULATIONS**

**Part 200 – Workforce Participation by Citizens, CNMI Permanent Residents, and U.S. Permanent Residents**

**Subpart C – Private Sector Employment Preference**

**§ 80-20.1-240          Reductions in Force**

(a) The rights and remedies afforded all employees under this subchapter and the obligations imposed upon employers, are in addition to, and not in lieu of, any other contractual or statutory rights and remedies. In particular, the regulations in this subchapter do not excuse employers from the requirements of the federal Worker Adjustment and Retraining Notification Act (the “WARN Act”), 21 U.S.C. § 2101 et seq. (1988), pursuant to which covered employers must provide affected employees and specified government entities at least 60 days notice of a mass lay-off or company closure.

(b) Circumstances of economic necessity may require an employer to reduce the workforce or close the business. Employers have the right to make such decisions. However, because Commonwealth law requires job preference for citizens, CNMI permanent residents, and U.S. permanent residents, the right of employers of these participants to reduce their workforce with respect to these participants is not unlimited.

(e) The employer shall allow representatives from the Department to meet on employer premises with the employees to be laid off, during work hours. The purpose of the meeting shall be to advise the employees of their rights and responsibilities in connection with the lay-off, and to answer their questions.

(f) The employer shall layoff foreign national workers, transitional workers, and nonimmigrant aliens before laying off citizens, CNMI permanent residents, and U.S. permanent residents in the same O\*NET job classification or any O\*NET job classification with lesser requirements except as agreed with the Department or in the event a job in a lesser O\*NET classification is refused. The employer may lay off aliens in any order except that the employer shall lay off aliens other

the employees of their rights and responsibilities in connection with the lay-off, and to answer their questions.

(f) The employer shall layoff foreign national workers, transitional workers, and nonimmigrant aliens before laying off citizens, CNMI permanent residents, and U.S. permanent residents in the same O\*NET job classification or any O\*NET job classification with lesser requirements except as agreed with the Department or in the event a job in a lesser O\*NET classification is refused. The employer may lay off aliens in any order except that the employer shall lay off aliens other than citizens of the freely associated states before laying off citizens of the freely associated states in the same O\*NET job classification or any O\*NET job classification with lesser requirements except as agreed with the Department or in the event a job in a lesser O\*NET classification is refused.

(g) The employer shall cooperate with the Department by providing documentation as necessary to allow the Department to account for all of the laid off employees. The Department may conduct an investigation related to lay-offs in the event foreign national workers, transitional workers, or nonimmigrant aliens remain employed by the employer. Nothing in this section shall be construed to limit the right of employees to file meritorious complaints against an employer for violations of the Commonwealth Employment Act of 2007, as amended, the Minimum Wage and Hour Act, as amended, the WARN Act, or this subchapter, related to the lay-off.





Commonwealth of the Northern Mariana Islands  
Office of the Governor  
**DEPARTMENT OF PUBLIC LANDS**



**NOTICE OF ADOPTION OF REGULATIONS  
FOR THE DEPARTMENT OF PUBLIC LANDS**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER  
AS PROPOSED REGULATIONS  
Volume 41, Number 12, pp 042997-043030, of December 28, 2019

**ACTION TO ADOPT PROPOSED REGULATIONS:** The Department of Public Lands (the "Department") HEREBY ADOPTS AS PERMANENT REGULATIONS the Proposed Regulations which were published in the Commonwealth Register at the above referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Department announced that it intended to adopt them as permanent, and now does so. (Id.) I also certify by signature below that: as published, such adopted regulations have been modified for non-material changes with a true copy attached.

**MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY:**

1. To clarify that the matured leases, as defined by the Department, is in accordance with the description and meet the conditions of matured leases in Public Law 20-84. This is non-material as it addresses its adherence to Public Law.
2. To include a formula to calculate the rental rate for matured leases to support the valuation of up to 3% of Fair Market Value and description of capital improvements for the formula. This information is the basis of rental rate calculation and is included solely for reference.
3. Corrections from the proposed regulations submission outside of the scope of proposed changes due to clerical error. This is non-material as it conforms all text to current DPL regulation.

**PRIOR PUBLICATION:** The prior publication was as stated above.

**THE TERMS AND SUBSTANCE:** To reduce the percentage of Fair Market Value calculations in conformity with Public Law 20-84 and the Department's obligation to objectively manage the use and disposition of public lands set forth at 1 CMC § 2801 *et seq.* The amendment will affect Matured Leases, leases that have fulfilled its 40-year term and exhausted its extension period.

**AUTHORITY:** The Department has the inherent authority to adopt rules and regulations in furtherance of its duties and responsibilities pursuant to Article IX of the Commonwealth Constitution and 1 CMC § 2801 *et seq.*

**DIRECTIONS FOR FILING AND PUBLICATION:** These regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial, both in English and in principal vernacular.

**EFFECTIVE DATE:** These Regulations were proposed in December 2019 and are hereby being adopted as Permanent Regulations of the Department of Public Lands pursuant to 1CMC § 9104. They will become permanent ten (10) days after publication in the February 2020 Commonwealth Register.

**COMMENTS AND AGENCY CONCISE STATEMENT:** Pursuant to the APA, 1 CMC § 9104(a)(2), the agency has considered fully all written submissions respecting the proposed regulations. Upon this adoption

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Website: [www.dpl.gov.mp](http://www.dpl.gov.mp) ● E-mail: [dpl@dpl.gov.mp](mailto:dpl@dpl.gov.mp) ● Facebook: [www.facebook.com/DPLCNMI](https://www.facebook.com/DPLCNMI)  
Tel: (670) 234-3751/52/53/54 ● Fax: (670) 234-3755

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CIVIL DIVISION  
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of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

**ATTORNEY GENERAL APPROVAL:** The adopted regulations to establish matured leases and reduce the fee of fair market value for matured leases were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC § 2153(e) (to review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including corporations, except as otherwise provided by law).

**I DECLARE** under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 14 day February 2020, at Saipan, Commonwealth of the Northern Mariana Islands.

Submitted by:



MARIANNE CONCEPCION-TEREGEYO  
Secretary, Department of Public Lands

14 FEB 2020

Date

Filed and Recorded by:

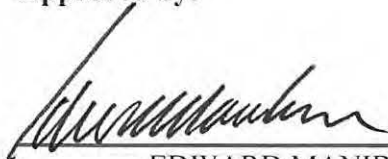


ESTHER SN NESBITT  
Commonwealth Registrar

02.24.2020

Date

Approved by:



EDWARD MANIBUSAN  
Attorney General

2/19/2020

Date

Dated the \_\_\_\_ day of \_\_\_\_\_, 2020.

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the certified final regulations, modified as indicated above from the cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General, and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Part 001 - General Provisions

**§ 145-70-001 Authority**

The regulations in this chapter are promulgated by the Department of Public Lands pursuant to the authority set forth in Article XI of the Commonwealth Constitution and Public Law 15-2 (1 CMC § 2801 *et. seq.*)

**§ 145-70-005 Purpose**

These promulgated rules and regulations govern new leases, lease renewals, new temporary occupancy agreements, and temporary occupancy agreement renewals of public lands whether by permit, lease, or temporary authorization as in conformity with the obligation to objectively manage the use and disposition of public lands set forth at 1 CMC § 2801 *et. seq.* No commercial use of public lands is authorized or permitted without a valid lease, temporary occupancy agreement, permit, or concession agreement authorized by these regulations.

The Department of Public Lands (DPL) shall enforce these regulations to the extent allowed by law. DPL shall issue written notice of violation to any person or entity using or occupying public lands without authorization or in violation of these regulations for any activity or purpose.

**§ 145-70-010 Definitions**

- (a) “Applicant” means the person, persons, entity, or entities that have submitted a proposal to the DPL to lease or otherwise use public lands including respondents to requests for proposals issued by DPL for the leasing, development, or use of public lands, including without limitation persons or entities who have responded to one or more land use RFPs issued by the DPL.
- (b) “Commercial Use” means used for revenue generating activities. Active use means the actual physical operations or facilities generating revenue. Passive use means a supplementary use that augments the revenue generating operations or facility (e.g. parking lots). For purposes of these regulations, residential dwellings (e.g. condominiums, apartments or houses) are not recognized as Commercial Use, except that all development shall have no more than 2% of passive use dedicated to employee housing.
- (c) “Department” means the Department of Public Lands (DPL).
- (d) “Government” means, for purposes of the regulations in this chapter, the departments and agencies of the CNMI Government other than the Department of Public Lands, unless otherwise specified in these regulations.
- (e) “Lessee” means the person, persons, entity, or entities holding leasehold interests in public lands.
- (f) “Matured Lease” means a lease over premises that has approached its 40<sup>th</sup> year or expiration with no extension periods remaining, meets the conditions of Public Law 20-84, and the preexisting lessee has submitted a proposal for a new lease, as authorized by PL 20-84, prior to maturity.



~~(f)~~(g) “Occupant” means the person or entity whose name appears on the temporary occupancy agreement.

~~(g)~~(h) “Owner” means the person, persons, entity, or entities holding fee simple title in lands that are not public lands.

~~(h)~~(i) “Permanent Structure” means a structure placed on or in the ground or attached to another structure or fixture in a fixed position and intended to remain in place for more than 6 months.

~~(i)~~(j) “Permittee” means a person or persons given a permit by DPL and whose name appears on the permit.

~~(j)~~(k) “Principal” means the Applicant personally or a person employed by the Applicant with the legal authority to negotiate, decide, and enter into agreements on behalf of the Applicant.

~~(k)~~(l) “Public Lands” means all those lands defined as public lands by N.M.I. Const. art. XI, § 1 including improvements thereon.

~~(l)~~(m) “Secretary” means the Secretary of the Department of Public Lands.

~~(m)~~(n) “Related Party” means the person, persons, entity, or entities who participate in the funding or operations of the Applicant or Lessee’s development or proposed development including without limitation parent companies in multinational company structures, as well as controlling or major shareholders. For the avoidance of doubt, Related Party shall include persons or entities that provide funding to an applicant or lessee. Transactions that, because of their nature, may be indicative of the existence of related parties include:

- (1) Borrowing or lending on an interest-free basis or at a rate of interest significantly above or below market rates prevailing at the time of the transaction.
- (2) Making loans with no scheduled terms for when or how the funds will be repaid.
- (3) Lack of sufficient working capital or credit to continue the business, or lack of complete business plan or financial projections.

~~(n)~~(o) “Request for Proposal” (RFP) means an open solicitation made through a bidding process by DPL to determine interest of potential lessees to lease and develop certain public lands at terms determined by or acceptable to DPL.

## **Part 100 – Lease Policies**

### **§ 145-70-101 General Requirements and Restrictions**

- (a) No right or interest in or to public lands shall be created orally. Any right to use, access, or enjoy public lands must be in writing signed by the Secretary in full compliance with these regulations or is void *ab initio*. Public lands shall be leased only for Commercial Use. Consideration and preference must first be given to non-productive developed public land or underutilized public land before undeveloped land is considered for development. Consideration for entering into a lease shall be consistent with DPL’s fiduciary duties to its beneficiaries. The Secretary of DPL shall have reasonable discretion regarding issues not anticipated by these regulations.

- (b) Every lease shall be properly documented via a written lease agreement and such other documents deemed necessary or appropriate by DPL to complete the transaction. All duly executed lease agreements shall be recorded at the Commonwealth Recorder's Office by the party receiving an interest in Public Land in accordance with 2 CMC §4913. The Department shall strictly enforce all terms of every lease requirement imposed as a condition of legislative approval of a lease or lease extensions, if any. Leases for mining shall require appropriate environmental impact study, damage mitigation plan, and restoration plan, an assessment on the value of minerals to be mined, and any other studies required by law or DPL as a condition precedent to possession. All costs including those for appraisals, surveys, topographical surveys, geotechnical reports, studies, etc. whether required by the DPL or the Government shall be borne by Applicant.
- (c) Eligibility.

All Applicants must be current and in good standing with the Department of Finance Division of Revenue and Taxation, all licensing and regulatory authorities, and with the DPL.

  - (1) Individuals - must be at least 18 years of age.
  - (2) Businesses - must be duly formed, in good standing and authorized to do business in their jurisdiction of origin AND in the CNMI and must provide all documentation required by the DPL to confirm such status.
  - (3) All Applicants must demonstrate credit worthiness, ability to pay rent, and ability to fund all proposed development, and to comply with all the conditions and covenants of the lease agreement to the satisfaction of the Secretary.
- (d) Restrictions.
  - (1) It is DPL's preference not to lease public lands where the proposed structures/facilities will overlap boundaries of adjacent private lands.
  - (i) If necessary and in the best interest of DPL's beneficiaries, the DPL may permit such development provided that all such proposed development and construction of facilities that will occupy both private and public lands shall be performed in a manner to facilitate and simplify segregation of improvements on the public lands from those on adjacent private lands upon expiration or termination of the lease. Alternatively, a land trust consisting of the private lands and public lands may be formed with the DPL as trustee, or the fee simple title to the private lands may be assigned to DPL, at Lessee's expense. For the avoidance of doubt, such permitted improvements shall be designed and constructed to be free and independent from private land improvements so that upon expiration or termination of the Lease, when the DPL takes possession of the improvements, such improvements and DPL's (or its designee's) operation thereof shall not be dependent upon adjacent private lands. This restriction shall not apply if the fee simple interest in the private lands is assigned or transferred to the DPL as described herein.
  - (ii) Before commencement of construction or development, Lessee shall be required to place on deposit with DPL the amounts necessary to perform such segregation at the expiration or termination of the lease, as estimated by an engineer selected by DPL and periodically deposit additional amounts to adjust upward for general inflation.
  - (2) Notwithstanding the foregoing, for minor developments such as parking structures attached to adjacent improvements, if such improvements will be of little value to the DPL, the Secretary may waive the obligations set forth in subsection 1 above if the Applicant places on deposit concurrent with the execution of the lease the projected cost of demolition and removal of improvements, and restoration of leased premises.

## **§ 145-70-105 Procedures for Issuing Leases, Extensions, and Renewals**

- (a) The DPL will deal only with the Principals of the Applicant.
- (b) DPL shall satisfy its fiduciary duties by taking the following steps towards entering into new leases, extensions, or renewals:
  - (1) Properties not under lease – DPL shall select proposals that provide DPL the greatest revenue over the course of the lease term. All leases must be aligned with DPL’s land use plan. In all instances, the DPL shall negotiate lease terms most favorable to its beneficiaries.
    - (i) Unsolicited Proposals – If the DPL receives a proposal or application to lease Public Land, it shall upon conclusion of negotiations (if any), publish a Notice of Proposed Lease of Public Land in accordance with Public Law 15-2 and these regulations, to determine if there are other interested parties, and consider public comments. If a second or other proposals are received during the notice period, the DPL may either select the most beneficial proposal or issue an RFP.
    - (ii) Solicited Proposals – If the DPL solicits proposals to lease specific parcels or tracts of Public Lands and two or more proposals are received by the DPL, DPL may select the most beneficial proposal. If only one proposal is received the DPL may award the sole Applicant, re-issue the Request for Proposal, or reserve the relevant parcels for future disposition.
  - (2) Properties under lease – if a current Lessee is interested in re-leasing, extending, or renewing its lease, DPL shall:
    - (i) Thoroughly review the performance of the lessee to determine if re-leasing or extending the lease is in the best interest of its beneficiaries.
    - (ii) Issue a Notice of Proposed Lease of Public Lands in accordance with 1 CMC § 2807 up to four years prior to expiration, but only if an extension or renewal of the existing lease is determined to be in the best interest of DPL and its beneficiaries, and no other firm has indicated an interest to lease affected parcel.
    - (iii) If additional proposals are received in response to such Notice, or if DPL has knowledge of one or more additional interested parties, DPL shall issue an open RFP at least two years prior to the expiration of the existing lease if in DPL’s judgment the second proposal is in the best interest of DPL and is significantly advantageous to the proposal of the existing lessee.
    - (iv) If a competing proposal does not materially enhance the existing lessee’s proposal, operations, or otherwise project to materially increase the revenue to DPL, and lessee has satisfied all the covenants and conditions of its existing lease, it is DPL’s preference to renew the lease with the current lessee with lease payments comparable to that proposed or implied by the best competing proposal, but in no case shall DPL accept lease rent less than what was established in any preceding period.
    - (v) If a current lessee does not intend on re-leasing, extending, or renewing, DPL shall issue an open RFP at least two years prior to the expiration of the existing lease.

## **§ 145-70-110 Lease Agreement Requirements**

DPL shall include in lease agreements provisions typical of commercial practices. All public land leases are on a “triple net” basis “as is where is”. All leases shall conform to the following provisions:

- (a) Legal Description of the property (ies) subjected to the lease.
- (b) Purpose – a detailed description of the intended development and operations.

- (c) Term – the effective date and duration of the lease shall not exceed 40 years. Note: Upon expiration of the term, the property including all improvements shall revert to DPL for renewal, extension, or re-leasing to the highest best bidder as determined by these regulations in accordance with CNMI law.
- (d) Fees, Security Deposit, Costs.
  - (1) Prior to the preparation of any lease or supporting document, the Applicant shall deposit an administrative processing fee equal to the greater of \$2,500, or 0.25% of the estimated value of the subject property, not to exceed \$100,000.
  - (2) Prior to any lease approval, lessee must deposit at least 5% of the total cost of the proposed project to which the lease pertains. These funds will be held by the DPL to secure construction start up, and remediation costs. However, for large projects that certified engineers estimate will require more than two years to construct and will be constructed in phases, lessee shall deposit 5% of each phase, or an amount mutually agreeable to both parties prior to construction commencement (for clarity, 5% prior to the commencement of each subsequent phase). Provided, however, that each phase is constructed in a manner that allows for the facility within each phase to be operable independent of other phases. DPL may seek the assistance of the Department of Public Works to certify each phase complete.
  - (3) The security deposit requirement shall also apply to lease extensions or renewals where one or more key factors for approval is lessee's proposal to further develop the property it currently occupies.
  - (4) Upon execution of a lease for public lands, lessee shall deposit as security \$250,000 that shall be maintained for the duration of the lease term. Funds remaining on account with the DPL after the completion of the proposed development in excess of \$250,000 shall be released to lessee upon completion of the project development. Remaining funds shall be retained as security, and Lessee shall be obligated to maintain a constant balance for the term of the lease.
  - (5) Funds shall forfeit to DPL should the project be cancelled or start date delayed more than one year from the execution of the lease. Mere ceremonious commencement (i.e. groundbreaking or ribbon cutting without materially beginning and continuing construction) will not avoid forfeiture.
  - (6) All costs related to the lease including underwriting, leasehold fee simples, surveys, topographical surveys consolidations, excavation, studies, recordings, etc shall be borne by Applicant or Lessee. In the event of Lessee's failure to perform any obligation under a lease, DPL may (but shall not be obligated to) expend funds held in Lessee's account (including security deposits) to satisfy such obligation to the extent feasible (e.g. To procure surveys, appraisals, or insurance).
- (e) Rental Rates.
 

Rent derived from public lands shall be based on the value of the property, and actually computed and collected on that basis; provided, that the DPL shall, within the limits set by fiduciary duty and the provisions of Public Law 15-2 and 20-84, have discretion in negotiating basic rents and additional rents upward taking into account changing economic conditions and other relevant trends and factors including other land transactions deemed substantially similar to the proposed lease. For the avoidance of doubt the Secretary of DPL may determine that a property's true value is greater (but not less than) an appraised value determined by independent appraisal.

  - (1) New Leases – shall include new leases, and renewals.
  - (2) Basic Rent shall be based on the value of the fee simple title to the property. It is the policy of DPL to collect at least 5% of a property's value each year for the term of the lease as base rent. DPL may cap the base rent at \$4 million for a large development project that will require more



periods shall include all improvements on the property less the value of improvements made by the Lessee during the term of the lease.

