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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

CIVIC CENTER, SAIPAN, MARIANA ISLANDS

Volume 2 Number 3

Page 776 to Page 834

Date of Publication: March 16, 1980



## Commonwealth

# Register

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The Commonwealth Register is editorially organized according to the Commonwealth or other agency issuing the documents published or having an immediate administrative or enforcement concern over them. Listing in these contents or publishing in the sections that follow in this manner is for public information and has no legal significance.

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## Commonwealth of the Northern Mariana Islands Office of the Governor

Saipan Mariana Islands 96950

Cable Address Gan N MI Saipan

March 27, 1980

Important Points in Executive Order

- 1. Purpose. Prevent/reduce crime and juvenile delinquency; improve criminal Justice services, police and public safety, correction and rehabilitation of offenders; public education and training to encourage improvement of justice system.
- 2. Council. Governor to appoint a 16-member council, representing various segments of Commonwealth community. The Council chairperson will be appointed by Governor.
- Compensation. Council members are not to be paid for their services, but are to be reimbursed for official travel expenses.
- 4. Executive Director Appointment and Salary.

  The Executive Director will be appointed by the Governor and his salary will be determined by Governor. Other staff employees of the Agency
- 5. Executive Director Functions.
  - a) Advise the Governor and the Council in the development of plans, policies, programs and budget for improving the administration and effectiveness of the criminal justice system;

may be hired by the Executive Director.

- b) Prepare comprehensive criminal justice plan and related grant applications on behalf of the Governor, and present it to Governor, Council and the legislature for review.
- c) Prepare Legislation relating to criminal justice.
- 6. Funding. The Criminal Justice Planning Agency will be funded by the Federal Government.
- 7. Effective Date. Upon approval by the Governor.



## Commonwealth of the Northern Mariana Islands Office of the Governor

Saipan, Mariana Jelande 96950

Cable Address: Sob. IMI Saipan

Executive Order No. 6 (Amending Executive Order on the same subject, formerly numbered Executive Order No. 6, dated July 10, 1978)

Subject: Northern Marianas Commonwealth Council for the Improvement of the Criminal Justice System.

Section 1. Definitions and Terms. Wherever used in this Executive Order, unless the subject matter, context or sense otherwise requires:

- (a) "Commonwealth" means the Commonwealth of the Northern Mariana Islands.
- (b) "Comprehensive" means a total and integrated analysis of the problems regarding the administration of justice within the Commonwealth. The factors to be considered or established shall include but not be limited to:
  - crime and juvenile delinquency rates and patterns;
  - (2) court case loads;
  - (3) custodial, treatment and rehabilitation services and facilities;
  - (4) training needs; and
  - (5) goals, priorities and standards.
  - (c) "Council" means the Northern Marianas Council for

the Improvement of the Criminal Justice System.

- (d) "Agency" means the Northern Marianas Criminal Justice
  Planning Agency.
- (e) "State Plan" means the comprehensive criminal justice plan formulated for the improvement of criminal justice in the Commonwealth.
- Section 2. Findings and Purpose. Whereas the Government of the Commonwealth Northern Mariana Islands agrees that:
- (a) Crime and juvenile delinquency are essentially Commonwealth problems which are complex social phenomena requiring the attention and efforts of the criminal justice system, the Commonwealth Government, and private citizens.
- (b) The establishment of appropriate goals, objectives and standards for the reduction of crime and juvenile delinquency and for the administration of justice is a high priority concern which requires the cooperation of Commonwealth Government departments, and agencies and instrumentalities in order to make efficient and effective use of Commonwealth resources.
- (c) The Government of the Commonwealth is committed to improve the scope and quality of criminal justice services to its people, including effective court administration, protection of juveniles in custody, prevention and detection of crimes, police and public safety, corrections and rehabilitation of adult offenders and related matters. Training, research, technical assistance, and

improvement of the criminal justice system and the generation of new methods for the prevention and reduction of crime and delinquency.

(d) The Government of the Commonwealth agrees that the financial and technical resources of the Federal Government as provided by the Federal Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. Section 3701, et seq., as amended, (U.S. Public Law 90-351, as amended by U.S. Public Law 93-83, U.S. Public Law 93-415, U.S. Public Law 94-430, U.S. Public Law 94-503, and U.S. Public Law 95-115), should be used to provide constructive aid and assistance to state, territorial and commonwealth governments in improving the scope and quality of the criminal justice system to its citizens and in combatting the serious problem of crime and juvenile delinquency.

Section 3. Council.

- (a) Establishment. There is hereby established as an independent, continuing commission within the office of the Governor of the Commonwealth, the Northern Marianas Council for the Improvement of the Criminal Justice System which shall be under the jurisdiction of the Governor.
- (b) Composition. The Council shall be composed of sixteen (16) members which shall include:
- (1) Chief Judicial Officer of the Commonwealth
  Court of the last resort, or another officer of the Court of last

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nominees submitted by the Chief Judicial Officer of the Court of last resort if he chooses not to serve on the council.

- (2) Chief Justice of the Commonwealth Trial Court or another judicial officer of the Commonwealth Trial Court chosen by the Governor from a list of at least three nominees submitted by the Chief Justice if he chooses not to serve.
  - (3) Attorney General;
  - (4) Public Defender;
  - (5) Director of the Department of Public Safety;
  - (6) Chief of Corrections;
  - (7) Chairman of the Parole Board;
  - (8) Superintendent of the Department of Education;
  - (9) Executive Assistant for Carolinian Affairs; and
  - (10) The Chairman of the Youth Advisory Council as provided under the Juvenile Justice and Delinquency

    Prevention Act of 1974.
    - (11) And six (6) citizen members
- (c) Appointment. The official designated in Section 4(b), (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10) of this Act are automatically appointed members of the Council.

  Six (6) citizen members shall serve a term of four (4) years and shall be appointed in accordance with Public Law No. 1-8; with representation among citizens members of Rota, Tinian, the

### Page 4 of 10

Northern Islands, an elected official and a female member.

Appointments will be made by the Governor.

- (d) Vacancy. In the event that any members of the Council designated in section 4(b) (1) to (9) inclusive, ceases to be an official or employee of the branch, unit, department or agency he represents, his membership on the Council shall terminate immediately and a new member shall be appointed in the same manner as his predecessor. Other vacancies shall be filled for the unexpired term in the same manner as the original appointment within thirty (30) days of the vacancy.
- (e) Chairperson and Vice-Chairperson. The chairperson of the Council shall be appointed by the Governor from among the Council members. A Vice-Chairperson shall be elected by the Council from among its members and shall serve as Chairperson in the event of the Chairperson's absence.
- (f) Compensation. A member of the Council is not entitled to a salary for duties performed as a member of the Council. Each member shall be entitled to reimbursement for travel and other necessary expenses incurred in the performance of official Council duties.