- (5) New Leases – shall be based on the value of the fee simple interest including improvements (if any).
- (6) Extensions- shall be based on the appraised value of the fee simple interest including improvements less the value of improvements made by the Lessee since the inception of the lease.
- (7) Renewals– shall be treated as new leases for purposes of determining rent.

(8) Matured Leases – All leases approaching maturity that meet the conditions of Public Law 20-84 entering a new lease shall be appraised on the value of the fee simple interest to the property. DPL shall collect up to 3% of Fair Market Value on the property for each year of the term of the matured lease as basic rent. Basic rents for matured leases shall be determined by the following formula which takes into consideration the level of cost proposed for capital improvements by lessees relative to the replacement cost for existing improvements but basic rent shall not be below 1.5% per year regardless of the results of this formula unless there is reasonable justification. For clarity, the replacement cost of improvements is the cost to replace an improvement with another improvement having the same utility (basically, the cost for a brand-new replacement) determined by appraisal reports. Capital investments are additions of a permanent structural change or the restoration of aspects of structures or facilities on a property that will either enhance the property's overall value or prolong its useful life.

Formula	(Level of Improvements)	Basic Rate	Result
(1- $\frac{\text{Cost Proposed for Capital Improvements}}{\text{Replacement Cost for Existing Improvements}}$ )		X 3%	= Rent Rate

**Example:**

(1- $\frac{15,000,000}{50,000,000}$ )	X	3%	=	2.10%
---------------------------------------	---	----	---	-------

0.70	X	3%	=	2.10%
------	---	----	---	-------

Table Illustration

Cost Proposed for Capital Improvements  
Replacement Cost for Existing Improvements

1 -	0.00%	1.00	X	3%	=	3.00%
1 -	5.00%	0.95	X	3%	=	2.85%
1 -	10.00%	0.90	X	3%	=	2.70%
1 -	15.00%	0.85	X	3%	=	2.55%
1 -	20.00%	0.80	X	3%	=	2.40%
1 -	25.00%	0.75	X	3%	=	2.25%
1 -	30.00%	0.70	X	3%	=	2.10%
1 -	35.00%	0.65	X	3%	=	1.95%
1 -	40.00%	0.60	X	3%	=	1.80%
1 -	45.00%	0.55	X	3%	=	1.65%
1 -	50.00%	0.50	X	3%	=	1.50%

(8)(9) Additional Rent - Percentage of Business Gross Receipts – due to the scarcity of public lands and in accordance with its fiduciary duties owed to its beneficiaries, DPL shall charge additional rent that allows its beneficiaries to participate in the revenues generated as a result of the lease. This rent shall be charged as a percentage of Lessee's Business Gross Receipts (BGR) and shall also apply to the BGR of Lessee's subtenants, concessionaries and others permitted to engage in commercial activity upon the leased premises. DPL may cap the additional rent due at \$5 million for a large development project that will require more than





Office of the Secretary  
Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL (670) 664-1100 FAX: (670) 664-1115



**Public Notice of Proposed Amendments to the Regulations for the**

**Department of Finance, Division Revenue and Taxation,**

**Business License Regulations**

**Notice of Intended Action:** The Department of Finance, Division Revenue and Taxation approved the publication of the following amendments to its Business License Regulations. It intends to adopt these regulations as permanent, pursuant to the Administrative Procedure Act, 1 CMC § 9104(a). If adopted, these amendments will become effective ten days after publication of a Notice of Adoption in the Commonwealth Register. 1 CMC § 9105(b).

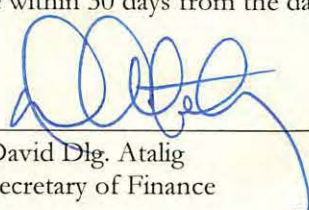
**Authority:** These amendments are promulgated under the authority set forth in the Commonwealth Code including, but not limited to: 1 CMC §§ 2553 and 2557; 4 CMC §§ 5611- 5614

**Terms and Substance:** The purpose of the amendments to Business License Regulations Chapter 70-40.1 is to prescribe needful rules and procedures to carry out the intent and purpose of the laws of the Commonwealth of the Northern Mariana Islands administered by the Division of Revenue and Taxation.

**Directions for Filing and Publication:** These proposed amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular (1 CMC § 9104(a)(1)).

**Comments:** Interested parties may submit written comments on the proposed regulations to David Dlg. Atalig, Secretary of Finance, via U.S. mail to the Department of Finance, P.O. Box 5234, CHRB Dandan Commercial Center, Saipan, MP 96950, or via hand delivery to the Office of the Secretary of Finance, Capitol Hill, Saipan, MP. Comments, data, views, or arguments are due within 30 days from the date of publication of this notice. 1 CMC § 9104(a)(2).


Submitted by:

  
David Dlg. Atalig  
Secretary of Finance

Date:

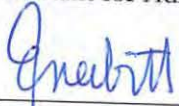
1/30/2020

Received by:

  
Mathilda A. Rosario  
Special Assistant for Administration

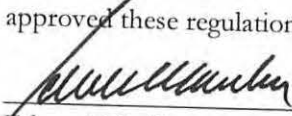
Date: 02/14/2020

Filed and Recorded by:

  
Esther SN. Nesbitt  
Commonwealth Registrar

Date: 02-24-2020

I certify, pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), that I have reviewed and approved these regulations as to form and legal sufficiency.

  
Edward Manibusan  
Attorney General

Date: 2/18/2020





Office of the Secretary  
Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950

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**Nutisian Pupbliku Put i Manmaproponi Na Regulasion Siha Para I  
Dipåttamentun I Finansiåt, Dibision I Ápas Kontribusion,  
Regulasion Lisensian Bisnis**

**NUTISIA PUT I AKSION NI MA'INTENSIONA:** I Dipåttamentun i Finansiåt, Dibision i Ápas Kontribusion ma'apueba i pupplikasion i tinattiya na amendasion siha para iyon-ñiha Regulasion Ápas Kontribusion. Ma'intensiona para u ma'adåpta esti siha na regulasion kumu petmanienti, sigun para i Åktun Administrative Procedures, 1 CMC § 9104(a). Kumu ma'adåpta, esti siha na regulasion siempri mu ifektibu gi hålum dies (10) dihas dispues di pupplikasion nu i Nutisian i Adåptasion gi hålum i Rehistran Commonwealth. (1 CMC § 9105(b))

**ÅTURIDÅT:** Esti na amendasion siha manmacho'gui gi påpa' i aturidåt ni mapega mo'na gi hålum i Commonwealth Code kuntuu, lår ti chi-ña para, 1 CMC § 2553, 1 CMC § 2557; 4 CMC §§ 5611-5614

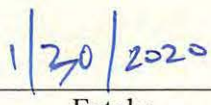
**I TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA:** I intensiona i amendasion siha para i Regulasion Lisensian Bisnis gi Påtti 70-40.1 para u ma'estapblesi i nisisidåt na areklamentu yan manera siha ni para u kåtga huyung i intensiona yan puntu i lai siha giya Commonwealth gi Sangkattan na Islas Mariånas ni magubiebietna ni Dibision i Ápas Kontribusion.

**DIREKSION PARA U MAPO'LU YAN MAPUPBLIKA:** Esti i manmaproponi na amendasion siha debi na u mapupblika gi hålum i Rehistran Commonwealth gi hålum i seksiona ni maproponi yan nuebu na ma'adåpta na regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi hålum i kumbinienti na lugåt gi hålum civic center yan gi hålum ufisinan gubietnamentu siha gi hålum distritun senadot, parehu Englis yan gi lingguåhin natibu (1 CMC § 9104(a)(1)).

**UPIÑON SIHA:** I manintirisåo na petsona siha siña manna'hålum tinigin upiñon ni manmaproponi na regulasion siha para guatu as, David Dlg. Atalig, Sekretåriun Finansiåt via U.S. mail para Dipåttamentun i Finansiåt, P.O. Box 5234 CHRB, Dandan Commercial Center, Saipan, MP 96950, pat intrega hålum gi Ufisinan i Sekretårian Finansiåt, Capitol Hill, Saipan, MP. I upiñon, data, views, pat agumentu siha nisisita u fanhålum gi hålum trenta (30) dihas ginin i fetcha pupplikasion esti na nutisia. 1 CMC 9104(a)(2).

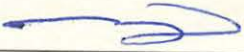
Nina'hålum as:

  
David Dlg. Atalig  
Sekretåriun Finansiåt

  
Fetcha

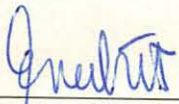


Rinisibi as:

  
Mathilda A. Rosario  
Ispisiât Na Ayudânti Para Atministrasion

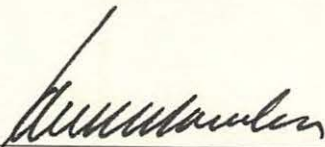
02/14/2020  
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Pine'lu yan  
Ninota as:

  
Esther SN. Nesbitt  
Rehistran Commonwealth

02-24-2020  
Fetcha

Hu settifikao, sigun para 1 CMC § 2153(e) yan 1 CMC 9104(a)(3), na hu ribisa yan aprueba esti regulasion siha kumu para fotma yan ligât na sufisienti.



Edward Manibusan  
Abugâdu Henerât

Fetcha: 2/18/2020



Office of the Secretary  
Department of Finance



P.O. Box 5234 CHRB SAIPAN, MP 96950

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**Arongorong Toulap reel Pommwol Liiwel ngáli Mwóghutughutúl**

**Bwulasiyol Finance, Division Revenue me Taxation,**

**Mwóghutughutúl Business License**

**Arongorong reel Mángemángil Mwóghut:** Bwulasiyol Finance, Division Revenue me Taxation re átirow reel akkatééwowul liiwel kka e amwirimwiritiw ngáli Mwóghutughutúl Revenue me Taxation. Re mánagemángil rebwe adóptáali mwóghutughut kka bwe ebwe lléghló, sáangi Administrative Procedure Act, 1 CMC § 9104(a). Ngáre re adóptáali, ebwe bwunguló liiwel kkal llól seigh (10) ráál mwiril aal akkatééwow arongorong yeel me llól Commonwealth Register. 1 CMC § 9105(b).

**Bwángil:** Liiwel kkal nge aa ffil reel fféerúl faal bwángil iye ebwe mmweteló mmwal llól Commonwealth Code ebwe bwal schuulong, nge ese yoor pilil ngáli, 1 CMC §§ 2553 me 2557; 4 CMC §§ 5611-5614.

**Kkapsal me Aweewel:** Bwulul liiwel ngáli Mwóghutughutúl Business License nge ebwe itittiw afal me mwóghut ngáli peiráágh me rebwe ayoora bwe ebwe weeweló enforcement reel alléghúl Commonwealth me Téél Falúw kka Efáng llól Marianas iye Division-il Revenue me Taxation re lemeli.

**Afal reel Ammwelil me Akkatééwowul:** Pommwol liiwel kkal nge ebwe akkatééwow me llól Commonwealth Register llól tánil pommwol me ffél mwóghutughut kka ra adóptáali (1 CMC § 9102(a)(1)) me ebwe appaschetá llól civic center me llól gobetnamento llól senatorial district, fengál reel English me mwáliyaasch (1 CMC § 9104(a)(1)).

**Fóós:** Schóó kka re mwuschel isiisilong iischil mánagemáng wóól pommwol mwóghutughut kkal rebwe iisch ngáli David DLG. Atalig, Sekkretóoriyal Finance, via U.S. mail ngáli Bwulasiyol Finance, P. O. Box 5234, CHRB Dandan Commercial Center, Saipan, MP 96950, ngáre bwughiló reel Bwulasiyol Sekkretóoriyal Finance, Asúngúl, Seipél, MP. Isiisilongol mánagemáng, data, views, ngáre angíngi ebwe toolong llól eliigh (30) ráál mwiril aal akkatééwow arongorong yeel. 1 CMC § 9104(a)(2).

Isáliyalong:

David DLG. Atalig  
Sekkretóoriyal Finance

Ráál:

1/30/2020

Bwughiyal: \_\_\_\_\_

Mathilda A. Rosario  
Special Assistant ngáli Administration

Ráál: 02/14/2020

Ammwelil: \_\_\_\_\_

Esther SN. Nesbitt  
Commonwealth Register

Ráál: 02-24-20 20

I alúghúlúgh, sáangi 1 CMC § 2153(e) me 1 CMC §9104(a)(3), bwe I ya takkal amwuri fischiiy me aa átirow mwóghutughut kkal bwe aa ffil reel fféérúl me legal sufficiency.

\_\_\_\_\_

Edward Manibusan  
Soulemelemil Allégh Lapalap

Ráál: 2/19/2020



## Part 001 - General Provisions

### § 70-40.1-001 Authority

These regulations in this subchapter are promulgated pursuant to 1 CMC § 2553 and 4 CMC § 5614, as amended by Public Law 11-73 which authorizes the Secretary of Finance to promulgate rules and regulations for purposes of carrying out its duties and responsibilities regarding the issuance of business license. The Department of Finance (the "Department") has jurisdiction over the issuance of business licenses under 1 CMC § 2553 and 4 CMC § 5611, as amended by Public Law 11-73. Pursuant to 4 CMC § 2557, the Department of Finance may adopt rules and regulations not inconsistent with law regarding those matters within its jurisdiction and to provide penalties both civil and criminal for violation thereof.

Modified, 1 CMC § 3806(d).

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

### § 70-40.1-005 Definitions

For the purposes of the regulations in this subchapter, the following definitions shall apply:

- (a) "Applicant" means any person as defined in subsection (m) who files a written application For a business license with Department of Finance.
- (b) "Business" means a business as defined in 4 CMC § 1103(c).
- (c) "Bank" means a bank as defined in 4 CMC § 6103(b).
- (d) "Banking business" means a banking business as defined by 4 CMC § 6103(c).
- (e) "Director" means the Director of Revenue and Taxation.
- (f) "Insurance company" means a company so licensed by the Insurance Commissioner which Undertakes to indemnify another or pay a specified amount upon determinable Contingencies.
- (g) "Insurance broker" means a broker as defined in 4 CMC § 7303(e).
- (h) "Insurance agent" means a general agent as defined in 4 CMC § 7303(a), a subagent as Defined in 4 CMC § 7303 (b) (1) or solicitor as defined in 4 CMC § 7303 (d).
- (i) "License or business license" means the permission granted by the Secretary of Finance, under the authority of the Business Licensing and Processing Act conferring upon the licensee the annual privilege to engage in business in the Commonwealth.
- (j) "License fee" means the charge or assessment levied by law for the purpose of obtaining a business license or the renewal thereof.



(k) "Line of business" means each distinct and separate economic activity by a licensee, generally performed at a single physical location, but may be an activity performed at more than one physical location. The Standard Industrial Classification Manual established by the Executive Office of the President of the United States of America, Office of Management and Budget shall be used as a guideline.

(l) "Manufacturer" means a manufacturer as defined in 4 CMC § 1103(n).

(m) "Person" means a person as defined in 4 CMC § 1103(q), and including cable T.V.\*

(n) "Public utility" means a utility as defined in 4 CMC § 1103(r).

(o) "Registered agent" is an agent as defined in 4 CMC § 4331(b).

(p) "Scuba diving tour" means a tour as defined in 3 CMC § 5603(c).

(q) "Scuba instruction" means instruction as defined in 3 CMC § 5603(d).

(r) "Security dealer" means any person engaged in the business of buying and selling securities for his own account, through a broker or otherwise, but does not include a bank or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.

(s) "Secretary" means the Secretary of the Department of Finance.

(t) "Wholesaler" is a wholesaler as defined in 4 CMC § 1103(AA).

\* So in original.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

## **Part 100 - Business License Requirements**

### **§ 70-40.1-101 License Required**

(a) Before engaging in or continuing in a business in the Commonwealth, a person must first obtain from the Secretary of the Department of Finance a license to engage in or conduct that business. file an application for business license together with a deposit equal to the business license fee, and obtain from the Secretary a license to engage in that business.

(b) To obtain a license, a person must file a business license application together with the licensee fees, which shall be non-refundable regardless of whether the licensee application is approved or the licensee actually conducts a business or not.

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~~Once a license is issued, the deposit shall be treated as payment for the license fee shall be non-refundable regardless of whether the licensee actually conducted a business or not.~~

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

#### **§ 70-40.1-105 Application Requirement**

Every applicant shall complete a business license application adopted by the Secretary which shall include at the minimum the following information as applicable:

- (a) The applicant's name, address, and telephone number;
- (b) The trade name, assumed name or business name if different from the name of the applicant;
- (c) The location or locations of the business, including building name, floor and sketch showing  
The location of the business;
- (d) The lines of business;
- (e) The type of business, i.e., partnership, sole proprietorship, nonprofit, or Business Corporation;
- (f) The country or place of incorporation of the corporation;
- (g) With respect to corporations, the name of the registered agent as defined in 4 CMC § 4331(b), and the address of the registered office of the corporation;
- (h) All trade names, assumed names, and fictitious names used by the applicant, in conjunction with any activity, business or otherwise;
- (i) The CNMI taxpayer identification number and federal tax identification number (if applicable);
- (j) The latest annual corporation report which has been filed with the CNMI Registrar of Corporations;
- (k) The year in which the applicant first commenced business in the Commonwealth under the line or lines of business covered by the application; and
- (l) Submit a certification from the Workmen Compensation Commission regarding the applicant's compliance with the workmen compensation laws and regulations.
- (m) Any other additional information which the Secretary deems appropriate.
- (n) A Certificate of clearance from the Zoning Office.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

Commission Comment: The starred citation in subsection (f) is incorrect. 4 CMC § 4337(h) does not exist. The Department probably intended to reference 3 CMC § 4437(h), which restricts the business operations of nonresident workers.

In subsection (m), the Commission changed “applicants” to “applicant’s” to correct a manifest error. The Commission inserted commas after the words “address” in subsection (a), “nonprofit” in subsection (e), and “names” in subsection (i) pursuant to 1 CMC § 3806(g).

#### § 70-40.1-110 License Conditions

The following conditions are placed on all license applications:

- (a) Fictitious names, doing business as ~~names (d) (b) (a)(d/b/a)~~, trade names and assumed names shall be respected and the Secretary shall not issue a business license in the same business name to any two persons or, with regard to corporate name reserved with the Registrar of Corporations pursuant to 4 CMC § 4322, to a person who is not the owner of the reserved corporate name.
- (b) One business license shall be issued to each distinct business activity. The ~~Standard Industrial Classification Manual~~North American Industry Classification System established by the Executive Office of the President of the United States of America, Office of the Management and Budget shall be used as a guideline.
- (c) Where appropriate the required documentation may include:
  - (1) The authority for a person to transact business must be obtained from the appropriate government agency or agencies such as the municipal council, Casino Gaming Commission; Secretary of Finance with respect to lotteries, the Director of Banking; or the Insurance Commissioner, as applicable. A foreign corporation or partnership authorized to transact business within the Commonwealth shall also present a copy of a current certificate of authority issued by the Registrar of Corporations pursuant to 4 CMC §§ 4641, et seq.
  - (2) A copy of the certificate of incorporation or registration.
  - (3) A certificate of clearance indicating that the applicant is in good standing with the Workers Compensation Commissioner, and where applicable, clearance from any other government agency.

Modified, 1 CMC § 3806(f).

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

#### § 70-40.1-115 Renewal

- (a) A licensee shall apply to renew its business license prior to its expiration by filing a business license application and paying a ~~deposit fee~~ equal to the business license fee within thirty days prior to the expiration of the current business license.



~~(b) — A business license may be suspended or revoked if the applicant is found to be not in compliance with any CNMI tax laws, and/or found to be in violation of any other CNMI laws or agency regulations. The process in denying or revoking an existing business license shall be in accordance with the Administrative Procedure Act [1 CMC §§ 9101, et seq.].~~

(eb) A business license that was not renewed for any business on or before the expiration date shall be considered a non-renewal and the licensee shall have no further right to operate that business without first submitting a new application for a business license.

Modified, 1 CMC § 3806(e), (f), (g).

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

Commission Comment: In subsection (b), the Commission changed “Procedures” to “Procedure” to correct a manifest error.

#### **§ 70-40.1-117 Suspension and Revocation**

(a) The Secretary of the Department of Finance may revoke or suspend any license issued under this section upon finding after two weeks public notice and a hearing conducted pursuant to 1 CMC §§ 9108-9111 that:

- (1) The application of the licensee contained false or fraudulent information;
- (2) The licensee bribed or otherwise unlawfully influenced any person to issue the permit other than on the merits of the application;
- (3) The licensee presented false or fraudulent information to any person in support of his application;
- (4) The licensee conducted business under a name other than the name duly licensed or failed to display and/or advertise its business name in romanized lettering; or
- (5) The licensee violated any provision of Federal law, Commonwealth law, including but not limited to non-compliance with the tax laws, or any rule or regulation issued thereunder.

(b) Any person aggrieved by a license suspension or revocation shall be entitled to a review of the same by the Commonwealth Superior Court upon written appeal made within 30 days from the date the license suspension or revocation decision is issued. Such review shall be brought pursuant to 1 CMC §§ 9112 and 9113.

#### **§ 70-40.1-120 Business License Not Transferable**

A business license once issued is not transferable, ~~however a business license for garment manufacturing may be transferred provided that the requirements imposed under 4 CMC § 5611(e), as amended by PL 14-82 are met.~~

History: Adopted 27 Com. Reg. 25399 (Dec. 30, 2005); Emergency and Proposed 27 Com. Reg. 25011 (Oct. 24, 2005) (effective for 120 days from Oct. 17, 2005); Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

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Commission Comment: For Transfer of Garment Manufacturing Business Licenses Regulations (Implementing Public Law 14-82), see NMIAC subchapter 80-30.2.

#### **§ 70-40.1-125 Amendment to Business License Application**

A licensee must amend the information provided in its business license application to reflect any changes including but not limited to the following:

- (a) Any change(s) in the ownership of a corporation, partnership, non-profit organization, individual, or association; and
- (b) Any change(s) in the lines of business; and
- (c) All such changes made to information provided on the original application must be reported to the Business License Office within 10 working days of such change(s).
- (d) Failure to report any change(s) above to the Business License Office may be grounds for revocation of a business license.

Modified, 1 CMC § 3806(f).

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

Commission Comment: The final paragraph was not designated. The Commission designated it subsection (d).

#### **§ 70-40.1-130 Display of Business License**

(a) The licensee shall display its current business license(s) in a conspicuous places at each of the licensee's business location(s). ~~at the licensee's principal place of business. Copies of the business license shall be displayed at all other locations from which the licensee conducts business.~~

(b) Every business licensed to do business in the Commonwealth shall only do business under the name duly licensed and shall display and/or advertise its business name in romanized lettering in addition to any other lettering.

Modified, 1 CMC § 3806(f).

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

#### **§ 70-40.1-135 Enforcement**

(a) The Secretary may delegate his or her authority under the regulations in this subchapter to any employee for the purposes of enforcing any and all of these regulations including but not limited to the following:

- (1) To inquire and review current business license;
- (2) To impose a penalty, subject to the Administrative Procedure Act [1 CMC §§ 9101, et seq.], on those found to be operating a business without the required business license;

(3) To issue ~~notices to comply~~citations and cease and desist orders for failures to comply with the Business Licensing and Processing Act.

(b) The enforcement of all business license activities under jurisdiction of the Secretary of Finance shall be carried out by the Secretary, the Director of Revenue and Taxation ~~and/or his~~ their designee.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

Commission Comment: In subsection (a) (2), the Commission changed "Procedures" to "Procedure" to correct a manifest error.

#### **§ 70-40.1-137 Penalties for Violating Business License Requirements**

(a) Any person found operating or engaging in a business to sell merchandise, goods, or commodities, or providing services for compensation without a valid business license shall be subject to a penalty of \$1500.00. Upon written notice to cease and desist under 4 CMC § 5613(c), any continual violation shall subject the person to an additional penalty of \$250.00 per day for every additional day that the person is in violation of the business license provisions.

(b) Any order to cease and desist shall be effective immediately upon its issuance and shall be effective until the violation is cured. A person may appeal the order to cease operations, but must produce a refundable bond in the amount of \$500.00 to allow for continued business operations pending the hearing under Administrative Procedure Act, 1 CMC §§ 9101 et seq. The \$500.00 bond shall be forfeit if the party does not prevail at said hearing.

(c) The agency action provided for in 4 CMC § 5613(a) shall subject to Administrative Procedure Act, 1 CMC §§ 9101 et seq., provided, however, any hearings for citations for violations of business license requirements or orders to cease and desist must be requested within 10 days from the date of issuance of the citation or order.

#### **§ 70-40.1-138 Violations of Law**

(a) The Secretary may deny the issuance of a business license in accordance with the Administrative Procedure Act (1 CMC § 9101 et seq.) if the business activity identified violates federal or CNMI law. Any hearings for a denial under this section must be requested within 10 days from the date of the denial.

#### **§ 70-40.1-140 Authority to Request for Supporting Documents**

The Secretary or any designee may from time to time request the applicant or licensee for/of a business license to provide documents to substantiate representations made in the application for the business license.

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

#### § 70-40.1-145 Amendment Fee

There is hereby imposed a fee of twenty dollars for any amendments to the information provided in the business license application form which would require a re-issuance of a business license including but not limited to the following: change of name, change of location.

Modified, 1 CMC § 3806(e).

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

### Part 200 - Examples

#### § 70-40.1-201 Example 1; Distinct Business Activity

(a) A businessman, Mr. Doe operates a grocery store in village and another grocery store in village B. ~~Since the~~ Although the grocery stores are considered the same line of business activity, Mr. Doe is required to ~~obtain apply for only one a~~ business license ~~to cover both for each~~ grocery stores business location.

(b) Assume the same as in example (a) but Mr. Doe also has a service station business in village B. In this case, Mr. Doe will need to apply for ~~two three~~ business licenses; one for ~~the two the~~ grocery stores located in village A, and one one for the grocery store located in village B, and one for the service station located in village B the service station.

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

Commission Comment: The Commission corrected the phrase "stores is" in subsection (a) to "stores are" pursuant to 1 CMC § 3806(g).

#### § 70-40.1-205 Example 2; Renewal of Business License

(a) Mr. Doe's ~~has two~~ business licenses ~~that~~ were issued on May 31, ~~19982019~~. His renewal date is between May 1 to May 30, ~~19992020~~. Mr. Doe submitted his business license applications to renew his licenses on April 25, ~~19992020~~, and has satisfied all business license requirements. Mr. Doe may continue operating his businesses after May 30, ~~1999-2020~~ for a period of one year unless his business license renewal applications is denied.

(b) Assume the same as in example (a), but Mr. Doe did not submit the business license application forms for his businesses before May 31 and is continuing to operate his businesses. Since his business licenses lapsed and no business license renewal applications were submitted before the expiration ~~of the last valid business licenses date~~, Mr. Doe ~~is considered not to have a is~~ operating without a valid business license. Thus, Mr. Doe will be subject to the penalty for operating his businesses without a valid business license if he continued business operation after May 30, ~~19992020~~.

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Modified, 1 CMC § 3806(f).

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

#### § 70-40.1-210 Example 3; Penalty for Operating a Business without a Business License

(a) Assume the penalty in example 2(b) [§ 70-40.1-205(b)] has been imposed. Since Mr. Doe operates two separate lines of business, he will be assessed a \$1500 penalty for each line of business operated without a license. A ~~\$250400~~ penalty per day will be added for each line of business operated from the date the notice to cease and desist was given to Mr. Doe, if it is found that Mr. Doe continued operating the business without a valid license after notice was given to him.

(b) Assume the same as in example 3(a), ~~subsection (a)~~; however, Mr. Doe was found to be operating his business for 3 consecutive days after he was given notice to cease and desist of operating a business without a business license and has not submitted an application for a business license. Mr. Doe's total penalty to be assessed is ~~\$4,5004,600~~; (\$1,500 for each line of business ~~on for~~ the initial violation) and plus \$2250300 for continual violations (\$250 per day for each line of business for the 3 days of continuous operation (after notice was given) without a valid business license).

Modified, 1 CMC § 3806(f), (g).

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

Commission Comment: In subsection (a), the Commission changed "it's" to "it is" to correct a manifest error. In subsection (b), the Commission corrected the spelling of "continuous."

#### § 70-40.1-215 Example 4

Mr. Doe wants to operate a food stand to sell sandwiches and drinks along a roadside. An application for business license along with all other required business license documents must be submitted. In addition, ~~a nonrefundable~~ application fee ~~deposit~~ of \$50 must be paid in order for the applicant to be considered for the issuance of a business license.

Modified, 1 CMC § 3806(g).

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).

Commission Comment: The Commission deleted the repeated word "be."

#### § 70-40.1-220 Example 5

Assume the same as in example 4 [§ 70-40.1-215], except that Mr. Doe will only be selling local agricultural and fishery products. The ~~nonrefundable~~ application fee ~~deposit required~~ is \$5 instead of \$50 since Mr. Doe will only be selling local agricultural and fishery products.

History: Adopted 21 Com. Reg. 16970 (Oct. 15, 1999); Proposed 21 Com. Reg. 16888 (Aug. 23, 1999).



**§ 70-40.1-225 Example 6; Special Licenses**

(a) Mrs. Bar has applied for and was issued a business license to operate a night club. Since the operation of a night club normally include the sale of alcoholic beverages, Mrs. Bar would be required to obtain a special license (ABC license) to sell alcoholic beverages in addition to the business license issued by the Department of Finance.



Office of the Secretary  
Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL (670) 664-1100 FAX: (670) 664-1115



**Public Notice of Proposed Amendments to the Regulations for the**

**Department of Finance, Division Revenue and Taxation,**

**Revenue and Taxation Regulations**

**Notice of Intended Action:** The Department of Finance, Division Revenue and Taxation approved the publication of the following amendments to its Revenue and Taxation Regulations. It intends to adopt these regulations as permanent, pursuant to the Administrative Procedure Act, 1 CMC § 9104(a). If adopted, these amendments will become effective ten days after publication of a Notice of Adoption in the Commonwealth Register. 1 CMC § 9105(b).

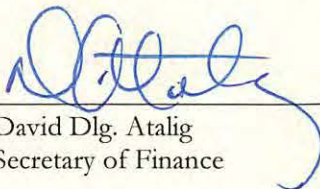
**Authority:** These amendments are promulgated under the authority set forth in the Commonwealth Code including, but not limited to, 1 CMC 2553, 1 CMC 2557, 1 CMC § 25201, 4 CMC § 1104, 4 CMC § 1402, 4 CMC § 1425 and 4 CMC § 1820.

**Terms and Substance:** The purpose of the amendments to Revenue and Taxation Regulations Chapter 70-40.6 is to prescribe needful rules and procedures to carry out the intent and purpose of the laws of the Commonwealth of the Northern Mariana Islands administered by the Division of Revenue and Taxation.

**Directions for Filing and Publication:** These proposed amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular (1 CMC § 9104(a)(1)).


**Comments:** Interested parties may submit written comments on the proposed regulations to David Dlg. Atalig, Secretary of Finance, via U.S. mail to the Department of Finance, P.O. Box 5234, CHRB Dandan Commercial Center, Saipan, MP 96950, or via hand delivery to the Office of the Secretary of Finance, Capitol Hill, Saipan, MP. Comments, data, views, or arguments are due within 30 days from the date of publication of this notice. 1 CMC § 9104(a)(2).

Submitted by:

  
David Dlg. Atalig  
Secretary of Finance

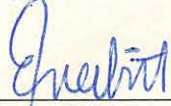
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Received by:

  
Mathilda A. Rosario  
Special Assistant for Administration

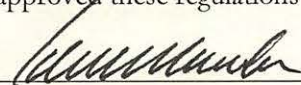
Date: 02/14/2020

Filed and Recorded by:

  
Esther SN. Nesbitt  
Commonwealth Registrar

Date: 02.24.2020

I certify, pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), that I have reviewed and approved these regulations as to form and legal sufficiency.

  
Edward Manibusan  
Attorney General

Date: 2/18/2020





Office of the Secretary  
Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL (670) 664-1100 FAX: (670) 664-1115



## Nutisian Ppubliku Ni Manmaproponi Na Regulasion Siha Para I Dipattamentun I Finansiat, Dibision I Apas Kontribusion

**NUTISIA PUT I AKSION NI MA'INTENSIONA:** I Dipattamentun i Finansiat, Dibision i Apas Kontribusion ma'aprueba i publikasion i tinattiyi na amendasion siha para iyon-niha Regulasion Apas Kontribusion. Ma'intensiona para u ma'adapta esti siha na regulasion kumu petmanienti, sigun para i Aktun Administrative Procedures, 1 CMC § 9104(a). Kumu ma'adapta, esti siha na regulasion siempri mu ifektibu gi halum dies (10) dihas dispues di publikasion nu i Nutisian i Adaptasion gi halum i Rehistran Commonwealth. (1 CMC § 9105(b))


**ATURIDAT:** Esti na amendasion siha manmaho'gui gi papa' i aturidat ni mapega mo'na gi halum i Commonwealth Code kuntu, lao ti chi-ña para, 1 CMC § 2553, 1 CMC § 2557, 1 CMC § 25201, 4 CMC § 1104, 4 CMC § 1402, 4 CMC § 1425 yan 4 CMC § 1820.

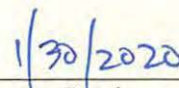
**I TEMA YAN SUSTANSIAN I PALABRA SIHA:** I intensiona i amendasion siha para Regulasion i Apas Kontribusion Patti 70-40.6 para u ma'estaplesi i nisisidat na areklamentu yan manera siha ni para u katga huyong i ma'intensiona yan puntu i lai siha giya Commonwealth gi Sangkattan na Islas Mariñas ni magubiebieta ni Dibision i Apas Kontribusion.

**DIREKSION PARA U MAPO'LU YAN MAPUPBLIKA:** Esti i manmaproponi na amendasion siha debi na u mapupblika gi halum i Rehistran Commonwealth gi halum i seksiona ni maproponi yan nuebu na ma'adapta na regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi halum i kumbinienti na lugat gi halum civic center yan gi halum ufisinan gubietnamentu siha gi halum distritun senadot, parehu Englis yan gi lingguahin natibu (1 CMC § 9104(a)(1)).

**UPIÑON SIHA:** I manintirisao na petsona siha siña manna'halum tinigin upiñon ni manmaproponi na regulasion siha para guatu as, David Dlg. Atalig, Sekretariun Finansiat via U.S. mail para Dipattamentun i Finansiat, P.O. Box 5234 CHRB, Dandan Commercial Center, Saipan, MP 96950, pat intrega halum gi Ufisinan i Sekretarian Finansiat, Capitol Hill, Saipan, MP. I upiñon, data, views, pat agumentu siha nisisita u fanhalum gi halum trenta (30) dihas ginin i fetcha publikasion esti na nutisia. 1 CMC 9104(a)(2).

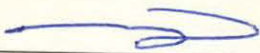
Nina'halum as:

  
David Dlg. Atalig

  
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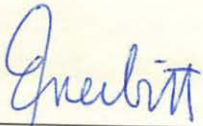
Sekretariun Finansiat

Rinisibi as:

  
Mathilda A. Rosario  
Ispisiat Na Ayudanti Para Atministrasion

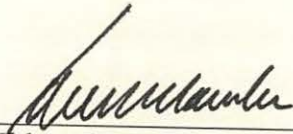
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Pine'lu yan  
Ninota as:

  
Esther SN. Nesbitt  
Rehistran Commonwealth

02.24.2020  
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Hu settifikao, sigun para 1 CMC § 2153(e) yan 1 CMC 9104(a)(3), na hu ribisa yan aprueba esti regulasion siha kumu para fotma yan ligat na sufisienti.

  
Edward Manibusan  
Abugadu Henerat

Fetcha: 2/18/2020





Office of the Secretary  
Department of Finance



P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL (670) 664-1100 FAX: (670) 664-1115

**Arongorong Toulap reel Pommwol Liiwel ngáli Mwóghutughutúl**

**Depattamentool Finance, Division Revenue me Taxation**

**Arongorong reel Mángemángil Mwóghut:** Depattamentool Finance, Division Revenue me Taxation re átirow reel akkatééwowul liiweel kka e amwirimwiriti ngáli Mwóghutughutúl Revenue me Taxation. Re mánagemángil rebwe adóptáali mwóghutughut kka bwe ebwe lléghló, sáangi Administrative Procedure Act, 1 CMC § 9104(a). Ngáre re adóptáali, ebwe bwunguló liiweel kkal llól seigh (10) ráal mwiril aal akkatééwow arongorong yeel me llól Commonwealth Register. 1 CMC § 9105(b).

**Bwángil:** Liiweel kkal nge aa ffil reel fféerúl faal bwángil iye ebwe mmweteló mmwal llól Commonwealth Code ebwe bwal schuulong, nge ese yoor pilil ngáli, 1 CMC § 2553, 1 CMC 2557, 1 CMC § 25201, 4 CMC § 1104, 4 CMC § 1402, 4 CMC § 1425 me 4 CMC § 1820.

**Kkapasal me Aweewel:** Bwulul liiweel ngáli Mwóghutughutúl Revenue me Taxation Chapter 70-40.6 nge ebwe itittiw afal me mwóghut ngáli peiráágh me rebwe ayoora bwe ebwe weeweló enforcement reel alléghúl Commonwealth me Téel Falúw kka Efáng llól Marianas iye Division-il Revenue me Taxation re lemeli.

**Afal reel Ammwelil me Akkatééwowul:** Pommwol liiweel kkal nge ebwe akkatééwow me llól Commonwealth Register llól tánil pommwol me ffél mwóghutughut kka ra adóptáali (1 CMC § 9102(a)(1)) me ebwe appaschetá llól civic center me llól gobetnamento llól senatorial district, fengál reel English me mwáliyaasch (1 CMC § 9104(a)(1)).

**Fóós:** Schóó kka re mwuschel isiisilong iischil mánagemáng wóól pommwol mwóghutughut kkal rebwe iisch ngáli David DLG. Atalig, Sekkretóoriyal Finance, via U.S. mail ngáli Depattamentool Finance, P. O. Box 5234, CHRB Dandan Commercial Center, Saipan, MP 96950, ngáre bwughiló reel Bwulasiyol Sekkretóoriyal Finance, Asúngúl, Seipél, MP. Isiisilongol mánagemáng, data, views, ngáre angingi ebwe toolong llól eliigh (30) ráal mwiril aal akkatééwow arongorong yeel. 1 CMC § 9104(a)(2).

Isáliyalong:

David DLG. Atalig  
Sekkretóoriyal Finance

Ráal:

1/30/2020

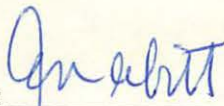

Bwughiyal:

Mathilda A. Rosario  
Special Assistant ngáli Administration

Ráal:

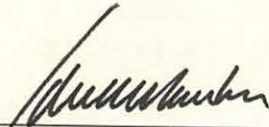
02/14/2020



Ammwelil:   
Esther SN. Nesbitt  
Commonwealth Register 

Ráál: 02-24-2020

I alúghúlúgh, sáangi 1 CMC § 2153(e) me 1 CMC §9104(a)(3), bwe I ya takkal amwuri fischiiy me aa átirow mwóghutughut kkal bwe aa ffil reel fféérúl me legal sufficiency.