Section 4. Council meeting; Quorum; Committees; Bylaws; Records.

The Council shall meet at least once a year and at such times as

designated by the Chairperson. Nine (9) members shall constitute a

quorum. The Council may establish committees to perform its functions

and duties as it deems advisable and feasible. The Council may adopt bylaws to regulate its proceedings. All meetings of the Council, or any committee thereof, at which public business is discussed or formal action is taken shall be announced and open to the public. The Council and the Agency shall provide for public access to all records relating to their functions under this Act, except that confidentiality shall be kept as may be required by Commonwealth or federal law.

### Section 5. Agency.

- (a) Establishment. There is hereby established under the Council the Northern Marianas Criminal Justice Planning Agency which shall function in compliance with the Federal Omnibus Crime Control and Safe Streets Act of 1968, as amended.
- (b) Executive Director. The Governor shall appoint an Executive Director as head of the Agency who shall serve at the pleasure of the Governor and be paid such compensation as the Governor may determine.
- (c) <u>Staff</u>. The Executive Director may employ such personnel and contract for such consulting services as may be necessary to carry out the purposes of this Order. Agency staff shall be employed in accordance with Public Law 1-9 and Commonwealth Personnel Regulations, and shall be subject to their provisions.

Section 6. Council; Power and Duties. The Council shall have the following powers and duties:

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- (a) To supervise the Agency in performing for powers and duties under this Act.
- (b) To review, approve and maintain general oversight of the State Plan and its implementation.
- (c) To prepare an Annual Report detailing its work during the preceding calendar year which shall be submitted to the Governor and the Legislature and made available to the public. Other studies, evaluations, crime data analysis and reports may be submitted to the Governor or Legislature upon request or as may be deemed appropriate by the Council.
- (d) To guide the Northern Marianas Criminal Justice

  Planning Agency to define goals and develop standards for the

  criminal justice system; conduct or authorize a criminal justice plan

  and annual revisions to it and other appropriate planning studies for

  the improvement of law enforcement and criminal justice; build on

  work already completed, including studies pertaining to the protection

  of juveniles in criminal proceedings; provide advice to the Governor

  in the areas of its competence; identify, conduct, oversee or coordinate

  programs, including demonstration projects, for the prevention of

  crimes, effectiveness of criminal procedures, and the care, treatment

  and rehabilitation of offenders; monitor and assess criminal justice

  activities; and recommend legislation or regulations to the Governor

  as may be appropriate. The Council shall serve in an advisory

  coordinative capacity to the branches and agencies of the government

in its area of competence and may provide technical and request.

- (c) To advise and assist the Governor in developing policies, plans, programs, and budgets for improving the coordination, administration and effectiveness of the criminal justice system in the Commonwealth.
- Section 7. Agency; Powers and Duties. The Agency shall have the following powers and duties:
- (a) To serve as the State Criminal Justice Planning

  Agency of the Northern Mariana Islands under the supervision of
  the Council and subject to the jurisdiction of the Governor.
- (b) To function in a manner consistent with the Constitution and laws of the Commonwealth and pursuant to the Federam omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Delinquency Prevention Act of 1974, as amended, and other related federal laws.
- (c) To advise and assist the Governor in developing policies, plans, programs, and budgets for improving the coordination, administration and effectiveness of the Criminal justice system in the Commonwealth.
- (d) To prepare a Commonwealth comprehensive criminal justice plan and related grant applications on behalf of the Governor. Such plan, and any substantial modification thereof, shall be submitted to the Council for approval. Upon approval by the

Council, such plan shall be submitted to the Governor who shall submit it to the Commonwealth Legislature for its advisory review of the goals, priorities and policies contained therein. Such plan shall be periodically updated, shall be based on an analysis of the Commonwealth criminal justice needs and problems, and shall conform to Commonwealth and federal regulations.

- (e) To establish goals, priorities and standards for the reduction of crime and the improvement of the administration of justice in the Commonwealth.
- (f) To recommend legislation to the Governor and the Legislature relating to criminal justice.
  - (g) To encourage comprehensive justice planning efforts.
- (h) To monitor, evaluate and coordinate programs and projects, funded in whole or in part by the Commonwealth Government, aimed at reducing crime and juvenile delinquency and improving the administration of justice.
- (i) To cooperate with and render technical assistance to Commonwealth public or private agencies relating to the criminal justice system.
- (j) To apply for, contract, receive, and expend for its purposes any appropriations or grants from the Commonwealth, the Federal Government, or any other source, public or private, in accordance with the appropriate process.
  - (k) To have the authority to collect from any Commonwealth

department, agency, instrumentality, office or other entity, information data, reports, statistics or such other material which is necessary to carry out the Council's or the Agency's functions.

(1) To perform such other duties or functions as may be required by or delegated by the Council to carry out the purpose of this Order.

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Section 9. If forecommend lestslation to the forecome and the Section 9. If wording the provision of this Executive or Post on this Executive of the Section 9. It lests as the properties of the Section of this forecome set on the section of the Section of the Section of the Post of the Section of Section of the Section of Section of the Section of Section of

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### Commonwealth of the Northern Mariana Islands

### Department of Aatural Resources

Saipan, Mariana Islands 96950

Cable Address:

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PUBLIC NOTICE

The President of the United States of America signed Proclamation 4726 on February 21, 1980. The proclamation sets requirements for local citizens to use foreign-built fishing vessels larger than five net tons.

Amendments to Executive Order 6-A were prepared to implement this proclamation. All interested persons are requested to review the Executive Order. Questions should be directed to the Office of the Attorney General, Department of Commerce and Labor or the Department of Natural Resources.

This Order is effective March 17, 1980.