  
Edward Manibusan  
Soulemelemil Allégh Lapalap

Ráál: 2/18/2020

## **SUBCHAPTER 70-40.6**

### **REVENUE AND TAXATION REGULATIONS**

#### **Part 001      General Provisions**

- § 70-40.6-001 Authority
- § 70-40.6-005 Purpose and Scope
- § 70-40.6-010 Organization
- § 70-40.6-015 Function
- § 70-40.6-020 Rota and Tinian District Offices
- § 70-40.6-025 Regulations Superseded
- § 70-40.6-030 Definitions
- § 70-40.6-035 Other Definitions
- § 70-40.6-040 PL 10-73 Educational Tax Credit

#### **Part 100      Wages and Salary Tax**

- § 70-40.6-101 Wages and Salaries
- § 70-40.6-105 Sources Within the Commonwealth
- § 70-40.6-110 Withholding; Withholding Tables
- § 70-40.6-115 Withholding; Non-refundable Credit
- § 70-40.6-120 Wage and Salary Tax Withholding; Time For Tax Payment
- § 70-40.6-125 Quarterly Withholding Return, Form OS-3705
- § 70-40.6-130 Annual Wage and Tax Statement
- § 70-40.6-135 Annual Reconciliation of Employer's Income Tax Quarterly Withholding
- § 70-40.6-140 Employee's Annual Wage and Salary Tax Return
- § 70-40.6-145 Effective Date

#### **Part 200      Earnings Tax**

- § 70-40.6-201 Earnings
- § 70-40.6-205 [Reserved.]
- § 70-40.6-210 [Reserved.]
- § 70-40.6-215 Non-refundable Credit
- § 70-40.6-220 Payment
- § 70-40.6-225 Reporting Requirements
- § 70-40.6-230 Calculation of Wage and Salary Tax and Earnings Tax

Subchapter Authority: 1 CMC §§ 2553 and 2557; PL 14-35 §3 (§ 1104) (to be codified at 4 CMC § 1104); 4 CMC §§ 1701(c); PL 14-35 § 4 (§ 1820) (to be codified at 4 CMC § 1820); PL 14-35 § 4 (§ 2001) (to be codified at 4 CMC § 1901).

Subchapter History: Amdts Adopted 26 Com. Reg. 22193 (Mar. 23, 2004); Amdts Emergency and Proposed 25 Com. Reg. 21452 (Nov. 17, 2003) (effective for 120 days from December 1, 2003); Amdts Adopted 25 Com. Reg. 20107 (Apr. 30, 2003) (repealing and reenacting part 1400); Amdts Proposed 24 Com. Reg. 19746 (Nov. 27, 2002); Amdts Emergency and Proposed 24 Com. Reg. 19858 (Dec. 27, 2002) (effective for 120 days from Dec. 2, 2002); Amdts

Emergency and Proposed 24 Com. Reg. 19831 (Nov. 27, 2002) (effective for 120 days from Nov. 27, 2002); Amdts Adopted 20 Com. Reg. 15890 (Apr. 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15822 (Feb. 15, 1998) (effective for 120 days from Feb. 3, 1998); Amdts Adopted 18 Com. Reg. 14076 (Apr. 15, 1996); Amdts Proposed 18 Com. Reg. 14002 (Feb. 15, 1996); Amdts Adopted 18 Com. Reg. 14031 (Feb. 15, 1996); Amdts Emergency and Proposed 17 Com. Reg. 13850 (Dec. 15, 1995) (effective for 120 days from Nov. 27, 1995); Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The 1995 “Revenue and Taxation Regulations No. 2200,” superseded all rules and regulations issued by the Department of Finance published prior to adoption of the 1995 regulations that pertained to taxes, fees, and other laws administered by the Division of Revenue and Taxation. See Revenue and Taxation Regulations No. 2200 § 2200.6, 17 Com. Reg. at 13096 (Apr. 15, 1995), codified at § 70-40.6-025. The 1995 regulations, as amended, are codified in this subchapter. The previous history of the Revenue and Taxation Regulations is discussed in this comment.

1 CMC § 2551 creates the Department of Finance within the Commonwealth government. 1 CMC § 2553 authorizes the Department, among other things, to collect and deposit all local revenues from any source, including taxes, custom duties and license fees. The Department is authorized to adopt rules and regulations regarding those matters within its jurisdiction. See 1 CMC § 2557. 1 CMC § 2571 establishes the Division of Revenue and Taxation, headed by a Chief (now the Director) with supervision over all matters concerning revenue and taxation on a day-to-day basis.

Title 4, division 1 of the Commonwealth Code, 4 CMC §§ 1101-1991, as amended by PL 14-35 (effective Oct. 12, 2004), contains the revenue and taxation laws applicable in the Commonwealth. PL 3-11, the “Revenue and Taxation Act of 1982” took effect, with some exceptions on June 1, 1982. PL 9-22 (effective retroactively January 1, 1995), codified in part as amended at 4 CMC §§ 1201-1717, a comprehensive tax reform measure, repealed and reenacted most of PL 3-11. See the comment to 4 CMC § 1101.

PL 14-35 (effective Oct. 12, 2004) repealed and reenacted 4 CMC §§ 1103-1106, 4 CMC division 1, chapter 8 and 4 CMC division 1, chapter 9. PL 14-35 § 4 (§ 1820), to be codified at 4 CMC § 1820, grants the Secretary of Finance authority to prescribe adopt regulations issued under the U.S. Internal Revenue Code necessary for the proper administration and enforcement of Commonwealth tax laws. PL 14-35 § 4 (§ 2001), to be codified at 4 CMC § 1901, grants the Secretary of Finance broad authority to prescribe necessary rules and regulations to implement the CNMI tax laws.

4 CMC §§ 1503-1510 govern the licensing and use of amusement machines in the Commonwealth. 4 CMC § 1507 directs the Secretary of Finance to promulgate rules and regulations regarding amusement machines.

PL 12-45 (effective Apr. 20, 2001), codified as amended by PL 13-15 (effective July 1, 2002) and PL 14-10 (effective May 28, 2004) at 3 CMC §§ 2171-2175, provides the authority for the March 2004 amendments to this subchapter. See PL 13-15 § 2(J), 3 CMC § 2171(j). The March 2004 amendments are codified at part 1600 of this subchapter.

#### History of the Revenue and Taxation Regulations:

The Department of Finance, Division of Revenue and Taxation promulgated Administrative Regulations No. 3901 and Revenue Regulations No. 5901 in 1980. The history of these regulations is as follows:

Amdts Emergency 3 Com. Reg. 1240 (May 20, 1981) (effective retroactively for the 1980 tax year); Adopted 2 Com. Reg. 816 (Mar. 16, 1980); Emergency 2 Com. Reg. 793 (Mar. 16, 1980); Proposed 2 Com. Reg. 476 (Feb. 16, 1980); Adopted 2 Com. Reg. 794 (Mar. 16, 1980); Emergency 2 Com. Reg. 792 (Mar. 16, 1990); Proposed 2 Com. Reg. 453 (Jan. 16, 1980).

The 1980 Revenue Regulations and the 1980 Administrative Regulations stated: “These regulations shall be effective retroactive to January 1, 1979.” See 2 Com. Reg. at 815 (Mar. 16, 1980); 2 Com. Reg. at 833 (Mar. 16, 1980).

In March 1983, the Division of Revenue and Taxation promulgated Revenue and Taxation Regulations No. 8301, which superseded all rules and regulations prior to January 31, 1983, including Administrative Regulations No. 3901



and Revenue Regulations No. 5901. See 5 Com. Reg. at 1809-1810 (Feb. 28, 1983). Revenue and Taxation Regulations No. 8301 remained in effect, as amended, until February 1992. The history of Revenue and Taxation Regulations No. 8301 is as follows:

Emergency 13 Com. Reg. 8277 (Nov. 15, 1991) (effective for 120 days from Oct. 22, 1991) (adopting Mar. 31, 1983 Revenue and Taxation Regulations and all subsequent amendments as emergency regulations); Amdts Adopted 13 Com. Reg. 7642 (Feb. 15, 1991); Amdts Proposed 13 Com. Reg. 7566 (Jan 15, 1991); Amdts Emergency and Proposed 12 Com. Reg. 7514 (Dec. 15, 1990) (effective for 120 days from Nov. 30, 1990);\*\* Amdts Adopted 12 Com. Reg. 6890 (Apr. 15, 1990); Amdts Proposed 12 Com. Reg. 6838 (Mar. 15, 1990); Amdts Adopted 12 Com. Reg. 6898 (Apr. 15, 1990); Amdts Proposed 12 Com. Reg. 6857 (Mar. 15, 1990); Amdts Emergency 12 Com. Reg. 6790 (Jan. 15, 1990) (effective for 120 days from Dec. 29, 1989); Amdts Emergency 12 Com. Reg. 6785 (Jan. 15, 1990) (effective for 120 days from Dec. 22, 1989); Amdts Adopted 11 Com. Reg. 6270 (June 15, 1989); Amdts Proposed 11 Com. Reg. 6189 (May 15, 1989); Amdts Emergency 11 Com. Reg. 6169 (May 15, 1989) (effective for 120 days from May 15, 1989); Amdts Adopted 10 Com. Reg. 5714 (Oct. 15, 1988); Amdts Proposed 10 Com. Reg. 5700 (Sept. 15, 1988); Amdts Adopted 9 Com. Reg. 5292 (Dec. 15, 1987); Amdts Proposed 9 Com. Reg. 5285 (Nov. 15, 1987); Amdts Adopted 9 Com. Reg. 5250 (Oct. 15, 1987); Amdts Proposed 9 Com. Reg. 5239 (Sept. 15, 1987); Amdts Proposed 8 Com. Reg. 4701 (Oct. 22, 1986);\*\* Amdts Adopted 8 Com. Reg. 4346 (June 3, 1986); Amdts Emergency 8 Com. Reg. 4335 (Apr. 18, 1986) (effective for 120 days from Apr. 7, 1986); Amdts Proposed 8 Com. Reg. 4225 (Apr. 18, 1986); Amdts Adopted 8 Com. Reg. 4344 (June 3, 1986); Amdts Emergency 8 Com. Reg. 4333 (Apr. 18, 1986) (effective for 120 days from Apr. 4, 1986); Amdts Proposed 8 Com. Reg. 4222 (Apr. 18, 1986); Amdts Adopted 8 Com. Reg. 4205 (Feb. 17, 1986); Amdts Emergency and Proposed 8 Com. Reg. 4198 (Jan. 17, 1986) (effective for 120 days from Jan. 2, 1986); Amdts Adopted 7 Com. Reg. 3610 (May 21, 1985);^ Amdts Proposed 7 Com. Reg. 3548 (Apr. 16, 1985); Amdts Proposed 7 Com. Reg. 3445 (Feb. 15, 1985);\* Correction Adopted 8 Com. Reg. 4203 (Jan. 17, 1986); Amdts Adopted 6 Com. Reg. 2989 (July 16, 1984); Amdts Proposed 6 Com. Reg. 2867 (June 15, 1984); Amdts Adopted 6 Com. Reg. 2865 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2793 (May 15, 1984); Public Notice 6 Com. Reg. 3354 (Nov. 15, 1984) (notification that March 1984 amendments will not be adopted); Amdts Proposed 6 Com. Reg. 2626 (Mar. 15, 1984); Amdts Adopted 6 Com. Reg. 2622 (Mar. 15, 1984); Amdts Emergency and Proposed 6 Com. Reg. 2579 (Feb. 15, 1984) (effective for 120 days from Feb. 15, 1984); Adopted 5 Com. Reg. 1959 (Mar. 31, 1983) (superseding all rules and regulations prior to Jan. 31, 1983); Emergency and Proposed 5 Com. Reg. 1794 (Feb. 28, 1983) (effective for 120 days from Feb. 4, 1983); Emergency 4 Com. Reg. 1617 (Oct. 15, 1982) (effective for 120 days from Sept. 30, 1982) (superseding all rules and regulations prior to June 1, 1982);

\*The February 1985 proposed amendments were repealed without adoption. See 7 Com. Reg. at 3611 (May 21, 1985).

^The May 1985 amendments stated: "The effective date of this regulation shall be January 1, 1985." See 7 Com. Reg. at 3569 (Apr. 16, 1985).

\*\*Notices of adoption for the October 1986 and December 1990 amendments were never published.

The Division proposed completely revised Revenue and Taxation Regulations No. 1200 in February 1992 and adopted the revised regulations on April 15, 1992. The 1992 regulations superseded all rules and regulations published prior to November 15, 1991 including Revenue and Taxation Regulations No. 8301 and all amendments thereto. See 14 Com. Reg. at 8789 (Feb. 15, 1992). The history of the 1992 Revenue and Taxation Regulations No. 1200 is as follows:

Adopted 14 Com. Reg. 9190 (Apr. 15, 1992) (superseding all rules and regulations published prior to Nov. 15, 1991); Emergency 14 Com. Reg. 8934 (Mar. 15, 1992) (effective for 120 days from Feb. 18, 1992); Proposed 14 Com. Reg. 8780 (Feb. 15, 1992).

The notice of adoption for the April 1992 regulations stated: "The Department of Finance withdraws Emergency Revenue and Taxation Regulations No. 9100 (effective February 18, 1992) at the time that Revenue and Taxation Regulations No. 1200 become effective."

Revenue and Taxation Regulations No. 1200 remained in effect until June 1995, when the Division promulgated completely revised Revenue and Taxation Regulations No. 2200, codified in this subchapter.

On July 22, 1985 the Division proposed Rules and Regulations for the Taxation of Foreign Sales Corporations. See 7 Com. Reg. 3841 (July 22, 1985). A notice of adoption for the 1985 Foreign Sales Corporations Regulations was never published.

On November 15, 1987, the Department of Finance proposed Regulations on the Applicability of Excise Tax to Vessels and Aircraft. See 9 Com. Reg. 5282 (Nov. 15, 1987). A notice of adoption for the 1987 regulations was never published.

On March 15, 1995, the Department of Finance published Announcement No. RT 95-03 regarding the implementation of non-refundable credits under PL 9-22 §§ 1205 and 1307. See 17 Com. Reg. 13070 (Mar. 15, 1995).

## **Part 001 - General Provisions**

### **§ 70-40.6-001 Authority**

The authority for the promulgation and issuance of Revenue and Taxation Regulations 70-40.6 No. 2200, codified in this subchapter, is by virtue of the authority and directions set forth in the Commonwealth code including, but not limited to, 1 CMC § 2553, 1 CMC § 2557, 4 CMC § 1104 [~~1999~~], 4 CMC § 1701(c), and 4 CMC § ~~1818~~-1820[~~1999~~].

Modified, 1 CMC § 3806(d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: PL 14-35 (effective Oct. 12, 2004) repealed and reenacted 4 CMC §§ 1103-1106, 4 CMC division 1, chapter 8 and 4 CMC division 1, chapter 9. PL 14-35 § 4 (§ 1820), to be codified at 4 CMC § 1820, grants the Secretary of Finance authority to prescribe adopt regulations issued under the U.S. Internal Revenue Code necessary for the proper administration and enforcement of Commonwealth tax laws. PL 14-35 § 4 (§ 2001), to be codified at 4 CMC § 1901, grants the Secretary of Finance broad authority to prescribe necessary rules and regulations to implement the CNMI tax laws.

### **§ 70-40.6-005 Purpose and Scope**

The purpose of the regulations in this subchapter is to establish policy and procedures to implement and provide uniform enforcement of the tax laws of the Commonwealth of the Northern Mariana Islands and other laws delegated to and administered by the Department of Finance, Secretary of Finance, and ~~by the Division of Revenue and Taxation~~. Unless specifically provided otherwise, these regulations apply to 4 CMC, division 1 except chapter 4 and chapter 10.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

### **§ 70-40.6-010 Organization**

The Division of Revenue and Taxation, a division of the Department of Finance established pursuant to 1 CMC § ~~2557~~2571, shall be headed by a Director. The Director shall be responsible for the day to day operations of the Division of Revenue and Taxation. In order to carry out its responsibilities, the Division of Revenue and Taxation hereby establishes the following activity branches:

(a) Technical Research and Appeals Branch. The Technical Research and Appeals Branch shall be headed by a manager and is responsible for:

- (1) The administrative appeal system;
- (2) Research, review and support service;
- (3) Technical resource and library service;
- (4) ~~Review~~;
- (4) (5) Disclosure;
- (5) (6) Special procedures.

(b) Compliance Branch. The Compliance Branch shall be headed by a manager and is responsible for:

- (1) Taxpayer assistance service;
- (2) ~~Tax return examinations~~;
- (2) (3) Taxpayer compliance program;
- (3) (4) Data entry;
- (4) (5) File maintenance;
- (5) (6) ~~Returns processing~~.

(c) Collection and Remittance Branch. The Collection and Remittance Branch shall be headed by a manager and is responsible for:

- (1) Accounts billing;
- (2) Field collection;
- (3) Cashier function.

(d) Examination Branch. The Examination Branch shall be headed by a manager and is responsible for:

- (1) Review of tax returns and tax return examination;
- (2) Desk audits;
- (3) Field audits;
- (4) Special audits.

(e) Enforcement and Regulatory Branch. The Enforcement and Regulatory Branch shall be headed by a manager and is responsible for:

- (1) Enforcement and Regulatory Section
  - (i) Poker machines;
  - (ii) Pachinko slot machines;
  - (iii) Amusement machines; and
  - (iv) Cash receipt investigations, enforcement, and compliance.
- (2) Business License Section
  - (i) Issuing licenses to businesses;
  - (ii) Suspending, revoking, or denying issuance of business licenses; and
  - (iii) Business license investigations, enforcement, and compliance.

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).



#### **§ 70-40.6-015 Function**

The Division of Revenue and Taxation shall administer and enforce all provisions of title 4, division 1 of the Commonwealth code (except those provisions specifically delegated to other agencies, e.g., the Division of Customs), the United States Internal Revenue Code of 1954 as specified in 4 CMC § 1702, ~~as amended~~, and its accompanying regulations as made applicable to the Commonwealth of the Northern Mariana Islands pursuant to § 601 of the Covenant, and these and other regulations delegated to the Division of Revenue and Taxation.

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

#### **§ 70-40.6-020 Rota and Tinian District Offices**

The Division of Revenue and Taxation shall have district offices in Rota and Tinian for its activities in these senatorial districts. The functions of the district operations shall be under the supervision of the Secretary of Finance or his/her designee. Personnel supervision of the district offices shall be under each respective Resident Director of Finance.

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

#### **§ 70-40.6-025 Regulations Superseded**

(a) Revenue and Taxation Regulations 70-40.6 No. 2200, codified in this subchapter, supersede all rules and regulations issued by the ~~CNMI~~ Department of Finance and/or the ~~CNMI Division~~ Division of Revenue and Taxation which were published prior to the adoption of Revenue and Taxation Regulations 70-40.6 No. 2200 which pertain to taxes, fees, or other laws administered by the Division of Revenue and Taxation, including those rules and regulations issued under Revenue and Taxation Regulations No. 2200, Revenue and Taxation Regulations No. 1200, Revenue and Taxation Regulations No. 8301 and all amendments thereto.

(b) Revenue and Taxation Regulations 70-40.6 No. 2200, codified in this subchapter, do not supersede any rules or regulations proposed or adopted by the Department of Finance pertaining to the operation of pachinko slot machines in the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: In subsection (a), the Commission changed “supersedes” to “supersede” to correct a manifest error.

#### **§ 70-40.6-030 Definitions**

(a) —“Business”: The term “business” shall have the same meaning as a “trade or business” as that term is applied under § 162 of the Northern Marianas Territorial Income Tax; thus, “business” normally means any regular and continuous activity carried on by a person for the purpose of earning income or profit. Except as otherwise provided, an employee shall not be considered as operating a business, and a partnership or a corporation shall be considered as operating a business.

(b) “Calendar month”: The period extending from the date in one month to the same date in the succeeding month.

(c) —“CNMI real property interest”: A “CNMI real property interest” means any “interest (other than as a creditor) in real property” located within the CNMI. An “interest in real property” includes a fee simple estate, estate for life, a long term lease including an option to acquire the same, or any interest defined in § 897(c)(1)(A)(ii) of the NMTIT;

(d) “Director”: The Director of the Division of Revenue and Taxation, unless the context otherwise requires. Any references to the term “chief” as used within this subchapter or the tax laws ~~is~~are deemed to refer to the Director of the Division of Revenue and Taxation.

(e) —“Division”: “Division” means those provisions of title 4 of the Commonwealth code in division 1 but excluding chapter 10, developer infrastructure tax.