Kenneth O. Larson

Acting Attorney General

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### COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS MARITIME INDUSTRY SYSTEM PROCEDURES March 12, 1980

### AMENDMENT TO EXECUTIVE ORDER NO. 6-A

Whereas, on February 21, 1980, President Carter signed Presidential Proclamation 4726 exempting the Commonwealth of the Northern Mariana Islands from certain effects of R.S. 4132, 46 USC 11 (U.S. Vessel Registry and Documentation Law);

Whereas, the proclamation will be effective immediately and continue until termination of the Trusteeship Agreement; and

Whereas, P.L. 1-8, Chapter 9, Section 3(c), (Executive Organization Act) provides that the Department of Commerce and Labor has authority to provide rules and regulations regarding commercial vessels;

Now, Therefore, in my official capacity as Governor, I execute this amendment to Executive Order No. 6-A to further provide for the organized and efficient utilization of foreign-built vessels employed in the Northern Mariana Islands fisheries by adding to the Executive Order the following provisions:

- Definitions Whenever used in this Order, the following terms have the meaning indicated:
  - (a) Foreign-Built Vessel: A foreign-built vessel as used in this Order is any vessel larger than five (5) net tons manufactured outside the jurisdiction of the United States of America and the owners of which meet the citizenship and documentation requirements contained in Presidential Proclamation 4726, February 21, 1980.
  - (b) Foreign Fishing: Foreign fishing is any operation or support of such operation designed to harvest any marine resource conducted by vessels of any country other than the United States of America or the Commonwealth of the Northern Mariana Islands. Nothing in this Order changes laws restricting foreign fishing; thus, foreign fishing may be conducted only in accordance with U.S. and CNMI laws.
  - (c) Marine Resources: "Marine Resources" for purposes of this Order means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.
  - (d) Northern Mariana Islands Fishery: This fishery is any fishing operation or support of such fishing conducted for any species within the 200 nautical mile fishery rone surrounding the islands composing the jurisdiction of the Commonwealth of the Northern Mariana Islands as defined by longitude and latitude in Presidential Froclamation 4726, February 21, 1980; Note, however, the southern boundary of such zone is a line approximately equidistant between Guam and Rota.
  - (e) Person or Persons: As used in this Order, the term person or persons shall include individuals, partnerships, unincorporated companies and associations, corporations formed under CNMI laws, any government or agency thereof or any combination of the above.

Use of Locally-Owned, Foreign-Built Fishing Vessels. Any person or persons desiring to employ foreign manufactured vessels in the Northern Mariana Islands fisheries must comply with the following procedures and requirements:

(a) These procedures and requirements shall not apply to vessels of less than five (5) net tons. Vessels

in this category may be registered pursuant to United States or Commonwealth laws, regardless of place of manufacture, and be employed in the fisheries.

- (b) Vessels greater than five (5) net tons built in any area or country outside the jurisdiction of the United States may be employed in the Northern Mariana Islands fishery under Presidential Proclamation 4726, February 21, 1980, until official termination of the U.N. Trusteeship Agreement and only upon strict compliance with the following requirements:
- (1) Persons Eligible to Utilize foreign-built vessels:
- (aa) Individual -- an individual citizen of the Trust Territory of the Pacific Islands, who is exclusively domiciled, within the meaning of Section 1005(e) of the Covenant, in the Northern Mariana Islands;
- (bb) Partnership, Unincorporated Company or Association—all members of the partnership, unincorporated company or association must be citizens of the Northern Mariana Islands as defined in (aa) above;
- (cc) Corporation a corporation must be incorporated and duly chartered under the laws of the Commonwealth of the Northern Mariana Islands AND the President or other Chief Executive Officer AND the Chairman of the Board of Directors must be Northern Mariana Islands citizens as defined in (aa) above AND no more of its directors than a minority of the number necessary to constitute a quorum are NOT citizens of the Northern Mariana Islands as defined in (aa) above.
- (2) Compliance with other Laws A person or persons utilizing foreign-built vessels under this proclamation and the procedures set forth in this Executive Order must, in addition to these requirements, fully comply with existing laws, taxation requirements, and all other regulations relating to the transacting of business in the Commonwealth. Additionally, these vessels must comply with all domestic fishing laws and regulations, including but not limited to, area and season closures, limited entry, quotas, and gear restrictions.

### (3) Procedures for Licensing and Permits:

- (aa) An individual, partnership, unincorporated company or association must obtain from the Department of Commerce and Labor, through application and payment of required fees, a business license to transact business in the Commonwealth, AND must prove compliance with Section 2(b)(1)(aa) and (bb) above.
- (bb) A corporation must be organized and incorporated under the laws of the Commonwealth of the Northern Mariana Islands AND, in addition, must provide proof of strict compliance with the citizenship requirements of Section 2(b)(1)(cc) above to the Department of Commerce and Labor.
- (cc) The Department of Commerce and Labor will certify to the United States Coast Guard that the citizenship requirements are met for each vessel being documented.
- (dd) The foreign-built vessel must be documented under the laws of the United States by contacting the U.S. Coast Guard Marine Safety Office Guam, P.O. Box 157, FPO San Francisco, CA 96630, Tel. No. 339-4220 (Guam).
  - (ee) A person or persons utilizing foreign-

built vessels under these procedures must obtain through application and payment of fees, from the Department of Commerce and Labor, a fishing permit for each vessel to be employed in the Northern Mariana Islands fishery. No foreign-built vomusel shall cogage in fishing within the Northern Marianas Fishery Zone without having a valid perm't prominently displayed in the wheel house of the vessel to which the permit was issued. Fishing permit may be obtained either at the same time as the business license or after documentation is completed.

(ff) Fees - a fee per vessel of no less than \$10.00 per net ton shall be paid to the Department of Commerce and Labor which shall be used to carry out the administration of these procedures.

(gg) The Director, Department of Commerce and Labor may establish the level of fees for fishing permits based on the cost of administration, but such fee shall not be less than \$10.00 per net ton per vessel.