(f) —“Employee”: Any individual, who under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee. Such term shall not include an individual who performs services as either a sole proprietor to himself/herself or a partner to his/her partnership.

(g) —“Employer”: The person for whom an employee performs or performed any service of whatever nature.

(h) “Gross revenue”: “Gross revenue” is defined by 4 CMC § 1103(j) ~~1103(k)~~ and § 70-40.6-301 of this subchapter.

(i) —“Gross winnings”: “Gross winnings” means the total amount of money or the value of other property received from each gaming, lottery, raffle, or other gambling event, transaction, or other activity, less the amount of the wager, if any, (but no other cost or expense) which directly results in winnings.

(j) “Individual”: “Individual” is defined in 4 CMC §1103(m). The term also includes Unless otherwise provided, a natural person, an estate (including a any bankruptcy estate established under title 11 of the United States Code), a trust, or a fiduciary acting for a natural person, trust, or estate.

(k) “Last known address”: “Last known address” has the same meaning as that term is used within § 6212 of the NMTIT.

(l) “Manufacturer” “Manufacturing”: The art of making raw material into a product suitable for use, sale, lease, or rental, and includes the technique and methods of converting finished



~~merchandise into another product for use, sale, lease, or rental.~~ “Manufacturer” is defined in 4 CMC §1103(q). The term “industrial machines” as used in 1103(q) shall include any machine, equipment, or apparatus suitable for substantially transforming raw or finished materials into a product possessing a new name, nature and adapted to a new use.

(m) “Northern Marianas Territorial Income Tax”: Mirrored tax provisions of the U.S. Internal Revenue Code applicable in the CNMI as provided in the Covenant and chapter 7 of 4 CMC, division 1 and as further detailed within § 70-40.6-625 of this subchapter. The Northern Marianas Territorial Income Tax is abbreviated as the NMTIT.

(n) “Person”: Means a Any individual, firm, corporation, company, joint venture, association, partnership, receiver, club, syndicate, cooperative association, or any other entity.

(o) “Property”: Any interest in real property, tangible personal property, or intangible personal property. Intangible personal property includes licenses, franchises, patents, trademarks, copyrights, stocks, bonds, or other commercial paper and partnership interests.

~~(p) “Raw material”: An article or merchandise that is changed in form or substance or combined with other article(s) in a manufacturing process to become a part of a finished product or to form a new product which is produced in a factory.~~

(q) “Rebate”: For purposes of 4 CMC, division 1, chapter 7, “rebate” as defined by 4 CMC § 1103(s) only includes ~~only~~ amounts of NMTIT actually paid.

(r) “Resident”: For purposes other than the NMTIT and chapter 7, means:

- (1) An individual who is domiciled in the Commonwealth; or
- (2) A business or other entity which is located, directed, or managed in the Commonwealth.

(s) “Secretary”: The Secretary of the Department of Finance of the Commonwealth government of the Northern Mariana Islands.

(t) “Wages and salaries”: “Wages and salaries” ~~means that is~~ defined by ~~§ 70-40.6-101 of this subchapter and 4 CMC § 1103(dd)(z).~~ and § 70-40.6-101 of this subchapter.

(u) “Wholesaler”: Any person engaged in the sale of tangible personal property to another for resale for direct or indirect economic benefit.

(v) “Yearly”: A calendar year.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 18 Com. Reg. 14076 (Apr. 15, 1996); Amdts Proposed 18 Com. Reg. 14002 (Feb. 15, 1996); Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The 1996 amendments amended subsection (r)(2). The Commission placed quotation marks around terms defined.



## § 70-40.6-035 Other Definitions

(a) “Hotel, lodging house, or similar facility”: “Hotel, lodging house, or similar facility” shall include any hotel, lodging house, motel, resort motel, apartment, apartment motel, rooming house, condominium, private home, lodging house, living quarters or mobile home that has been rented, leased or let for consideration to transient occupants, as defined in 4 CMC § 1103(cc).

(b) Net gaming revenue taxable income”: ~~Net gaming revenue taxable income means the t~~ Taxable income as defined in the NMTIT attributed to the revenue and expenses derived from gaming activity.

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The June 1995 notice of adoption added subsection (a). The Commission created the section title. The Commission placed quotation marks around terms defined.

## § 70-40.6-040 PL 10-73 Educational Tax Credit

In General. 4 CMC §§ 1205(a) and 1306(a) provide that a person may take, ~~as provided in PL 10-73,~~ cash contributions that are made during a tax year to qualifying educational institutions as a nonrefundable credit against the tax imposed by §§ 1201, 1202, and 1301 through 1304.

(a) Definitions.

(1) Cash contributions. ~~For a contribution to~~ To qualify as a “cash contribution” as used in 4 CMC § 1205(a) and 4 CMC § 1306(a), the contribution must:

- (i) Not have been paid for or in lieu of tuition or fees charged by the educational institution;
- (ii) Not have been paid for or in lieu of books, computers, supplies, or other items used in attending the educational institution;
- (iii) Have been a “gift,” ~~within the general legal concepts defining a gift for tax purposes as defined under the NMTIT and common law;~~
- (iv) Have been paid in cash, by check, or by credit card;
- (v) Not have been given to the educational institution in exchange for anything of value. For example, a cash contribution would exclude money given for a raffle ticket; and
- (vi) Not be given to the institution with instructions to be applied to a particular expenditure. The institution must have full discretion as to what expenditure to apply the contribution to.

(2) Educational institution. The term “educational institution” as used in 4 CMC § 1205(c)(3) and incorporated in 4 CMC § 1306(c) shall have the same meaning as “educational organization” under § 170(b)(1)(A)(ii) of the U.S. Internal Revenue Code as applied in the CNMI under § 170 of the Northern Marianas Territorial Income Tax (NMTIT). Subject to all other requirements of the NMTIT’s definition of “educational organization,” an “educational institution” ~~under for the purposes of~~ the CNMI educational tax credit is generally one whose primary function is the presentation of formal instruction and which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. An “education institution” includes only the CNMI Public School System, the Northern Marianas College, organizations identified in 4 CMC



§ 1205, and those organizations granted exempt status by the ~~CNMI Division~~ Division of Revenue and Taxation as an “educational organization” or “educational institution” under the NMTIT, the BGRT, or the ET; ~~pursuant to~~ under the procedures specified in part 400, [entitled] Tax Exempt Organizations, of Rev. and Tax. Revenue and Taxation Regulations 70-40.6 ~~No. 2200~~, codified in this subchapter.

(3) Letter of determination. The term “letter of determination” as used in 4 CMC § 1205(c)(3) and incorporated in § 1306(c) means the determination letter issued by the ~~CNMI Division~~ Division of Revenue and Taxation granting an organization exempt status as an “educational institution” or “educational organization” under § 501(c)(3) and § 170(b)(1)(A)(ii) of the U.S. Internal Revenue Code as applied in the CNMI under § 501(c)(3) of the NMTIT ~~and as applied for determining an “educational organization’s” or “institution’s” exempt status under the NMTIT, BGRT, and ET provisions.~~

(b) Documentation Required.

(1) Scope. Under 4 CMC §§ 1205(d) and 1306(d), a taxpayer must furnish the following to obtain the educational tax credit:

(i) A properly documented receipt issued by the recipient institution which must include, at a minimum, the name and tax identification number of the institution, the taxpayer’s name and tax identification number, the date of payment and the amount paid, and the purpose of the donation; and

(ii) A copy of the letter of determination with respect to the exempt status of the recipient institution.

~~(2) Specific Documentation Required. For each cash contribution regardless of amount, taxpayers are not required to submit the information specified in 4 CMC §§ 1205(d) and 1306(d) and subsection (b)(1) of this section. Instead, taxpayers are required to:~~

~~(i) Maintain, for a period of no less than six years,~~

~~(A) A written receipt from the educational institution that must include the following information:~~

~~(I) The educational institution’s name and tax identification number;~~

~~(II) The taxpayer’s name and tax identification number;~~

~~(III) The date the contribution was paid to the institution;~~

~~(IV) The amount of cash contributed;~~

~~(V) The purpose of the contribution; and~~

~~(VI) Whether the institution gave the taxpayer any goods or services as a result of the contribution; and if so, a description and good faith estimate of the value of any goods or services provided.~~

~~(B) A copy of the letter of determination with respect to the tax exempt status of the recipient institution, if the recipient organization is other than the Public School System or the Northern Marianas College; and~~

~~(ii) Submit information in a form or scheduled as prescribed by the Secretary.~~

~~(32) Failure to Comply. No educational tax credit will be allowed under 4 CMC §§ 1205(d) or 1306(d) unless the taxpayer complies with all the applicable provisions of this subsection.~~

(c) Penalties and Interest.

(1) Payment of Penalties and Interest. Educational tax credits may not be used to satisfy balances attributable to penalties and/or interest.



(2) Accrual of Penalties and Interest. Educational tax credits may not be used to satisfy outstanding tax balances due for previous months or quarters. Thus, penalties and interest associated with underpayments for these months or periods will continue to accrue until all outstanding balances are paid.

(ed) Educational Tax Credit - Allowable Amount Applied Only Against BGRT (with Allocation Rules).

(1) General Rule. A taxpayer can claim an educational tax credit for contributions made in that month up to the lesser of (a) \$5,000 or (b) \$5,000 less any allowable credit claimed in prior months in the same taxable year. The calculated allowable credit can be applied entirely to the month during which the contribution was made or can be allocated over remaining months, if any, of the taxable year; the credit cannot be allocated to previous quarters months in the same taxable year (instead, the credit will be allowed on the taxpayer's final BGRT return for that year, generally the December monthly return).

~~\$5,000 or More Quarterly BGRT Liability. If a person's BGRT liability for any quarter is \$5,000 or more, the person can claim an educational tax credit for contributions made in that quarter up to the lesser of (a) \$5,000 or (b) \$5,000 less any allowable credit claimed in prior quarters in the same taxable year. The calculated allowable credit can be applied entirely to the quarter during which the contribution was made or can be allocated over remaining quarters, if any, in the remaining taxable year; the credit cannot be allocated to previous quarters in the same taxable year (instead, the credit will be adjusted on the person's final BGRT return for that year).~~

~~(i) Example No. 1. If a person's taxpayer's BGRT liability for the first quarter month is \$8,000 and the person taxpayer makes a \$5,000 charitable contribution to a qualifying educational institution during the first quarter month, the person taxpayer can claim a \$5,000 educational tax credit during the first quarter month to offset the \$8,000 BGRT liability.~~

~~(ii) Example No. 2. If a person makes a \$5,000 charitable contribution to a qualifying educational institution during the first quarter has a \$2,000 BGRT liability for the first quarter has a \$3,000 BGRT liability for the second quarter and has claimed a \$2,000 educational tax credit for the first quarter, the person can claim a \$3,000 of credit during the second quarter to offset the second quarter liability.~~

~~(iii) Example No. 3. Assume the same facts as example no. 2, except that the person has only a \$500 tax liability in the second quarter. Under this scenario, the person can claim only a \$500 credit during the second quarter to offset the second quarter liability, provided that the maximum remaining credit shall be the lesser of \$2,500 or the BGRT for the final two quarters.~~

~~(iv) Example No. 4. If a person has a \$5,000 BGRT liability for the first, second and third quarters of a taxable year, has a zero liability for the fourth quarter, and makes a \$5,000 cash contribution to a qualifying educational institution during the fourth quarter, the person would not allocate the educational tax credit to prior quarters; instead the person's fourth quarter BGRT return will be adjusted on the forms prescribed by the Secretary.~~

~~(2) Quarterly BGRT Less than \$5,000. If a person's BGRT liability for any quarter is less than \$5,000, the person can claim an educational tax credit for contributions made in that quarter up to the lesser of (a) the amount of that quarter's BGRT liability or (b) \$5,000 less any of the allowable credit claimed in prior quarters in the same taxable year. The calculated allowable credit can be applied entirely to the quarter during which the contribution was made or can be allocated over remaining quarters, if any, in the remaining taxable year; the credit cannot be allocated to~~



previous quarters in the same taxable year (instead, the credit will be adjusted on the person's final BGRT return for that year).

(i) — Example No. 1. If a person's BGRT liability for the second quarter is \$4,000, the person makes a \$5,000 cash contribution to a qualifying educational institution during the second quarter, and the person has claimed no educational tax credit for the first quarter, the person can claim a \$4,000 educational tax credit for the second quarter to offset the \$4,000 liability. The remaining \$1,000 cash contribution can be carried forward to the third or fourth quarter, provided that the BGRT liability for those quarters equals or exceeds \$1,000.

(ii) — Example No. 2. Assume the same facts as example no. 1, except that the person claimed an educational tax credit in the first quarter in the amount of \$3,500. Under this scenario, the person can claim a \$1,500 (\$5,000 less \$3,500) educational tax credit for the second quarter to offset the \$4,000 liability (the lesser of \$4,000 or \$1,500).

(iii) Example No. 23. A person taxpayer makes a \$5,000 cash contribution to a qualifying educational institution in the first month quarter, has a \$1,500 BGRT liability in the first, second, and third months quarter, has a \$2,000 liability in the fourth month quarter, and wants to use the maximum amount of credit allowed edable credit in each month quarter, the person taxpayer can claim the following educational tax credits as follows:

<u>Month</u>	<u>January</u>	<u>February</u>	<u>March</u>	<u>April</u>
<u>Monthly BGRT</u>	<u>1,500</u>	<u>1,500</u>	<u>1,500</u>	<u>2,000</u>
<u>ETC</u>	<u>5,000</u>	<u>3,500</u>	<u>2,000</u>	<u>500</u>
<u>Contribution /</u> <u>Carryover</u>				
<u>ETC Allowed</u>	<u>1,500</u>	<u>1,500</u>	<u>1,500</u>	<u>500</u>
<u>Tax After ETC</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1,500</u>
<u>Remaining ETC</u>	<u>3,500</u>	<u>2,000</u>	<u>500</u>	<u>0</u>

As illustrated above, the taxpayer's BGRT liability in the month of April, \$2,000, exceeded the remaining ETC balance of \$500. As a result, the taxpayer has a tax balance after ETC in the amount of \$1,500 due upon filing.

1st quarter: \$1,500 — is lesser of (\$1,500) or (\$5,000 less \$0)  
 2nd quarter: \$1,500 — is lesser of (\$1,500) or (\$5,000 less \$1,500 = \$3,500)  
 3rd quarter: \$1,500 — is lesser of (\$1,500) or (\$5,000 less \$3,000 = \$2,000)  
 4th quarter: \$500 — is lesser of (\$2,000) or (\$5,000 less \$4,500 = \$500)

(iii) Example No. 3. Assume the same facts as example no. 2, except that the taxpayer made the contribution in the fourth month. The taxpayer can only apply \$2,000 of the \$5,000 contribution in the fourth month. The remaining \$3,000 may be used as credit in any subsequent months. Credits may be applied to satisfy outstanding principal balances (but not accumulated penalties and interest) for months preceding the contribution in the taxpayer's final BGRT return for that year, to the extent the ETC was not fully applied during the remaining months.



<u>Month</u>	<u>January</u>	<u>February</u>	<u>March</u>	<u>April</u>
<u>Monthly BGRT</u>	<u>1,500</u>	<u>1,500</u>	<u>1,500</u>	<u>2,000</u>
<u>ETC Contribution &amp; Carryover</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>5,000</u>
<u>ETC Allowed</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2,000</u>
<u>Tax After ETC</u>	<u>1,500</u>	<u>1,500</u>	<u>1,500</u>	<u>0</u>
<u>Remaining ETC</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>3,000</u>

(iv) — Example No. 4. Assume the same facts as example no. 3, except that the person wants to utilize his educational tax credit only in the fourth quarter and, thus, claims no credit in the first, second, or third quarters. Under this scenario, the person is only entitled to a \$2,000 educational tax credit to be applied against the \$2,000 fourth quarter liability; no credit can be applied for prior quarters; (instead, the credit will be adjusted on the person's final BGRT return for that year).

(de) Educational Tax Credit Allowable Amount -- Applied Against BGRT, WST, and ET. Under 4 CMC §§ 1205(a) and 1306(a), a person taxpayer is entitled to utilize the educational tax credit against the person's taxpayer's wage and salary tax, earnings tax, or business gross revenue tax liability~~liabilities~~. The maximum annual credit available is the lesser of (a) the sum of the person's taxpayer's WST, ET, and BGRT or (b) \$5,000.

(1) Timing of Credit for WST. A person taxpayer can claim the educational tax credit against the WST in the allowable amount no earlier than upon the filing of the person's taxpayer's WST return for the corresponding year.

(2) Timing of Credit for ET. A person taxpayer can claim the educational tax credit against the ET in the allowable amount no earlier than upon the filing of the person's taxpayer's ET return for the corresponding year.

(3) Timing of Credit for BGRT. A person taxpayer can claim the educational tax credit against the BGRT in the allowable amount under the rules specified in subsection (ed) of this section.

(4) Examples.

(i) Example No. 1. A person taxpayer has an annual WST liability of \$6,500, an annual ET liability of \$400, and an annual BGRT liability of \$8,000. The person taxpayer has made a \$5,000 cash contribution to a qualifying educational institution during the same taxable year and has not yet claimed an educational tax credit with respect to the contribution. Because the person's taxpayer's accumulated WST, ET, and BGRT (\$14,900) is greater than the person's taxpayer's cash contribution (\$5,000), the person taxpayer can choose to allocate the \$5,000 educational tax credit among the WST, ET, and BGRT liabilities at ~~the person's~~ its discretion, in amounts not exceeding the liabilities under for those taxes ~~up to a maximum accumulated credit for all three taxes of \$5,000.~~

(ii) Example No. 2. A taxpayer with annual tax liabilities of \$1,500 for each of WST, ET, and BGRT has made a \$5,000 cash contribution to a qualifying educational institution, and has not claimed an educational tax credit with respect to the contribution made in the same tax year. The taxpayer may claim a \$1,500 educational tax credit against each of the tax liabilities (WST, ET, and BGRT) for a total of \$4,500 claimed in educational tax credits. The remaining \$500 cash contribution cannot be claimed as an educational tax credit in any succeeding or prior years. However, the taxpayer may be entitled to use the remaining \$500 as a charitable contribution deduction under the NMTIT, provided the contribution qualifies under § 170 of the NMTIT.



(ii) ~~Example No. 2. A person has an annual WST, ET, and BGRT liability of \$1,500 each, has made a \$5,000 cash contribution to a qualifying educational institution, and has not claimed an educational tax credit with respect to the contribution. The person can claim a \$1,500 educational tax credit against the WST, ET, and BGRT liability; the remaining \$500 cash contribution cannot be claimed as an educational tax credit in that year or any succeeding or prior years. However, the person may be entitled to use the remaining \$500 as a charitable contribution deduction under the NMTIT, provided the contribution qualifies under § 170 of the NMTIT.~~

**(ef) Miscellaneous Rules.**

(1) Educational Institutions With Pending Tax Exempt Applications. As specified in 4 CMC § 1205(c)(3) and incorporated in 4 CMC § 1306(c), an educational tax credit is allowed only for contributions made to educational institutions that have been granted tax exempt status by the ~~CNMI Division~~Division of Revenue and Taxation before the date of the contribution for which the credit is to be taken. Thus, contributions made to organizations that have not ~~applied for or have applications pending on~~ been granted tax exempt status on the date that a contribution is made will not be ~~allowed to be used as an~~ eligible for the educational tax credit.

(2) Educational Institutions Granted Exempt Status by the U.S. Internal Revenue Service But Not by the ~~CNMI Division~~Division of Revenue and Taxation. As specified in 4 CMC § 1205(c)(3) and incorporated in 4 CMC § 1306(c), an educational tax credit is allowed only for contributions made to educational institutions that have been granted tax exempt status by the ~~CNMI Division~~Division of Revenue and Taxation. Thus, contributions made to educational organizations that have been granted tax exempt status by the U.S. Internal Revenue Service will only be allowed to be used as an educational tax credit if the recipient organization has received exempt status by the ~~CNMI Division~~Division of Revenue and Taxation under § 70-40.6-425 of this subchapter -- [entitled] Application Process -- Previously Granted Tax-Exempt Status by U.S. Internal Revenue Service.

(3) Interaction with NMTIT.

(i) WST and ET Non-refundable Credit. Under 4 CMC § 1205(a), a ~~person taxpayer~~ may take the WST and ET paid as a nonrefundable credit against the tax imposed on CNMI sourced income under subtitle A of the NMTIT under chapter 7 of 4 CMC. The amount of the nonrefundable credit allowed shall be reduced by any educational tax credit claimed by the ~~person taxpayer~~ as a credit against the ~~person taxpayer's~~ accumulated WST and ET liability. For example, if the ~~person taxpayer~~ has an accumulated \$8,000 WST and ET liability and offsets that liability with a \$5,000 educational tax credit, the maximum ~~amount of~~ nonrefundable credit that can be applied against the ~~person taxpayer's~~ NMTIT liability is \$3,000.

(ii) BGRT Non-refundable Credit. Under 4 CMC § 1308 ~~as amended by PL 9-59 and PL 10-73~~, a ~~person taxpayer~~ may take the BGRT paid as a nonrefundable credit against the tax imposed on CNMI sourced income under subtitle A of the NMTIT under chapter 7 of 4 CMC. The amount of the nonrefundable credit allowed shall be reduced by any educational tax credit claimed by the ~~person taxpayer~~ as a credit against the ~~person taxpayer's~~ BGRT liability. For example, if the ~~person taxpayer~~ has a \$14,000 BGRT liability and offsets that liability with a \$3,500 educational tax credit, the maximum ~~amount of the~~ nonrefundable credit that can be applied against the ~~person taxpayer's~~ NMTIT liability is \$10,500.

(iii) NMTIT Charitable Contribution Deduction. Under 4 CMC §§ 1205(a) and 1306(a), no educational tax credit shall be allowed for any amount deducted in determining taxable income under the NMTIT as shown on the taxpayer's return. Thus, if a taxpayer has taken the educational



tax credit under 4 CMC §§ 1205 or 1306 and the ~~person~~taxpayer has claimed a charitable contribution deduction with respect to the same cash contribution under § 170 of the NMTIT, the educational credit shall be disallowed.

(4) Joint Returns.

(i) Spouses filing joint or separate returns shall each be entitled ~~only~~ to an annual maximum educational tax credit in the amount of the lesser of the individual spouse's cumulative tax liability under 4 CMC §§ 1201, 1202, and 1301 through ~~1303~~1304, or five thousand dollars. One spouse shall not be entitled, whether filing joint or separate returns, to use his or her educational tax credit as a credit against his or her spouse's tax liability.

(ii) Example. Wife makes a \$5,000 cash contribution to an educational institution that qualifies for the education tax credit and the wife has a \$3,000 cumulative tax liability under §§ 1201, 1202, and 1301 through ~~1303~~1304. Husband makes no cash contributions during the same taxable year and has a \$14,000 cumulative tax liability under §§ 1201, 1202, and 1301 through ~~1303~~1304. Wife would be entitled to a \$3,000 educational tax credit; she could not apply and her husband could not claim the remaining \$2,000 cash contribution as an educational tax credit against his \$14,000 tax liability. An illustration is as follows:

	<u>Primary</u>	<u>Spouse</u>
<u>Maximum ETC Allowed</u>	<u>5,000</u>	<u>5,000</u>
<u>ETC Contribution</u>	<u>0</u>	<u>5,000</u>
<u>Cumulative Tax Liability</u>	<u>14,000</u>	<u>3,000</u>
<u>ETC Allowed</u>	<u>0</u>	<u>3,000</u>
<u>Tax After ETC</u>	<u>14,000</u>	<u>0</u>
<u>Remaining ETC (Unused)</u>	<u>0</u>	<u>2,000</u>

Note: Figures are for illustrative purposes only.

Although the spouse has remaining unused ETC of \$2,000, it cannot be used against the primary taxpayer's \$14,000 tax liability. However, the taxpayers may be entitled to use the remaining \$2,000 as a charitable contribution deduction under the NMTIT, provided the contribution qualifies under § 170 of the NMTIT.

(f) ~~Transitional Rules.~~

(1) ~~Scope. PL 10-73 became effective on November 12, 1997. Transitional rules are provided to implement the educational tax credit from November 12, 1997, through December 31, 1997. The credit shall be allowed to be applied against the WST, ET, and the BGRT for that period under the following conditions:~~

(i) ~~The person has satisfied all conditions specified in PL 10-73 and in this subchapter that are applicable to the educational tax credit; and~~

(ii) ~~The contribution must be made within the "tax year." "Tax year" means January 1, 1997 through December 31, 1997.~~

(2) ~~Examples.~~

(i) ~~Example No. 1: If a person makes a cash contribution to the Public School System on November 15, 1997, and wants to use that contribution as an educational tax credit against his or her fourth quarter 1997 BGRT tax liability that is due on or before January 31, 1998, the person can:~~

(ii) — Example No. 2: If a person makes a cash contribution to the Northern Marianas College on December 31, 1997, and wants to use that contribution as an educational tax credit against his 1997 WST or ET liability that is due on or before April 15, 1998, the person can.

(iii) — Example No. 3: If a person makes a cash contribution to the Public School System on January 8, 1998, and wants to use that contribution as an educational tax credit against his fourth quarter 1997 BGRT tax liability that is due on or before January 31, 1998, the person cannot. Similarly, the credit would also not be available against the person's 1997 WST or ET liability that must be paid on or before April 15, 1998.

- Modified, 1 CMC § 3806(c), (d), (e), (f), (g).

- History: Amdts Adopted 20 Com. Reg. 15890 (Apr. 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15822 (Feb. 15, 1998) (effective for 120 days from Feb. 3, 1998).

- Commission Comment: In subsection (a)(3), the Commission changed "Tax" to "Taxation."

- Public Law 15-120, effective Dec. 21, 2007, added the Joeten-Kiyu Public Library to the list of educational institutions able to benefit from education tax credit contributions. 4 CMC § 1205(c). Public Law 16-33, effective Mar. 26, 2009, also added the Northern Marianas Trade Institute to the list of educational institutions able to benefit from education tax credit contributions. 4 CMC § 1205(c). The provisions of PL 15-120 and PL 16-33 supersede subsection(a)(2) to the extent that they conflict.

## **Part 100 - Wages and Salary Tax**

### **§ 70-40.6-101 Wages and Salaries**

Pursuant to 4 CMC § 1201, there is imposed on every employee a yearly tax on the employee's "wages and salaries." "Wages and salaries" is defined pursuant to 4 CMC § 1103(dd)(z) and subsection (a).

(a) Inclusions. Except as provided in subsection (b), "wages and salaries" includes all compensation to an employee for services derived from "sources within the Commonwealth" as determined by § 70-40.6-105 of this subchapter. "Wages and salaries" includes, but is not limited to, payments received by an employee for any of the following:

- (1) Standard pay;
- (2) Bonuses, awards, and commissions;
- (3) Back pay awards;
- (4) Tips;
- (5) Severance pay;
- (6) Annual leave;
- (7) Sick leave;
- (8) Administrative leave;
- (9) Holiday work; and
- (10) Any other types of compensatory leave.

(b) Exclusions. "Wages and salaries" shall not include the following:



- (1) Wages and salaries received from the United States by active members of the Armed Forces of the United States. This exception shall not include wages and salaries received from the United States by members of the Armed Forces of the United States in reserve status;
- (2) Reasonable per diem and travel allowances to the extent that they do not exceed any comparable Commonwealth government rates;
- (3) Rental value of a home furnished to any employee or a reasonable rental allowance paid to any employee to the extent the allowance is used by the employee to rent or provide a home;
- (4) Any payment of medical or hospitalization expenses made by an employer or insurance company to or on behalf of an employee or insured;
- (5) Payments made to or on behalf of an employee or to his beneficiary from a trust, annuity, or retirement program;
- (6) Any payment in the form of a scholarship, fellowship, or stipend made to any employee while he is a full-time, bona fide student at an educational institution as defined by § 170(b)(1)(A)(ii) of the NMTIT. Provided, however, that if the payment is made for services rendered, the student must receive college credit(s) for the performance of the services and the services must further the student's education, curriculum, or course of study; and
- (7) Any benefit payment from the United States, Trust Territory, or Northern Marianas Social Security Administration.

Modified, 1 CMC § 3806(c), (d), (f), (g).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: In the opening paragraph, the Commission moved the period after "salaries" inside of the closing quotation mark.

## **§ 70-40.6-105 Sources Within the Commonwealth**

(a) In General. Except as provided in subsection (b), the determination of whether wages and salaries are derived from sources within the Commonwealth for purposes of the wage and salary tax shall be made in accordance with ~~4 CMC § 1103(u)~~ and the sourcing rules of the Northern Marianas Territorial Income Tax at §§ 861, et seq.

(b) Employer Located Within and Without. The determination of source of income as it relates to wages and salaries shall be made in accordance with the following rules:

(1) Employer Within. Wages and salaries paid to an employee from an employer residing within the Commonwealth are considered income from sources within the Commonwealth if:

- (i) The services are performed within the Commonwealth; or
- (ii) The services are performed without the Commonwealth by a resident individual, unless such income is subject to tax in another jurisdiction, for an aggregate of no more than 90 days during the taxable year.

(iii)(A) Example No. 1. Mr. Sablan is employed by ABC Corporation, a CNMI corporation. Mr. Sablan lives on Saipan but travels to the state of California during the taxable year for a period of 75 days to perform research for his employer, ABC Corporation. After performing such services, Mr. Sablan returns to Saipan. For performing such services, Mr. Sablan receives compensation in



the amount of \$3,000. The compensation received by Mr. Sablan in the amount of \$3,000 is deemed income from sources within the Commonwealth.

(B) — Example No. 2. Same facts as example no. 1 except that Mr. Sablan performs services for ABC Corporation in the state of California for a period of 95 days. The compensation received by Mr. Sablan in the amount of \$3,000 is not deemed income from sources within the Commonwealth.

(C) — Example No. 3. Ms. Moore is employed by XYZ Corporation, a CNMI corporation with offices located in the states of California and Arizona. Ms. Moore lives in the state of Arizona and performs services in the state of Arizona for the Arizona office of XYZ Corporation for a period of 60 days during the taxable year. After performing such services, Ms. Moore remains in the state of Arizona. For performance of such services, Ms. Moore receives compensation in the amount of \$2,000. The compensation received by Ms. Moore is not deemed income from sources within the Commonwealth.

(2) Employer Without. Wages and salaries paid to an employee for services performed in the Commonwealth by from an employer residing or domiciled outside the Commonwealth are not considered income from sources within the Commonwealth unless:

(i) — The services are performed within the Commonwealth; and

(ii)(A) The services are performed by an employee temporarily present in the Commonwealth for a period or periods not exceeding a total of 90 days during the taxable year; or and

(ii)(B) The aggregate compensation received by an employee for services performed in the Commonwealth does not exceeds \$13,000.

(iii)(A) Example No. 1. Ms. Dorothy Mae, a secretary accompanied Mr. Jason Peter to Saipan on five different occasions in 2017 1990. Both Ms. Mae and Mr. Peter are employees of a food chain business in Hong Kong. Their trips to Saipan were all on business. Ms. Mae was in the CNMI for 45 14 days and received a salary of \$750 \$2,000 for services performed within Saipan. Mr. Peter received \$1,500 \$7,000 for the same period for services performed within Saipan. Ms. Mae's compensation is not considered income from sources within the eCommonwealth for purposes of the wage and salary tax because her employer does not reside in the Commonwealth, she is present in the CNMI for less than 90 days, and her salary is less than \$13,000. She is not required to pay the wage and salary tax on the compensation of \$750 \$2,000 derived from services performed within the Commonwealth. However, Mr. Peter's compensation ~~income~~ is deemed income from sources sourced within the Commonwealth because his salary exceeds the \$13,000 limitation. Mr. Peter is required to pay the wage and salary tax on the compensation of \$1,500 \$7,000.

(B) Example No. 2. Mr. Carlos Anthony, an employee of a manufacturing company in New York, came to Saipan to gather data necessary to determine the feasibility of assembling toys in the Commonwealth for export. Mr. Anthony, who has an annual salary of \$60,000, made several trips to the Commonwealth in 1990 2017 and spent a total of 30 days on Saipan. His annual salary is \$60,000. The compensation attributable to Mr. Anthony's services performed while in the Commonwealth is \$5,000 is considered to have income from sources within the Commonwealth in the amount of \$5,000 (i.e., (60,000) H x (1/12)). The compensation exceeds the \$3,000 limitation; Mr. Anthony's income of therefore, the \$5,000 is deemed from sources is sourced within the Commonwealth and thus is subject to the wage and salary tax.

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The final paragraphs of subsections (b)(1) and (b)(2) were not designated. The Commission designated subsections (b)(1)(iii) and (b)(2)(iii).



## § 70-40.6-110 Withholding; Withholding Tables

(a) In General. An employee who is paid or credited wages and salaries from an employer who does not have a place of business in the Commonwealth or an agent within the Commonwealth responsible for making the returns, withholdings, and payments of taxes on compensation under chapter 2 of 4 CMC, shall make quarterly withholding payments as provided by subsection (c) of this section. In all other cases, employers are required to withhold the wage and salary tax from their employees' wages and salaries pursuant to subsection (b) of this section.

(b) CNMI Employers. Employers who have a place of business in the Commonwealth or an agent within the Commonwealth responsible for making the returns, withholdings, and payments of taxes on compensation under chapter 2 of 4 CMC, are required to withhold the wage and salary tax from their employees' wages and salary based on the following withholding tables pursuant to the frequency of the payments:

<u>Weekly</u>		<u>Bi-weekly</u>		<u>Semi-monthly</u>		<u>Monthly</u>		<u>Tax</u> <u>Rate</u>
<u>Amount Earned</u>		<u>Amount Earned</u>		<u>Amount Earned</u>		<u>Amount Earned</u>		
<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	<u>From</u>	<u>To</u>	
<u>0</u>	<u>19.24</u>	<u>0</u>	<u>38.49</u>	<u>0</u>	<u>41.70</u>	<u>0</u>	<u>83.41</u>	<u>0%</u>
<u>19.25</u>	<u>96.17</u>	<u>38.50</u>	<u>192.34</u>	<u>41.71</u>	<u>208.37</u>	<u>83.42</u>	<u>416.74</u>	<u>2%</u>
<u>96.18</u>	<u>134.63</u>	<u>192.35</u>	<u>269.26</u>	<u>208.38</u>	<u>291.70</u>	<u>416.75</u>	<u>583.41</u>	<u>3%</u>
<u>134.64</u>	<u>288.48</u>	<u>269.27</u>	<u>576.96</u>	<u>291.71</u>	<u>625.04</u>	<u>583.42</u>	<u>1,250.08</u>	<u>4%</u>
<u>288.49</u>	<u>423.09</u>	<u>576.97</u>	<u>846.19</u>	<u>625.05</u>	<u>916.70</u>	<u>1,250.09</u>	<u>1,833.41</u>	<u>5%</u>
<u>423.10</u>	<u>576.94</u>	<u>846.20</u>	<u>1,153.88</u>	<u>916.71</u>	<u>1,250.04</u>	<u>1,833.42</u>	<u>2,500.08</u>	<u>6%</u>
<u>576.95</u>	<u>769.24</u>	<u>1,153.89</u>	<u>1,538.49</u>	<u>1,250.05</u>	<u>1,666.70</u>	<u>2,500.09</u>	<u>3,333.41</u>	<u>7%</u>
<u>726.76</u>	<u>961.55</u>	<u>1,538.50</u>	<u>1,923.11</u>	<u>1,666.71</u>	<u>2,083.37</u>	<u>3,333.42</u>	<u>4,166.74</u>	<u>8%</u>
<u>969.61</u>	<u>And over</u>	<u>1,923.12</u>	<u>And over</u>	<u>2,083.38</u>	<u>And over</u>	<u>4,166.75</u>	<u>And over</u>	<u>9%</u>

### Amount Earned—Weekly

From	To	Rate
0	19.24	0
19.25	96.17	2.0%
96.18	134.63	3.0%
134.64	288.48	4.0%
288.49	423.09	5.0%
423.10	576.94	6.0%
576.95	769.24	7.0%
769.25	961.55	8.0%
961.56	and over	9.0%

### Amount Earned—Bi-weekly

From	To	Rate
0	38.49	0
38.50	192.34	2.0%
192.35	269.26	3.0%



269.27	576.96	4.0%
576.97	846.19	5.0%
846.20	1,153.88	6.0%
1,153.89	1,538.49	7.0%
1,538.50	1,923.11	8.0%
1,923.12	and over	9.0%

-  
Amount Earned—Semi-monthly

From	To	Rate
-0-	41.70	-0-
41.71	208.37	2.0%
208.38	291.70	3.0%
291.71	625.04	4.0%
625.05	916.70	5.0%
916.71	1,250.04	6.0%
1,250.05	1,666.70	7.0%
1,666.71	2,083.37	8.0%
2,083.38	and over	9.0%

-  
Amount Earned—Monthly

From	To	Rate
-0-	83.41	-0-
83.42	416.74	2.0%
416.75	583.41	3.0%
583.42	1,250.08	4.0%
1,250.09	1,833.41	5.0%
1,833.42	2,500.08	6.0%
2,500.09	3,333.41	7.0%
3,333.42	4,166.74	8.0%
4,166.75	and over	9.0%

(c) Non-CNMI Employers. Employees of employers who do not have a place of business in the Commonwealth or an agent within the Commonwealth responsible for making the returns, withholdings, and payments of taxes on compensation under chapter 2 of 4 CMC, are required to pay the wage and salary tax.