- Permit Requirements The Director, Department of Commerce and Labor, with the approval of the Director of the Department of Fatural Resources, shall be responsible for placing necessary additional requirements on the conduct of operations of foreign-built vessels employed in the NMI fisheries, including, but not limited to port calls, maintenance of log books open to inspection, employment of government observers, reporting and cooperative enforcement standards. Notice of such requirements shall be provided for each vessel, but in no case shall these requirements discriminate among foreign-built vessels of the same size or class.
- Permit Contents Each permit shall include at least the following information:
  - (aa) Name, address and citizenship of owner(s);
  - (bb) Vessel's description including:
    - Vessel's name ( i)
    - ( ii) USCG Registration Number
    - (iii) Size and Weight
    - ( iv) Fishing Gear
    - ( v) Electronic Equipment and navigational aids
    - ( vi)
    - Safety Equipment Vessel's Identification Code (vii) Number
  - (cc) Place and Date of manufacture
  - (dd) Home Port of Vessel
- Identification Code Each foreign-built vessel documented under this Order shall be assigned an Identification Code Number. This code number shall be affixed to the vessel and prominently displayed in such a manner that surface vessels and aircraft can readily identify the vessel. Assignment of this identification code number shall be the responsibility of the Director, Department of Commerce and Labor, in consultation with the Director, Department of Natural Resources.
- 3. Severability. If any provision of this Executive Order or the application of any provision of this Executive Order to any person, association, corporation, partnership or any other instrumentality or circumstances, shall be held invalid, by a court of competent jurisdiction or is modified or disapproved by the Legislature pursuant to Article III, Section 15 of the CNMI Constitution, the remainder of this Executive Order or the application of such provisions to any person, association, corporation, partnership or any other instrumentality or circumstances other than those to which it is held invalid, shall not be affected thereby.

4. Effective Date. Except as otherwise provided herein, this Amended Executive Order No. 6-A shall be effective beginning March 17, 1980.

CARLOS S. CAMACHO
Governor

### PUBLIC NOTICE

### Adoption of Emergency Administrative Regulations

The Director of Finance, in accordance with Public Law No. 1-8 and Public Law No. 1-21; Section 154, 77 TTC (CNMI); and Public Law No. 1-30 (CNMI), and Title 17, TTC, Section 4(2), wishes to advise the public that new rules and regulations, identified as Administrative Regulations No. 3901 of the Division of Revenue and Taxation have been adopted.

The adopted regulations include the following subjects:

- 1. General Provisions
- 2. Definition Business License Fees
- 3. Assessment by Director Records and Audit
- 4. Review (Appeal Procedure)
- 5. Administration, Personnel, and Procedure
- 6. Procedure Permanent Deposit
- 7. Refunds Government Funded Projects
- 8. Government Sales
- 9. Tax Clearances

These regulations are published in the Commonwealth Register and may be obtained from the Attorney General's Office, 5th Floor, Nauru Building, Susupe, Commonwealth of the Northern Mariana Islands, Saipan, CM 96950.

THE PUBLIC INTEREST in avoiding confusion as to the administration in filing and paying taxes and avoiding a loss of revenue to the Commonwealth, requires that these regulations be adopted immediately and prior to April 15, 1980, which is the deadline for filing Commonwealth tax returns.

Certified By:

Tomas B. Aldan

(Acting Lirector of Finance)

Ape: 10, 1980
Date

Concurred By:

Carlos S. Camacho

Governor

Date

### PUBLIC NOTICE

### Adoption of Emergency Revenue Regulations

The Director of Finance, in accordance with Public Law No. 1-8, Public Law No. 1-30, and Title 17, TTC, Section 4(2), wishes to advise the public that new rules and regulations, identified as Revenue Regulations Chapter No. 5901 of the Division of Revenue and Taxation have been adopted.

The adopted regulations include the following subjects:

- 1. General Provisions
- 2. Definitions
- 3. Tax on Wages and Salaries
- 4. Deposit of Withheld Wage and Salary Taxes
- 5. Individual to File Return and Earned Income
- 6. Tax on Business Gross Revenues
- 7. Apportionment
- 8. Territorial Income Tax Effective January 1, 1979

These regulations are published in the Commonwealth Register and may be obtained from the Attorney General's Office, 5th Floor, Nauru Building, Susupe, Commonwealth of the Northern Mariana Islands, Saipan, CM 96950.

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Certified By

Tomas B. Aldan

(Acting ) rector of Finance)

Concurred By:

Carlos S. Camacho

Governor

April 04, 1980

Date

4/7/80 Date

### PUBLIC NOTICE

### Adopted Administrative Regulations No. 3901

The Director of Finance, in accordance with Public Law No. 1-8 and Public Law No. 1-21; Section 154, 77 TTC (CNMI); and Public Law No. 1-30 (CNMI), wishes to advise the public that new rules and regulations, identified as Administrative Regulations No. 3901 of the Division of Revenue and Taxation have been adopted.

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- 2. Definition - Business License Fees
- Assessment by Director Records and Audit 3.
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- 5. Administration, Personnel, and Procedure
- 6. Procedure Permanent Deposit
- 7. Refunds Government Funded Projects
- 8. Government Sales
- 9. Tax Clearances

These regulations are published in the Commonwealth Register and may be obtained from the Attorney General's Office, 5th Floor, Nauru Building, Susupe, Commonwealth of the Northern Mariana Islands, Saipan, CM 96950. There is a fee of \$3.00 for each part, as actually bound.

Director of Finance

3/17/80 Date

# ADOPTED ADMINISTRATIVE REGULATIONS OFFICE OF THE DIRECTOR OF FINANCE DEPARTMENT OF FINANCE

### DIVISION OF REVENUE AND TAXATION COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

### GENERAL PROVISION

Section 1. Authority. The authority for the promulgation and issuance of Administrative Regulations No. 3901 is by virtue of Public Law No. 1-21; Section 154, Chapter 7 and Chapter 11, 77 TTC, as they apply to the Northern Mariana Islands; Section 8, Chapter 11, Title I of Public Law No. 1-8; and Section 6, Chapter II of Public Law No. 1-30 (CNMI).

Section 2. Purpose. The purpose of the regulations is to establish policy and procedures and provide uniform enforcement of all taxation and customs laws and regulations, and administration of the Division of Revenue and Taxation.

Section 3. Regulations Superseded. All regulations issued to enforce taxation and customs laws and to administer the Division of Revenue and Taxation, previously named "Division of Revenues" (April 1, 1976 - August 16, 1978) and "Marianas District Revenue Office" (July 1, 1971 - March 31, 1976), are hereby superseded by these regulations, Revenue Regulations No. 5901, and Customs Regulations No. 7901.

### CHAPTER I

### BUSINESS LICENSE FEES

### PART 10.3. LICENSE FEES

(8) Public Utilities - Definition. For purposes of these regulations promulgated pursuant to Section 154, 77 TTC, "Public Utility,"

under Section 3(8), means any business organization that owns, controls, operates or manages a business supplying or furnishing the public with commodities, equipment, or service such as telephone, telegraph, television, garbage disposal, sewage disposal, water, electricity, airlines and shipping lines.

### CHAPTER 11

PART 10.263(2). ASSESSMENT BY DIRECTOR - RECORDS AND AUDIT

Section 1. Production of Records of Taxpayers Pursuant to CNMI Tax Laws. For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any tax or the liability at law or in equity of any transferee or fiduciary of any person in respect of any tax, or collecting any such tax liability, the Director or his delegate is authorized to:

- (a) Examine or request any books, papers, records, or other data with or without the taxpayer's consent from any person, which may be relevant or material to such inquiry. The required records shall be made available not later than ten (10) days beginning with the date when the request is received;
- (b) Summon the person liable for tax or required to perform the act, or any officer or employee of such person or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable for tax or required to perform the act, or any other person, the Director or his designee may deem proper, to appear before the Director or his delegate at the time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and,

(c) Take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry.

Section 2. Record Maintenance. All books and records of all business transactions necessary to determine the gross revenue tax and other taxes imposed by the Commonwealth Government are to be maintained in the Senatorial District within the Commonwealth where the business operation is conducted and shall be made available for examination not later than ten (10) days beginning with the date when the request is received. A full and accurate record of all business transactions necessary to determine the annual business gross revenue tax and other taxes, must be maintained for a minimum of three (3) years after the date of such transaction.

PART 10.268. REVIEW - (APPEAL PROCEDURE)

Section 1. Right of Appeal and Preparing Protests for Unagreed Cases.

- (a) If the taxpayer agrees with the examining officer's findings, he may pay any additional amount due and owing without waiting for a bill. Check or money order must be made payable to Treasurer, Northern Marianas, including interest on the additional tax at six percent (6%) per annum, or such adjusted rate as is established under the Internal Revenue Code, from the due date of the return to the date of payment. Cash must not be sent in the mail.
- (b) The Division of Revenue and Taxation maintains a system of appeals through which disagreements on tax matters can be settled without expensive and time-consuming court trials.
- (c) If a taxpayer does not agree with the examining officer's findings, he is urged to first appeal his case to higher levels within the Department of Finance.

- (d) If a taxpayer does not want to appeal his case to a higher level within the Department of Finance, Division of Revenue and Taxation, he may either:
- (1) Request the Division of Revenue and Taxation to issue a Statutory Notice of Deficiency, then upon receipt of it, take his case to the Commonwealth Trial Court or the District Court whichever has jurisdiction in his case, or
- (2) Pay the tax, file a claim for refund and, if the claim is disallowed, file suit for refund in the Commonwealth Trial Court or the District Court whichever has jurisdiction.
- Section 2. General Rules on How to Appeal a Case Within the Department of Finance, Division of Revenue and Taxation.
- (a) There are three levels of appeal within the Department of Finance, Division of Revenue and Taxation. The Division Conference Staff; Chief, Division of Revenue and Taxation; and Director of Finance consider cases involving income, excise, business gross revenues, and other taxes administered by the Department of Finance, Division of Revenue and Taxation.
- (b) The first level of appeal from the findings of the examining officer is the Division Conference Staff. A conferee from the Staff will meet with the taxpayer and discuss the disputed issues fully. Most differences are resolved at this level.
- (c) The Chief, Division of Revenue and Taxation, will arrange a division conference at the revenue office at a mutually convenient time. A request for a division conference should be made within the period specified in the letter enclosing the instructions (within sixty (60) days if the letter is addressed to a taxpayer outside the Commonwealth of the Northern Mariana Islands). To avoid the time and expense of an additional conference, the taxpayer or his

representative should be prepared to discuss all disputed issues at the conference.

- (d) If an agreement is not reached at a division conference, the taxpayer may appeal his case to the second level the Chief, Division of Revenue and Taxation and then to the third level of appeal the Director of Finance.
- (e) If agreement is not reached at the division conference or higher levels, the taxpayer may, at any stage of these procedures, appeal to the courts. (See Appeal Procedure to the Court).

### Section 3. Written Protest.

- (a) A written protest is not required for a division conference if,
- (1) the proposed additional tax, proposed overassessment, or claimed refund or credit does not exceed \$2,500.00 for either of the years, periods or returns involved, or
- (2) the examination was conducted by correspondence or during an interview in the Division of Revenue and Taxation Office, regardless of the amount involved.
- (b) A written protest is required for a division conference if the amount involved exceeds \$2,500.00 and the examination was conducted by a field agent in the taxpayer's home or office. A protest should contain:
- (1) A statement that the taxpayer wants to appeal the findings of the examining officer to the Division Conference Staff.
- (2) The name and address (the residence address of individuals; the address of his principal office or place of business).

- (3) The date and symbols on the letter transmitting the proposed adjustments and findings the taxpayer is protesting.
  - (4) The taxable years, periods, or returns involved.
- (5) An itemized schedule of adjustment or findings with which the taxpayer does not agree.
- (6) A statement of facts supporting the taxpayer's position in contested factual issues. This statement and all major evidence submitted with the protest is to be declared true under penalties of perjury. This may be done by adding to the protest the following declaration signed by the taxpayer as an individual or by an authorized officer of a corporation:

"Under the penalties of perjury, I declare that I have examined the statement of facts presented in this protest and in any accompanying schedules and statements and to the best of my knowledge and belief, they are true, correct, and complete."

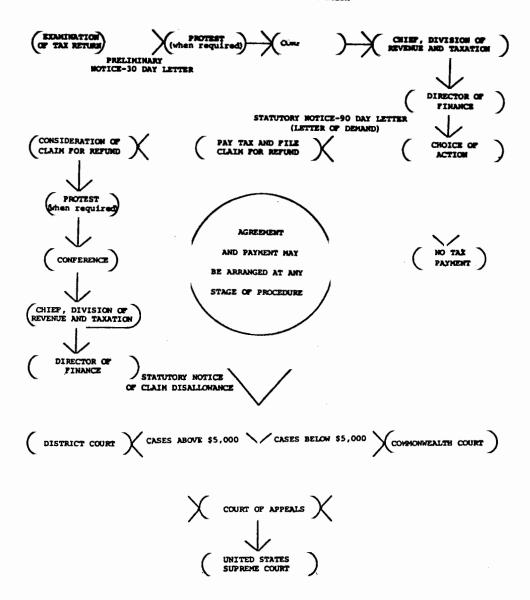
- (7) Instead of the declaration required in (6) above, if the representative of the taxpayer prepared or filed the protest, he may substitute a declaration stating:
- (i) Whether he prepared the protest and accompanying documents, and
- (ii) Whether he knows personally that the statements of fact contained in the protest and accompanying documents are true and correct.
- (8) A statement outlining the law or other authority upon which the taxpayer relies.
- (9) File an original and one (1) copy of all protests with the Chief, Division of Revenue and Taxation.