(1) The wage and salary tax shall be paid on a quarterly basis based on the following withholding tables:

First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Tax Rate
Income Level		Income Level		Income Level		Income Level		
From	To	From	To	From	To	From	To	
<u>0</u>	<u>250.00</u>	<u>0</u>	<u>500.00</u>	<u>0</u>	<u>750.00</u>	<u>0</u>	<u>1,000.00</u>	<u>0%</u>
<u>250.01</u>	<u>1,250.00</u>	<u>500.01</u>	<u>2,500.00</u>	<u>750.01</u>	<u>3,750.00</u>	<u>1,000.01</u>	<u>5,000.00</u>	<u>2%</u>
<u>1,250.01</u>	<u>1,750.00</u>	<u>2,500.01</u>	<u>3,500.00</u>	<u>3,750.01</u>	<u>5,250.00</u>	<u>5,000.01</u>	<u>7,000.00</u>	<u>3%</u>
<u>1,750.01</u>	<u>3,750.00</u>	<u>3,500.01</u>	<u>7,500.00</u>	<u>5,250.01</u>	<u>11,250.00</u>	<u>7,000.01</u>	<u>15,000.00</u>	<u>4%</u>
<u>3,750.01</u>	<u>5,500.00</u>	<u>7,500.01</u>	<u>11,000.00</u>	<u>11,250.01</u>	<u>16,500.00</u>	<u>22,000.01</u>	<u>22,000.00</u>	<u>5%</u>

<u>5,500.01</u>	<u>7,500.00</u>	<u>11,000.01</u>	<u>15,000.00</u>	<u>16,500.01</u>	<u>22,500.00</u>	<u>30,000.01</u>	<u>30,000.00</u>	<u>6%</u>
<u>7,500.01</u>	<u>10,000.00</u>	<u>15,000.01</u>	<u>20,000.00</u>	<u>22,500.01</u>	<u>30,000.00</u>	<u>30,000.01</u>	<u>40,000.00</u>	<u>7%</u>
<u>10,000.01</u>	<u>12,500.0</u>	<u>20,000.01</u>	<u>25,500.00</u>	<u>30,000.01</u>	<u>37,500.00</u>	<u>40,000.01</u>	<u>50,000.00</u>	<u>8%</u>
<u>12,500.01</u>	<u>And over</u>	<u>25,500.01</u>	<u>And over</u>	<u>37,500.01</u>	<u>And over</u>	<u>50,000.01</u>	<u>And over</u>	<u>9%</u>

Income Level—First Quarter

<u>From</u>	<u>To</u>	<u>Rate</u>
-0-	250.00	-0-
250.01	1250.00	2.0%
1,250.01	1,750.00	3.0%
1,750.01	3,750.00	4.0%
3,750.01	5,500.00	5.0%
5,500.01	7,500.00	6.0%
7,500.01	10,000.00	7.0%
10,000.01	12,500.00	8.0%
12,500.01	and over	9.0%

Income Level—Second Quarter

<u>From</u>	<u>To</u>	<u>Rate</u>
-0-	500.00	-0-
500.01	2,500.00	2.0%
2,500.01	3,500.00	3.0%
3,500.01	7,500.00	4.0%
7,500.01	11,000.00	5.0%
11,000.01	15,000.00	6.0%
15,000.01	20,000.00	7.0%
20,000.01	25,500.00	8.0%
25,500.01	and over	9.0%

Income Level—Third Quarter

<u>From</u>	<u>To</u>	<u>Rate</u>
-0-	750.00	-0-
750.01	3,750.00	2.0%
3,750.01	5,250.00	3.0%
5,250.01	11,250.00	4.0%
11,250.01	16,500.00	5.0%
16,500.01	22,500.00	6.0%
22,500.01	30,000.00	7.0%
30,000.01	37,500.00	8.0%
37,500.01	and over	9.0%

Income Level—Fourth Quarter

<u>From</u>	<u>To</u>	<u>Rate</u>
-0-	1,000.00	-0-
1,000.01	5,000.00	2.0%
5,000.01	7,000.00	3.0%



7,000.01	15,000.00	4.0%
15,000.01	22,000.00	5.0%
22,000.01	30,000.00	6.0%
30,000.01	40,000.00	7.0%
40,000.01	50,000.00	8.0%
50,000.01	and over	9.0%

(2) Employees who perform services during the taxable year, both as an employee receiving salary and wages subject to withholding pursuant to 4 CMC § 1804(e) 1821 and as an individual receiving compensation not subject to withholding tax pursuant to 4 CMC § 1804(e) 1821(e) are required to pay the wage and salary tax not so withheld. An individual subject to withholding under 1804(e) 1821(e) must file quarterly returns during the period his/her wages are not subject to withholding taxes pursuant to the tables established in this subsection. The combined wages and salary earned both as an employee subject to withholding tax and as an individual not subject to withholding tax must be reported on the Employee's Annual Wage and Salary Tax Return as provided in § 70-40.62-140 of this subchapter. Forms W-2 and W-2CM must be attached to the tax return. The provisions of this paragraph shall not apply beginning with taxable period after December 31, 1984, to employees paying estimated tax on income not subject to withholding, provided that the tax required under 1804(e) 4 CMC § 1821(e) is included in such estimated tax payment.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

#### **§ 70-40.6-115 Withholding; Non-refundable Credit**

(a) In General. Except as provided by subsection (d) and pursuant to and as provided by 4 CMC § 1206 ~~as amended by PL 9-59 and PL 10-73~~, a person may take the tax imposed on wages and salaries as a nonrefundable credit against the tax imposed on Commonwealth source income under subtitle A of the NMTIT pursuant to chapter 7 of title 4. However, 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)(1) Withholding by Employers. In order for 4 CMC § 1206 ~~as amended by PL 9-59 and PL 10-73~~ to apply at the time withholdings are deducted and remitted by an employer, the items of income subject to the NMTIT and the wage and salary tax must be taxable and/or that withholding must be required at the time the NMTIT and wage and salary tax was withheld or paid.

(2) This subsection may be illustrated by the following examples:

(i) Example No. 1		ABC Company Withholding Tax			
Employee Name	Gross Wages	<del>CH 7 Tax</del> Withheld	<del>CH 2 Tax</del> Computed	<del>CH 2 Tax</del> Tentative Credit	<del>CH 2 Tax</del> Withheld
Employee A	\$600.00	\$60.00	\$40.00	\$40.00	\$0.00

Employee B	400.00	25.00	40.00	25.00	15.00
Employee C	500.00	30.00	30.00	30.00	0.00
-	-	-	-	-	-
Totals	\$1,500.00	\$115.00	\$115.00	\$95.00	\$15.00
-	-	-	-	-	-
Amount to Remit	N/A	\$115.00	N/A	N/A	\$15.00
-	-	-	-	-	-

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
<u>Employee Name</u>	<u>Gross Wages</u> <u>[Bi-weekly]</u>	<u>CH 2 Tax WH</u>	<u>CH 7 Tax Computed</u>	<u>Actual CH7 Tax WH</u> <u>[C-B]</u>	<u>Total Taxes WH</u> <u>[B+D]</u>
Employee A	\$400.00	\$16.00	\$17.00	\$1.00	\$17.00
Employee B	500.00	20.00	27.00	7.00	27.00
Employee C	700.00	35.00	66.00	31.00	66.00
-	-	-	-	-	-
Total WH	-	\$71.00	-	\$39.00	\$110.00
-	-	-	-	-	-

Note: Figures are for illustrative purposes only.

(ii) Example No. 2 XYZ Company Withholding Tax

<u>Employee Name</u>	<u>Gross Wages</u>	<u>CH 7 Tax Withheld</u>	<u>CH 2 Tax Computed</u>	<u>CH 2 Tax Tentative Credit</u>	<u>CH 2 Tax Withheld</u>
-	-	-	-	-	-
Employee A	\$800.00	\$100.00	\$75.00	\$75.00	\$0.00
Employee B	1,000.00	75.00	80.00	75.00	5.00
Employee C	500.00	40.00	40.00	40.00	0.00
-	-	-	-	-	-
Totals	\$2,300.00	\$215.00	\$195.00	\$190.00	\$5.00
-	-	-	-	-	-
Amount to Remit	N/A	\$215.00	N/A	N/A	\$5.00

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
<u>Employee Name</u>	<u>Gross Wages</u> <u>[Bi-weekly]</u>	<u>CH 2 Tax WH</u>	<u>CH 7 Tax Computed</u>	<u>Actual CH7 Tax WH</u> <u>[C-B]</u>	<u>Total Taxes WH</u> <u>[B+D]</u>
Employee A	\$1,200.00	\$84.00	\$131.00	\$47.00	\$131.00
Employee B	1,800.00	144.00	258.00	114.00	258.00
Employee C	2,000.00	180.00	308.00	128.00	308.00
-	-	-	-	-	-
Total WH	-	\$408.00	-	\$289.00	\$697.00
-	-	-	-	-	-



Note: Figures are for illustrative purposes only

(iii) In example no. 2 above, for employee A, the actual tax withheld under chapter 7 (column D) of \$47.00 was the result of the chapter 2 tax of \$84.00 (column B) applied as a non-refundable credit against the computed chapter 7 tax (column C) of \$131.00. The amount of the nonrefundable credit allowable is the lesser of the amount of the chapter 2 tax withheld or the chapter 7 tax computed. As the amount of the chapter 2 tax withheld of \$84.00 is less than the amount of the chapter 7 tax computed of \$131.00, the amount of the non-refundable credit is \$84.00.

Employee A's combined withholding is \$131.00 (\$84.00 for wage and salary tax and \$47.00 for NMTIT), which in effect equals the greater amount of chapters 2 or 7 (NMTIT). XYZ Company shall deduct the \$131.00 from A's payroll check and classify as indicated above. Allowing the non-refundable credit, in effect, relieves employee A of any chapter 7 (NMTIT) withholding tax to the extent of any wage and salary tax withheld on the same wages and salaries that amount.

(c) Payment by Employees. In order for 4 CMC § 1206 as amended by PL 9-59 and PL 10-73 to apply at the time employees who are required to pay the wage and salary tax under 4 CMC § 1804(e) 1821(e), the items of income subject to the NMTIT and the wage and salary tax must be taxable and/or that chapter 2 payment must be required at the time the NMTIT estimated tax payment was made. This subsection may be illustrated by the following example:

(1) Example No. 1

Employee Name	Gross Wages	CH 7 Estimated Tax Paid	CH 2 Tax Computed	CH 2 Tax Tentative Credit	CH 2 Tax Paid	Employee Total to Remit
-	-	-	-	-	-	-
Employee A	\$800.00	\$100.00	\$75.00	\$75.00	\$0.00	\$100.00
Employee B	1,000.00	75.00	80.00	75.00	5.00	\$80.00
Employee C	500.00	40.00	40.00	40.00	0.00	\$40.00

<u>Employee Name</u>	<u>A</u> <u>Gross Wages</u> <u>[Bi-weekly]</u>	<u>B</u> <u>CH 2 Tax Paid</u>	<u>C</u> <u>CH 7 Tax Computed</u>	<u>D</u> <u>Actual CH7 Tax Paid</u> <u>[C-B]</u>	<u>E</u> <u>Total Taxes Paid</u> <u>[B+D]</u>
<u>Employee A</u>	<u>\$1,200.00</u>	<u>\$84.00</u>	<u>\$131.00</u>	<u>\$47.00</u>	<u>\$131.00</u>
<u>Employee B</u>	<u>1,800.00</u>	<u>144.00</u>	<u>258.00</u>	<u>114.00</u>	<u>258.00</u>
<u>Employee C</u>	<u>2,000.00</u>	<u>180.00</u>	<u>308.00</u>	<u>128.00</u>	<u>308.00</u>
<u>Total WH</u>	<u>-</u>	<u>\$408.00</u>	<u>-</u>	<u>\$289.00</u>	<u>\$697.00</u>
-	-	-	-	-	-

Note: Figures are for illustrative purposes only

(iii) In example no. 1 above, for employee A, the actual tax paid under chapter 7 (column D) of \$47.00 is the result of the chapter 2 tax of \$84.00 (column B) applied as a non-refundable credit against the computed chapter 7 tax (column C) of \$131.00. The amount of the nonrefundable credit allowable is the lesser of the amount of the chapter 2 tax withheld or the chapter 7 tax computed. As the amount of the chapter 2 tax withheld of \$84.00 is less than the amount of the chapter 7 tax computed of \$131.00, the amount of the non-refundable credit is \$84.00.

Employee A's combined liability is \$131.00 (\$84.00 for wage and salary tax and \$47.00 for NMTIT), which in effect equals the greater amount of chapters 2 or 7. Employee A shall deduct the \$131.00 from her payroll check and classify as indicated above. Allowing the non-refundable credit, in effect, relieves employee A of chapter 7 withholding tax to the extent of any wage and salary tax withheld on that amount.

Note: Figures are for illustrative purposes only

~~(2) In example no. 1 above, for employee A, the actual tax paid under chapter 7 of \$25.00 is the result of the chapter 2 wage and salary tax paid of \$75.00 applied as a non-refundable credit against the computed chapter 7 estimated tax of \$100.00. The amount of the nonrefundable credit is the lesser of the amount of the chapter 7 estimated tax computed and the chapter 2 tax paid. As the amount of the chapter 7 estimated tax computed of \$100.00 is greater than the amount of the chapter 2 tax paid in the amount of \$75.00, the amount of the non-refundable credit is limited to the amount of \$75.00.~~

~~Employee A's combined chapter 2 and chapter 7 liability is \$100.00 (\$75.00 for chapter 2 wage and salary tax and \$25.00 for chapter 7 NMTIT), which in effect equals the greater amount of chapters 2 or 7 (NMTIT). Employee A shall pay the \$100.00 and classify as indicated above. Allowing the non-refundable credit, in effect, relieves employee A of paying \$75.00 of the chapter 7 NMTIT imposed on wages and salaries received to the extent of the non-refundable credit which arises from the same taxable period.~~

(d) Reduction of Non-refundable Credit for PL 10-73 Educational Tax Credit. The amount of the nonrefundable credit allowed under subsection (a) and as provided by law shall be reduced by the amount of educational tax credit, allowed under 4 CMC § 1205, that is claimed by a person during the taxable year. See § 70-40.6-040(e)(3).

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 20 Com. Reg. 15890 (Apr. 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15822 (Feb. 15, 1998) (effective for 120 days from Feb. 3, 1998); Amdts Adopted 18 Com. Reg. 14076 (Apr. 15, 1996); Amdts Proposed 18 Com. Reg. 14002 (Feb. 15, 1996); Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The original paragraphs of subsections (b) and (c) were not designated. The Commission designated subsections (b)(1) and (b)(2) and (c)(1) and (c)(2).



The notice of adoption for the 1995 regulations changed the proposed language of subsection (b). The 1996 amendments deleted and replaced this section in its entirety with numerous amendments. The 1998 amendments added new subsection (d) and amended subsections (a), (b)(1) and (c).

## **§ 70-40.6-120 Wage and Salary Tax Withholding; Time For Tax Payment**

(a) Employer. Every employer required to withhold tax on compensation under chapter 2 and/or chapter 7 of 4 CMC must make a deposit of the taxes withheld as provided for under subsections (a)(1), (a)(2) and (a)(3) below. These deposits shall be made to the Division of Revenue and Taxation on Saipan or the Tinian and Rota District Offices. Payment deposit form 500-WH shall be used when paying taxes for both 4 CMC chapter 2 (wages and salary tax) and 4 CMC chapter 7 (NMTIT).

(1)(i) If the cumulative amount of chapter 2 and chapter 7 tax actually withheld equals or exceeds \$3,000.00, the withholding tax shall be deposited within 3 working days after the accumulated amount reaches \$3,000.00 or more. However, if the \$3,000.00 in cumulative withholding taxes were met as a result of overlapping into the first month of the succeeding quarter, a separate deposit form 500-WH must be made which segregates taxes withheld up to the end of the last month of the quarter. The balance of the withheld taxes must be deposited at the same time and shall be credited to the succeeding quarter's return.

(ii) Example No. 1: Taxpayer P has 150 employees, each of whom has \$20.00 in withholding taxes on a biweekly payroll period. Thus, for each payroll period, the total withholding tax of taxpayer P is equal to \$3,000.

<b><u>Payroll Period</u></b>	<b><u>Withholding Amount</u></b>
Month #1, Payroll Period #1	\$3,000.00
Month #1, Payroll Period #2	<u>\$3,000.00</u>
	\$6,000.00
Month #2, Payroll Period #1	\$3,000.00
Month #2, Payroll Period #2	<u>\$3,000.00</u>
	\$6,000.00
Month #3, Payroll Period #1	\$3,000.00
Month #3, Payroll Period #2	<u>\$3,000.00</u>
	\$6,000.00

Since the withholding tax in the first payroll period equals \$3,000.00, taxpayer P must make a deposit within 3 working days after the first payday and 3 working days after each payday for all subsequent paydays.

(2)(i) If the cumulative amount of chapter 2 and chapter 7 tax actually withheld is less than \$3,000.00 but at least \$500.00 at the end of any given month, the withholding taxes must be deposited within fifteen days after the end of the month in which the taxes were withheld. The deposits for the first and second months of the quarter shall be made on or before the fifteenth day after the end of the month in which the taxes were withheld. The deposit for the third month may be paid with form OS-3705, employers quarterly tax return, as provided in § 70-40.6-125(a) of this subchapter and on or before the due date of the quarterly returns as specified in § 70-40.6-125(a) of this subchapter.

(ii) Example No. 2: Taxpayer Q has 10 employees, each of whom has \$50.00 in withholding taxes for each month of the first quarter. Thus, for each payroll period, the total withholding tax of taxpayer Q is equal to \$500.00.

<b><u>Payroll Period</u></b>	<b><u>Withholding Amount</u></b>
January	\$500.00
February	\$500.00
March	\$500.00

Since the monthly withholding in each month equals \$500.00, taxpayer Q must make a monthly deposit. The deposit for the first calendar month, January, must be made in the amount of \$500.00 on or before February 15. The deposit for the second calendar month, February, must be made in the amount of \$500.00 on or before March 15. The deposit for the third calendar month, March, may be paid with form OS-3705 on or before April 30.

(iii) Example No. 3: Taxpayer R has 5 employees, each of whom has \$20.00 in withholding taxes in the first calendar month of the quarter. Thus, for the first calendar month, the total withholding tax of taxpayer R is equal to \$100.00. In the second month of the quarter taxpayer R hires 20 additional employees, each of whom has \$20.00 in withholding taxes. Thus, for the second calendar month, the total withholding tax of taxpayer R is equal to \$500.00.

<b><u>Payroll Period</u></b>	<b><u>Withholding Amount</u></b>
January	\$100.00
February	\$500.00
March	\$500.00

Taxpayer R does not have to make a deposit on or before February 15 for withholding tax in January since the withholding tax is less than \$500.00. However, taxpayer R must make a deposit in the amount of \$600.00 for withholding for the first and second months on or before March 15. The deposit for the third calendar month, March, may be paid with form OS-3705 on or before April 30.

(3)(i) If the cumulative amount of chapter 2 and chapter 7 tax actually withheld is less than \$500.00 at the end of any calendar month, the employer is not required to make a monthly deposit. Instead, the employer must pay the taxes with form OS-3705, employers quarterly tax return, on or before the due dates of this return as provided in § 70-40.6-125(a) of this subchapter.

(ii) Example No. 4: Taxpayer S has 15 employees, each of whom has \$10.00 in withholding taxes. Thus, for each calendar month, the total withholding tax of taxpayer S is equal to \$150.00.

<b><u>Payroll Period</u></b>	<b><u>Withholding Amount</u></b>
Month #1	\$150.00
Month #2	\$150.00
Month #3	\$150.00

Taxpayer S does not have to make monthly deposits since the monthly withholding is less than \$500.00. Instead, taxpayer S must pay the taxes with form OS-3705, employers quarterly tax return, on or before the due dates of this return as provided in § 70-40.6-125(a) of this subchapter.



(b) Employee. An employee required under 4 CMC § 1804(e) 1821(e) to pay the wage and salary tax himself or herself, must make such deposits at the Division of Revenue and Taxation in Saipan or at the Tinian and Rota District Offices. Payment deposit form 500-ES shall be used when paying taxes for both 4 CMC chapter 2 (wages and salary tax) and 4 CMC chapter 7 (NMTIT).

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The original paragraphs of subsections (a)(1) through (a)(3) were not designated. The Commission designated subsections (a)(1)(i) and (ii), (a)(2)(i) through (iii), and (a)(3)(i) and (ii).

### **§ 70-40.6-125 Quarterly Withholding Return, Form OS-3705**

(a) Employer. Every employer required to deduct and withhold any chapter 2 (wage and salary tax) and/or chapter 7 (NMTIT) shall on or before the last day of the month following the close of each quarter make a full and correct return showing all wages and salaries paid by the employer during the preceding quarter and showing the tax due and withheld thereon. Form OS-3705 is the return used to report the employee's wages and salaries by the employer and amount of tax withheld. It requires the employee's U.S. Social Security number, employee's name, taxable wages, tax withheld for each employee, and all other information required on the form prescribed by the Secretary. Form OS-3705A is the continuation sheet for form OS-3705. Form OS-3705 shall be filed on or before the last day of the date specified below:

<u><b>Quarter</b></u>	<u><b>Due Date</b></u>
First Quarter	April 30
Second Quarter	July 31
Third Quarter	October 31
Fourth Quarter	January 31

(b) Employee. An employee required under 4 CMC § 1804(e) 1821(e) to pay the wage and salary tax himself or herself is not required to file a quarterly withholding return. Instead, the filing of the payment deposit form 500-ES as provided in § 70-40.6-120(b) of this subchapter fulfills the employee's filing requirements. Payments and form 500-ES shall be made and filed on a quarterly basis on or before the last day of the date specified below:

<u><b>Quarter</b></u>	<u><b>Due Date</b></u>
First Quarter	April 30
Second Quarter	July 31
Third Quarter	October 31
Fourth Quarter	January 31

(c) Applicability of NMTIT Returns. Quarterly withholding returns required to be filed under the NMTIT, e.g., form 941, are satisfied upon the filing of the quarterly withholding returns under this section.