Section 4. Representation. The taxpayer may represent himself at the division conference or a hearing with the Division Chief or Director of Finance, or he may be represented by an attorney or certified public accountant. The taxpayer may also bring any witness who knows the facts and can furnish evidence to support the taxpayer's position. If your representative attends a conference without you, he must file a power of attorney or a tax information authorization before he may receive or inspect confidential information. Form 2848, Power of Attorney, or Form 2848D, Authorization and Declaration (or any other properly written power of attorney or authorization) may be used for this purpose.

Section 5. Appeal to the Courts.

- (a) If agreement on a tax dispute is not reached or if a decision of the Director of Finance is adverse to the taxpayer, in whole or in part, the taxpayer should file a petition within one year from the date of the adverse decision in the Commonwealth Court for tax liabilities of \$5,000.00 or less, or the District Court for tax liabilities over \$5,000.00, whichever is appropriate, pursuant to Section 268(1) of Title 77 TTC (CNMI). These courts are independent judicial bodies and have no connection with the Division of Revenue and Taxation or the Department of Finance.
- (b) The court will schedule the case for trial. The taxpayer may represent himself before the court or he may be represented by anyone admitted to practice before the court.
- (c) To appeal a judgment made by the District or Commonwealth Court, the next appeal step is the Court of Appeals. The final level of appeal is the U.S. Supreme Court.

### TAX APPEAL PROCEDURE Department of Finance Division of Revenue and Taxation



### PART 12.110. ADMINISTRATION, PERSONNEL, AND PROCEDURE

- Section 1. Uniforms and Identification.
- (a) Badge In addition to wearing a uniform, all customs field personnel must wear their metal badge during working hours. Badges shall be issued by the Division of Revenue and Taxation, Central Office, upon assignment of personnel.
- (b) Plastic Identification Card All employees of the Division of Revenue and Taxation must wear their plastic identification card during working hours. Personnel in uniform with a metal badge are required to carry their plastic identification card in their pocket. Revenue agents and revenue officers out in the field must also carry their plastic identification card in their pocket.
- (c) Interim Identification Card Upon initial assignment of new personnel or when an identification card is lost, an interim identification card shall be issued to employees. All bearers of the interim identification card are authorized access to all areas of operations in the central office, district offices, airport and ports of entry except areas which are specifically restricted to certain employees.
- (d) Requirements Employees of the Division of Revenue and Taxation are responsible for the safeguarding and proper use of uniforms, badges and plastic identification cards, and for surrendering them upon termination or demand by proper authorities. Any misuse, counterfeiting, alteration, or reproduction is a violation of law and these regulations. All employees must ensure that uniforms and badges are used only in the performance of their duties. In addition to its use for establishing an employee's identity of authority in connection with official duties, the plastic identification card may also be used

for personal identification purposes, such as when cashing checks or as proof of employment, such as when applying for credit.

(e) In Case of Loss - All employees must promptly report in writing, the circumstances surrounding the loss of either a customs badge or plastic identification card. Any employee losing his/her badge or plastic identification card will be responsible for compensating the Division of Revenue and Taxation for its replacement cost if the loss was a result of the employee's negligence.

Section 2. Restricted Areas. The operation areas listed below are restricted areas and only employees of the Division of Revenue and Taxation with badge or plastic identification card and authorized individuals are permitted entry:

### Location

### Restricted Area

- (a) Central Office, Chalan Piao, Enti
  - Entire office except lobby and taxpayer assistance area
  - (b) Rota District Office
    Songsong, Rota
- Entire office except reception area
- (c) Tinian District Office, San Jose, Tinian

Tinian Harbor

- Entire office except reception area
- (d) Customs Offices: En
  Saipan International Airport
  Rota International Airport
  West Tinian Airport
  Tanapag Harbor (Charlie Dock)
  Rota Harbors (East & West Docks)

Entire office except reception area

(e) Airports: Saipan International Airport

Rota International Airport

West Tinian Airport

All compounds listed in Subsection R of Section 5, Part 12.210; and Section 16. Part 12.214 of Customs Regulations No. 7901. NO EXCEPTION.

(f) Waterfront:

Tanapag Harbor (Charlie Dock)

Rota Harbors (East & West

Docks)

Tinian Harbor

All compounds listed in Subsection R of Section 5. Part 12.210; and Section 16. Part 12.214 of Customs Regulations No. 7901.

NO EXCEPTION.

Section 3. Restrictions. All persons are prohibited to make, duplicate or alter any patches, badges, identification cards, passes, symbols or emblems employed by the Division of Revenue and Taxation in the enforcement of all laws and regulations under its administration. Only authorized employees and other authorized persons may use, possess or process any patch, badge, identification card, pass, symbol or emblem employed by the Division of Revenue and Taxation.

#### Section 4. Rank.

(a) All personnel assigned to perform customs duties shall be accorded military ranking in their performance as customs officials. Ranking employees assigned to customs shall be in accordance with their supervisory ability, education, training, professionalism in the enforcement of customs duties and responsibilities, satisfactory work performance and dependability. Length of employment shall not be used as a determining factor in ranking of personnel. Nothing in this section shall be construed as to relate to the employee's official title during his/her employment with the Division of Revenue and

in the employee's current personnel action. In performing customs activities, personnel assigned shall have the working title of a duly commissioned customs officer. "Working Title" means the title and rank given to customs officials.

- (b) No employee of the Division of Revenue and Taxation is excluded or barred from performing customs service. The determining factors for the assignment of customs personnel are the qualification of the employee in performing customs activities and availability of personnel to carry out adequately the requirements of such function.

  Nevertheless, all personnel assigned to perform customs service must possess at least eighty (80) hours of practical training and eighty (80) hours of classroom instructions in customs enforcements. However, the minimum qualification standard in this subsection may be raised by a procedure established by the Division of Revenue and Taxation.

  In appointing supervisors, the appointee must meet at least the minimum requirements for supervisors established by the Division of Revenue and Taxation.
- (c) Regardless of the employee's official title, all personnel of the Division of Revenue and Taxation assigned to perform the duties of a customs officer shall be addressed according to their rank in the performance of their duties as customs officials.
- (d) Upon the adoption of these regulations in the Commonwealth Register, all rank assignments made prior to these regulations shall become null and void. The Division of Revenue and Taxation shall establish a procedure for the ranking of customs personnel and insignias shall be assigned in accordance with this procedure.

Section 5. Bribery of Customs Officials and Other Revenue and Taxation Employees. If, upon investigation, it is determined that money or anything of value was given, offered, or promised to a customs officer or any other employee of the Division of Revenue and Taxation

with the intent to control or influence such officer or employee in the performance of his official duties, the matter shall be referred to the Attorney General of the Commonwealth of the Northern Mariana Islands for prosecution under Section 301, Chapter 13, 11 TTC (CNMI).

Section 6. Informer's Name Confidential. The informer's name and address shall be kept confidential. No files nor information concerning the informer shall be permitted to get into the possession of unauthorized persons. No information shall be revealed which might aid the offenders in identifying the informer.

### Section 7. Pass.

- (a) Temporary pass may be issued to a nonpassenger to enter the passenger/baggage inspection area at the ports for purposes of meeting official guest(s) of the Government of the Northern Mariana Islands, disabled passenger, unaccompanied children under the age of six (6) years and other government dignitaries. A temporary pass must be requested and approved by the Director or his delegate at least twelve (12) hours before arrival of a special passenger. All temporary passes issued must be returned to the Service upon leaving the passenger/baggage inspection area unless a special arrangement was made with the Service prior to the issuance of the pass.
- (b) A special pass may be issued to employees of private companies if the presence of such employees in the arrival areas is necessary to the operation of the company. A detailed justification must be submitted to the Division of Revenue and Taxation for review and determination. Government employees may be issued special passes, only if such employees are required to be in the arrival areas in order to carry out their duties and responsibilities. Law enforcement personnel whose services are required at the ports of entry are not affected by this section. To qualify for a special pass, both the employee and the employer must file together an application to the Division of Revenue and Taxation and meet the following requirements:

- (1) The employer must submit a copy of he determination made by the Service as specified in this section.
- (2) The employee must have a valid Mariana Islands Airport Authority Security Pass or Port Security Pass and must be authorized to enter the "Aircraft Operation Area" at the airports or the "Port Security Compound" at the wharf.
- (3) A ten dollar (\$10.00) processing fee plus two (2) color pictures, 1-1/4" X 1-1/4", must accompany the application. Polaroid pictures are not acceptable. The processing fee is waived for government employees. However, lamination fee will be charged to the requesting department's operation account.
- (4) In addition to all requirements specified in the application form for a special pass, the employer must agree and accept the following conditions:

### CONDITIONS AND ACCEPTANCE

Special Pass No. issued on

to

(recipient on behalf of
(employer/applicant) is

the property of the Commonwealth Government of the Northern Mariana Islands. The Division of Revenue and Taxation may at any time revise, revoke, and/or cancel the special pass which must be returned upon request. The special pass is to be used only in designated areas approved and indicated on the pass, by the person to whom it was issued and only while on duty as an employee of the employer shown above.

In case of loss or theft, a loss charge of twenty-five dollars (\$25.00) must be paid to the Division of Revenue and Taxation. The employer must report such loss or theft immediately to the Division of Revenue and Taxation and shall bear the expense of the loss. Failure to report the loss or theft will result in the cancellation of all special passes issued on behalf of the employer. A lost or stolen pass may be replaced provided another application together with ten dollars (\$10.00) application fee plus the loss charge of twenty-five dollars (\$25.00) is filed and paid to the Division of Revenue and Taxation.

(c) Unlawful use of any pass issued by the Division of Revenue and Taxation shall be subject to the penalties of Section 14 of Public Law No. 1-21.

Section 8. RESERVED.

Section 9. RESERVED.

Section 10. RESERVED.

Section 11. RESERVED.

### PART 12.111. PROCEDURE - PERMANENT DEPOSIT

Section 1. A permanent deposit may be authorized to permit the release and delivery of dutiable merchandise prior to making formal entry and paying the actual tax due. Importers of dutiable merchandise may exercise this option with one of the following methods:

- (a) Place a cash deposit with the Division of Revenue and Taxation; or
- (b) Place a bank certificate of deposit with the Division of Revenue and Taxation. A bank certificate of deposit must have a maturity of one year or more. All certificates of deposit, deposited with the Division of Revenue and Taxation as collateral, must be endorsed payable to the Treasurer, Northern Marianas. In such cases, the Treasurer will have the right to deposit the Certificate of Deposit at maturity or such date the tax liability is satisfied and refund by government check such amount that is due the taxpayer. Interest is payable to the original purchaser of the Certificate of Deposit.

Section 2. All permanent deposits authorized in this Part shall be equivalent to the average monthly excise tax amount paid by the importer during the last twelve months.

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Section 3. Periodically, the Division of Revenue and Taxation shall review all permanent deposits and shall require a higher amount of deposit when necessary.

Section 4. A permanent deposit is not intended to be used for payment of taxes due. The permanent deposit is designed for the convenience of the importers to permit the immediate release of imported goods for sale, lease or rental.

Section 5. A permanent deposit does not waive the requirements of customs inspection and clearance.

Section 6. No permanent deposit shall be returned to the depositor if the depositor has unpaid tax liabilities of any kind, unpaid penalty or interest, or any other related liabilities, such as storage charges, customs overtime, etc. due the Commonwealth Government of the Northern Mariana Islands.

Section 7. The Division of Revenue and Taxation is authorized to use any portion or all of a permanent deposit to offset any or all delinquent amounts as indicated in Section 6 of this Part, due the Commonwealth Government.

Section 8. None of the provisions of this Part waives the requirements of Section 9, Public Law No. 1-21; all sections in Part 12.211 and Subsections (c) and (d), Section 1 of Part 12.213 of Customs Regulations No. 7901.

Section 9. Taxes due on released merchandise in accordance with this Part must be paid on the next working day.

#### CHAPTER 13

#### PART 12.301. REFUNDS - GOVERNMENT FUNDED PROJECTS

Section 1. General Requirements. Any person who imports any goods, merchandise or commodities for use in construction projects of all types or in the manufacture or other assembly of items for sale, lease or rental which are funded by government grants directly or indirectly pursuant to Section 6, Public Law No. 1-21, is required to:

- (a) Possess a valid import license pursuant to Section 1, Chapter 1, 77 TTC (CNMI), prior to the importation of materials.
- (b) Submit a copy of the signed construction contract between the contractor and the owner of the project or its authorized agent to the Division of Revenue and Taxation at least fifteen (15) days prior to the importation of material.
- (c) Furnish a copy of the bill of material to the Division of Revenue and Taxation for each increment schedule stipulated in the construction contract before the project begins.