(d) When a chapter 7 NMTIT return is filed as required under subsection (a) also includes chapter 2 (wage and salary tax) withholdings, that return shall be considered filed for the purposes of assessing failure to file penalties under 4 CMC § 18122.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

#### **§ 70-40.6-130 Annual Wage and Tax Statement**

Every employer paying wages and salaries subject to chapter 2 (wage and salary tax) and/or chapter 7 (NMTIT) shall furnish to each employee and file a copy with the Division of Revenue and Taxation on or before January 31 of the succeeding year a written statement showing the wages or salaries paid by the employer to each employee and the amount of the tax deducted and withheld or paid, if any, with respect to such compensation. The statement which satisfies this requirement is form W-2CM required to be issued and filed under the NMTIT.

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

#### **§ 70-40.6-135 Annual Reconciliation of Employer's Income Tax Quarterly Withholding**

(a) Employer Return. Every employer required to deduct and withhold any chapter 2 wage and salary tax and/or chapter 7 NMTIT shall file a form OS-3710 "Annual Reconciliation of Employers Income Tax Quarterly Withholding" on or before January 31 after the close of the taxable year with the Division of Revenue and Taxation. Copy A of form W-2CM, wage and tax statement, is required to be attached to form OS-3710. Form OS-3710 replaces IRS form W-3, transmittal of wage and tax statements.

(b) Employee Return. Every employee who is required under 4 CMC § ~~1804(e)~~ 1821(e) to pay and remit chapter 2 wage and salary tax on a quarterly basis is required to file an annual reconciliation return. However, such requirement is met by filing an employee's annual wage and salary tax return as provided in § 70-40.6-140 of this subchapter.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

#### **§ 70-40.6-140 Employee's Annual Wage and Salary Tax Return**

(a) Requirement. Except as provided in subsection (b) and unless as provided otherwise, every employee subject to tax under 4 CMC § 1201 is required to file an "employee's annual wage and salary tax return," form 1040NMI, on or before April 15, after the end of the taxable year. Any additional tax due is payable upon the filing of this return. Any tax determined to be overwithheld



or overpaid will be refunded without the necessity of filing an application for refund. Copy 2 of form W-2 or W-2CM must be attached to form 1040NMI. No refund will be made without the wage and tax statement attached.

(b) Exception. An employee required to file an income tax return, form 1040EZ-CM, form 1040A-CM or form 1040CM, for the taxable year need not file a 1040NMI return. Instead, such 1040NMI return is satisfied by filing with the CNMI government a form 1040EZ-CM, form 1040A-CM or form 1040CM covering the same taxable period.

(c) Extension. Taxpayers who have requested an automatic ~~4~~6-month extension of time to file an annual individual income tax return for the same taxable year, are automatically granted the same amount of extension of time to file their form 1040NMI; provided, however, that the taxpayer properly estimates his or her wage and salary tax due (calculated after the 4 CMC § 1205 non-refundable credit) and pays such on or before April 15 of the year succeeding the taxable year to which the return relates.

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

## **§ 70-40.6-145 Effective Date**

Withholding taxes to be deducted and remitted by an employer pursuant to 4 CMC § ~~1821~~1804 shall be calculated based on wages and salaries paid commencing on the first day of each employer's first payroll period beginning after December 31 to the last day of each taxable year. Employers shall not change their customary payroll periods if such change would result in the postponement of the effective date on which to commence withholding the tax on wages and salaries.

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

## **Part 200 - Earnings Tax**

### **§ 70-40.6-201 Earnings**

(a) In General. Pursuant to 4 CMC § 1202, there is imposed on every person a yearly tax on such person's total earnings. Except as provided in subsection (c) of this section and subsection (b)(5), "earnings" means those items identified in 4 CMC § 1202(b) and subsection (b) of this section that are not derived in the course of carrying on a business as defined by 4 CMC § 1103(b) ~~and § 70-40.6-030(a) of this subchapter~~. Items that are derived in the course of carrying on a business are subject to the gross revenue tax, as appropriate and applicable, imposed at 4 CMC chapter 3.

(b) Earnings. "Earnings" means the following items, unless otherwise provided, that are not derived in the course of carrying on a business as defined by 4 CMC § 1103(b) and ~~§ 70-40.6-030(a) of this subchapter~~:

(1) A gain as determined under § 1001 of the NMTIT received from the sale of personal property, tangible or intangible, by a resident in the Commonwealth. For purposes of this provision, the basis of such personal property may be determined under 4 CMC § 1703(c) subject to the provisions of 4 CMC § 1703 and this subchapter;

(2) One-half of the gain as determined under § 1001 of the NMTIT received from the sale of real property located in the Commonwealth. For purposes of this provision, the basis of such real property may be determined under 4 CMC § 1703(c) subject to the provisions of 4 CMC § 1703 and this subchapter;

(3) One-half of the net income received from leasing real property located in the Commonwealth, including the assignment of any lease. For purposes of this provision, "net income from leasing real property including the assignment of any lease" means the income less expenses from the rental of real property. The expenses allowed as deductions in calculating the net leasing income are only those allowable under the NMTIT;

(4) Gross winnings as defined by § 70-40.6-030(i) of this subchapter from any gaming, lottery, raffle, or other gambling activity in the Commonwealth whether derived in the course of carrying on a business or not derived in the course of carrying on a business. Gross winnings subject to the earnings tax shall not include those exempt from the earnings tax by subsection (c)(9) of this section;

(5) Except as provided in 4 CMC § 1202(b)(6)(i)-(v) and subsection (c) of this section, all other types of income that a resident individual must report in determining his NMTIT.

(c) "Earnings" does not include the following items:

(1) Income which is subject to the wage and salary tax of 4 CMC § 1201;

(2) Wages and salaries received from the United States by active members of the Armed Forces of the United States;

(3) Reasonable per diem and travel allowances to the extent that they do not exceed any comparable Commonwealth government rates;

(4) Rental value of a home furnished to any employee or a reasonable rental allowance paid to any employee to the extent the allowance is used by the employee to rent or provide a home;

(5) Any payment of medical or hospitalization expenses made by an employer or insurance company to or on behalf of an employee or insured;

(6) Payments made to or on behalf of an employee or to his beneficiary to or from a trust, annuity, or retirement program. However, contributions made by an employer on behalf of an employee to a qualified plan as provided in the NMTIT which exceed that allowed as elective deferred compensation under the NMTIT shall not be excluded from the earnings tax.

(7) Any payment in the form of a scholarship, fellowship, grant, stipend, or the like made to any student while he is a full-time, bona fide student at an educational institution as defined by § 170(b)(1)(A)(ii) of the NMTIT: provided, however, that if the payment is made for services rendered, the student must receive college credit(s) for the performance of the services and the services must further the student's education, curriculum, or course of study.

(8) Any benefit payment from the United States, Trust Territorial, or Northern Marianas Social Security Administration.



(9) Jackpot winnings subject to the gaming machine jackpot tax of 4 CMC § 1505. Any jackpot winnings that are not subject to the gaming machine jackpot tax are, however, subject to the earnings tax as otherwise provided.

(i) Example No. 1: In 2017, taxpayer A wins \$1,000 from playing a poker machine. The gaming machine jackpot tax applicable to A is \$100 ~~\$300~~. Since the entire amount of jackpot winnings earned by A is subject to the gaming machine jackpot tax, A is not subject to the earnings tax on this \$1,000.

(ii) Example No. 2: In ~~1996~~ 2017, taxpayer B wins \$500 from playing a poker machine. The gaming machine jackpot tax is not applicable to A because winnings were less than \$1,000. Therefore, A is subject to the earnings tax on this \$500.

(10) Earnings derived by a person granted tax-exempt status by the Division of Revenue and Taxation as an organization exempt under NMTIT §§ 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(8), or 501(c)(10) to the extent allowed under 4 CMC § 1203(a) provided the person is in compliance with part 400 of this subchapter; and

(11) Interest and dividends sourced in the Commonwealth not in the course of carrying on a business, to the extent the aggregate amount of such income does not exceed \$2,000.

(12) De Minimis. Earnings which combined with all other earnings of a person ~~for a taxable year of a person~~ do not exceed \$1,000 in total for ~~a complete~~ the taxable year.

(d) In no instance shall an item of earnings be subject to taxation under the earnings tax more than once. For example, items subject to the earnings tax under 4 CMC § 1202(b)(1) - (5) shall not be again subject to the earnings tax under 4 CMC § 1202(b)(6).

\* So in original.

Modified, 1 CMC § 3806(c), (d), (f), (g).

History: Amdts Adopted 20 Com. Reg. 15890 (Apr. 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15822 (Feb. 15, 1998) (effective for 120 days from Feb. 3, 1998); Amdts Adopted 18 Com. Reg. 14076 (Apr. 15, 1996); Amdts Proposed 18 Com. Reg. 14002 (Feb. 15, 1996); Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The original paragraphs of subsection (c)(9) were not designated. The Commission designated subsections (c)(9)(i) and (ii).

The 1996 amendments amended subsection (b)(6). The 1998 amendments deleted former subsection (b)(4), redesignated former subsections (b)(5) and (b)(6) accordingly, added a new subsection (c)(11) and redesignated former subsection (c)(11) as (c)(12).

In subsection (c)(11), the Commission changed “no” to “not” to correct a manifest error.

## § 70-40.6-205

[Reserved.]

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

## § 70-40.6-210

[Reserved.]

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

## § 70-40.6-215 Non-refundable Credit

(a) In General.

(1) Except as provided by subsection (b) and pursuant to and as provided by 4 CMC § 1206 as amended by PL 9-59 and PL 10-73, a person may take the tax imposed on earnings as a nonrefundable credit against the tax imposed on Commonwealth source income under subtitle A of the NMTIT pursuant to chapter 7 of title 4. However, no such credit shall be allowed for any amount deducted in determining taxable income under the NMTIT as shown on the taxpayer's return.

(2) Example No. 1: In ~~1996~~ 2017, taxpayer A has \$100,000 of earnings subject to the earnings tax and the NMTIT. For this taxable year, taxpayer A has no other income, will file a joint return, and will claim two personal exemptions. At the close of the taxable year, taxpayer A prepares his form 1040CM and determines the following:

	<u>Earnings Tax</u>	<u>NMTIT</u>
Gross Income/Earnings	\$100,000.00	\$100,000.00
Less: Personal Exemptions	N/A	(5,000.00)
Less: Standard Deduction	N/A	(6,500.00)
Taxable Income/Earnings	100,000.00	88,500.00
Calculated Tax	9,000.00	19,983.00
Less: ET Tax Paid / Non-refundable Credit	(9,000.00)	(9,000.00) N/A
Balance after Non-refundable Credit	-0-	10,983.00 19,983.00
Tax Underpayment/Overpayment <u>NMTIT Paid</u>	- 0- N/A-	10,983.00 19,983.00
Rebate Base:		10,983.00
Tax Imposed:	\$19,983.00	
Less Credit:	(9,000.00)	
Rebate Base:	10,983.00	
Amount of Rebate:		
<u>Rebate Base:</u>	<u>\$10,983.00</u>	
<u>Rebate Amount:</u>	<u>x 90%</u>	
<u>Amount of Rebate</u>	<u>9,884.70</u>	
<u>-4,241.50</u> [10,983-2500]x[50%]	-	-
-	-	-
\$6,191.50	N/A	6,191.50

\*\*Note: Figures are for illustrative purposes only

(b) Reduction of Non-refundable Credit for PL 10-73 Educational Tax Credit. The amount of the nonrefundable credit allowed under (a) and as provided by law shall be reduced by the amount



of educational tax credit, allowed under 4 CMC § 1205, that is claimed by a person during the taxable year. See § 70-40.6-040~~(f)~~(3).

Modified, 1 CMC § 3806(c), (e), (f).

History: Amdts Adopted 20 Com. Reg. 15890 (Apr. 15, 1998); Amdts Emergency and Proposed 20 Com. Reg. 15822 (Feb. 15, 1998) (effective for 120 days from Feb. 3, 1998); Amdts Adopted 18 Com. Reg. 14076 (Apr. 15, 1996); Amdts Proposed 18 Com. Reg. 14002 (Feb. 15, 1996); Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The original paragraphs of subsection (a) were not designated. The Commission designated subsections (a)(1) and (a)(2).

The 1996 amendments deleted and replaced this section in its entirety with numerous amendments. The 1998 amendments amended subsection (a)(1) and added new subsection (b).

### **§ 70-40.6-220 Payment**

The earnings tax is due and payable on or before April 15 after the end of the year during which the earnings were received or accrued. The tax is payable upon the filing of the annual earnings tax return as provided in § 70-40.6-225 of this subchapter.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

### **§ 70-40.6-225 Reporting Requirements**

(a) Requirement. Except as provided in subsection (b), every person subject to the earnings tax of 4 CMC § 1202 is required to file an “annual earnings tax return,” form 1040NMI~~1040-ET~~, on or before April 15 after the end of the year during which the earnings were received or accrued. Appropriate copies of forms 1099 and any other necessary forms (e.g., form W-2CM or W-2 for excess deferred compensation) must be attached to form 1040-ET.

(b) Exception. Any person required to file an income tax return, form 1040EZ-CM, 1040A-CM or ~~form 1040CM~~, for the taxable year need not file an annual earnings tax return, form 1040NMI~~1040-ET~~. Such form 1040NMI~~1040-ET~~ is satisfied by the filing of a form 1040EZ-CM, 1040A-CM or ~~form 1040CM~~ covering the same taxable period.

(c) Extension. Taxpayers who have requested an automatic ~~4~~6-month extension of time to file an annual individual income tax return for the same taxable year, are automatically granted the same amount of extension of time to file their form 1040NMI~~1040-ET~~; provided, however, that the taxpayer properly estimates his or her earnings tax due (~~calculated after the 4 CMC § 1205 nonrefundable credit~~) and pays such on or before April 15 of the year succeeding the taxable year to which the return relates.

Modified, 1 CMC § 3806(c), (d), (f), (g).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: In subsection (a), the Commission moved the comma after “return” inside of the closing quotation mark.

#### **§ 70-40.6-230 Calculation of Wage and Salary Tax and Earnings Tax**

(a) The amount of tax imposed under the wage and salary tax of 4 CMC § 1201 and the earnings tax of 4 CMC § 1202 are determined in accordance with the schedule provided in 4 CMC § 1204. The wage and salary tax and the earnings tax are, however, separate and distinct taxes and therefore are computed separately. Thus, items of income subject to the wage and salary tax are not accumulated with items of income subject to the earnings tax to be taxed at the rate imposed under 4 CMC § 1204.

(b) Example No. 1. In ~~1995~~ 2017, taxpayer A receives wages and salaries in the amount of \$30,000 and earnings in the amount of \$2,000. Taxpayer A will pay a combined total of \$1,840 in earnings and wage and salary tax: \$1,800 of wage and salary tax (i.e. \$30,000 at 6%) and \$40 of earnings tax (i.e., \$2,000 at 2%). Taxpayer A ~~will~~ would not pay ~~\$2,240~~ taxes on the aggregate amount of as wages and salary and earnings tax for ~~1995~~ 2017 (i.e., \$32,000 at 7%).

Modified, 1 CMC § 3806(f).

History: Adopted 17 Com. Reg. 13539 (June 15, 1995) (superseding all rules and regulations issued prior to adoption); Proposed 17 Com. Reg. 13086 (Apr. 15, 1995).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).





# NORTHERN MARIANAS HOUSING CORPORATION

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234-6866

234-7670

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## **PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF THE NORTHERN MARIANAS HOUSING CORPORATION**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER  
AS PROPOSED REGULATIONS

Volume 42, Number 01, PP 043066-043163, of January 28, 2020

**ACTION TO ADOPT PROPOSED REGULATIONS:** The Commonwealth of the Northern Mariana Islands, Northern Marianas Housing Corporation ("NMHC"), HEREBY ADOPTS AS PERMANENT regulations the Proposed regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104 (a). The NMHC announced that it intended to adopt them as permanent, and now does so. A true copy is attached. I also certify by signature below that:

As published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,

and that they are being adopted without modification or amendment:

**PRIOR PUBLICATION:** The prior publication was as stated above. The NMHC Board adopted the regulations as final at its meeting on December 13, 2019.

**MODIFICATION FROM PROPOSED REGULATIONS, IF ANY:** "None"

**AUTHORITY:** Pursuant to Public Law 20-87 (2 CMC § 4433 (s)), the NMHC Board is authorized to adopt and promulgate its personnel regulations.

**EFFECTIVE DATE:** Pursuant to the APA, 1 CMC § 9105 (b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC § 9102 and 9104 (a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

**COMMENTS AND AGENCY CONCISE STATEMENT:** Pursuant to the APA, 1 CMC § 9104 (a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. Please see the following pages for this agency's concise statement, if there are any, in response to filed comments.

**ATTORNEY GENERAL APPROVAL** for non-modified regulations or regulations with NON-material modification: The adopted regulations were approved for promulgation by the Attorney General in the

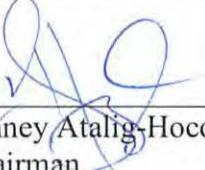




above cited pages of the Commonwealth Register, pursuant to 1 CMC § 2153 (e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

I Declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the \_\_\_\_\_, \_\_\_\_\_, 2020, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

  
\_\_\_\_\_  
Vinney Atalig-Hocog  
Chairman  
Northern Marianas Housing Corporation Board of Directors

2/27/2020  
Date

Filed and  
Recorded by:

  
\_\_\_\_\_  
ESTHER SN. NESBITT  
Commonwealth Registrar

02.28.2020  
Date



# NORTHERN MARIANAS HOUSING CORPORATION

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## **PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF THE NORTHERN MARIANAS HOUSING CORPORATION**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER  
AS PROPOSED REGULATIONS

Volume 42, Number 01, PP 043164-043215, of January 28, 2020

**ACTION TO ADOPT PROPOSED REGULATIONS:** The Commonwealth of the Northern Mariana Islands, Northern Marianas Housing Corporation ("NMHC"), HEREBY ADOPTS AS PERMANENT regulations the Proposed regulations which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104 (a). The NMHC announced that it intended to adopt them as permanent, and now does so. A true copy is attached. I also certify by signature below that:

As published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,

and that they are being adopted without modification or amendment:

**PRIOR PUBLICATION:** The prior publication was as stated above. The NMHC Board adopted the regulations as final at its meeting on December 13, 2019.

**MODIFICATION FROM PROPOSED REGULATIONS, IF ANY:** "None"

**AUTHORITY:** Pursuant to Public Law 20-87 (2 CMC § 4433 (t)), the NMHC Board is authorized to adopt and promulgate its procurement regulations.

**EFFECTIVE DATE:** Pursuant to the APA, 1 CMC § 9105 (b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC § 9102 and 9104 (a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

**COMMENTS AND AGENCY CONCISE STATEMENT:** Pursuant to the APA, 1 CMC § 9104 (a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. Please see the following pages for this agency's concise statement, if there are any, in response to filed comments.

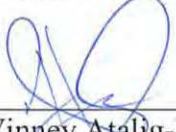
**ATTORNEY GENERAL APPROVAL** for non-modified regulations or regulations with NON-material modification: The adopted regulations were approved for promulgation by the Attorney General in the




above cited pages of the Commonwealth Register, pursuant to 1 CMC § 2153 (e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

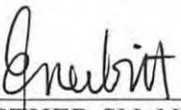
I Declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the \_\_\_\_\_, \_\_\_\_\_, 2020, at Saipan, Commonwealth of the Northern Mariana Islands.

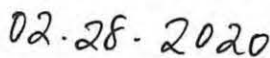
Certified and ordered by:

  
\_\_\_\_\_  
Vinney Atalig-Hocog  
Chairman  
Northern Marianas Housing Corporation Board of Directors

  
\_\_\_\_\_  
Date

Filed and  
Recorded by:

  
\_\_\_\_\_  
ESTHER SN. NESBITT  
Commonwealth Registrar

  
\_\_\_\_\_  
Date