- (d) Contractor must identify material used in sequence project to the satisfaction of customs officials. A refund will be made upon completion of the contract, but not later than one year after completion.
- (e) Comply with the applicable import and entry requirements of Customs Regulations No. 7901.

#### Section 2. Alien Contractors.

- (a) Any foreigner who entered into a construction contract must possess a valid Foreign Business Permit from the Department of Commerce and Labor (CNMI) and shall furnish a copy of such permit to the Division of Revenue and Taxation at least fifteen (15) days prior to the importation of material.
- (b) All foreign contractors must comply with the general requirements of Section 1 of this Part in addition to all other applicable laws and regulations in the Commonwealth of the Northern Mariana Islands.

# Section 3. Applying for a Refund.

- (a) An application for tax rebate, Form OS-4510 and Form OS-4510A shall be submitted to the Division of Revenue and Taxation upon completion of the construction project, as evidenced by a certificate of release, certificate of completion or certificate of acceptance or similar document executed by both the contractor and the government engineering official, but not later than one year after completion.
- (b) The applicant shall submit to the Division of Revenue and Taxation a statement from the certifying engineer of the appropriate government agency in charge of the supervision and inspection of the project, certifying under penalty of perjury:

- (1) that the contract has been completed and the contractor and government engineering official have signed a document to this effect; and
- (2) an itemization of material actually used by type, description and quantity. Itemizing material used shall be made for each phase or increment shown in the construction contract; and
- (3) an itemization of material not used by type, description and quantity.
- (c) Applicant shall also submit a complete documentation of import and excise tax payments which shall include the following:
  - (1) Airway Bills/Bills of Lading
- (2) Entry Certificate and Computation Worksheet (executed Form CS-1740)
  - (3) Vendor's invoice
  - (4) Official receipt of excise tax payments
- (5) Other pertinent documents which the Division of Revenue and Taxation may require
- (6) Other pertinent documents which the applicant feels may assist in processing the claim for tax rebate.
- (d) Applicant shall also submit to the Division of Revenue and Taxation color pictures of each incremental phase completed.

#### Section 4. Restrictions.

(a) No excise tax rebate will be authorized for material purchased locally which were either manufactured in the Northern Mariana Islands or imported by another importer, wholesaler, retailer or through another person.

(b) No excise tax rebate will be authorized for material imported by a government agency and later used in the project.

Irrespective of how the material was disposed of by the government agency, the determination of this subsection will not change. Material imported by a government agency where the excise tax was not paid, shall be paid by the person who later obtained or purchased such material from the agency.

PART 12.302. GOVERNMENT SALE. All articles, wares, or merchandise imported by a government agency for use by the government and later sold to a private individual, firm, or organization, are required to be assessed excise tax as provided for in Section 4 of Public Law No. 1-21 and must be paid by the purchaser. The excise tax shall be assessed on the selling price of the article, ware, or merchandise. For purposes of this Part, selling price excludes overhead charge or other administrative charges imposed by the government agency.

# PART 12.400. TAX CLEARANCES

Section 1. Permanent Change of Residence Outside the Commonwealth of the Northern Mariana Islands. Every individual in both private and public employment who intends to permanently change his residence during the taxable year to a country outside the Commonwealth of the Northern Mariana Islands, including the United States, its territories and possessions, and depart the Commonwealth, must secure a tax clearance from the Division of Revenue and Taxation, that all fees, taxes, penalty and interest due and owing the Commonwealth Government have been paid in full.

Section 2. Trust Territory or Northern Mariana Islands
Government Employment. Where an individual's employment with either
government is terminated for any reason and the employee intends to
permanently depart the Commonwealth of the Northern Mariana Islands,
a tax clearance must be secured from the Division of Revenue and Taxation.

A tax clearance reasonable shall be made a part of the government's clearance procedure before an employee is officially cleared and terminated from the government position.

EFFECTIVE DATE. These regulations shall be effective retroactive to January 1, 1979.

Director of Finance

I, Tomas B. Aldan, Acting Director of Finance, certify that this is a true and correct copy of Administrative Regulations No. 3901 as adopted by this agency.

Acting Director of Finance

**ACKNOWLEDGMENT** 

SUBSCRIBED AND SWORN to before me this day of April, 1980.

OFFICIAL SEAL STACE FOURDS, Rotary Public Government of the Northern Mariana Islands

#### PUBLIC NOTICE

# Adopted Revenue Regulations Chapter No. 5901

The Director of Finance, in accordance with Public Law No. 1-8 and Public Law No. 1-30, wishes to advise the public that new rules and regulations, identified as Revenue Regulations Chapter No. 5901 of the Division of Revenue and Taxation have been adopted.

The adopted regulations include the following subjects:

- 1. General Provisions
- 2. Definitions
- 3. Tax on Wages and Salaries
- 4. Deposit of Withheld Wage and Salary Taxes
- 5. Individual to File Return and Earned Income
- 6. Tax on Business Gross Revenues
- 7. Apportionment
- 8. Territorial Income Tax Effective January 1, 1979

These regulations are published in the Commonwealth Register and may be obtained from the Attorney General's Office, 5th Floor, Nauru Building, Susupe, Commonwealth of the Northern Mariana Islands, Saipan, CM 96950.

\_Apei/ 07, 1980 /10
Acting 1

/ Tomas B. Aldan
Acting Director of Finance

# ADOPTED REVENUE REGULATIONS OFFICE OF THE DIRECTOR OF FINANCE DEPARTMENT OF FINANCE DIVISION OF REVENUE AND TAXATION COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

#### GENERAL PROVISIONS

Section 1. Authority. The authority for the promulgation and issuance of Revenue Regulations No. 5901 is by virtue of Chapter 11, 77 TTC, as it applies to the Northern Mariana Islands; Section 8, Chapter 11 of Public Law 1-8 (CNMI); and Section 6, Chapter II of Public Law 1-30 (CNMI).

Section 2. Purpose. The purpose of the regulations is to establish policy and procedures to implement and provide uniform enforcement of taxation laws.

Section 3. Regulations Superseded. Rules and regulations in this Chapter supersede Public Regulations Release No. 10-73, Parts 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 (CNMI), which superseded all previously issued Budget and Finance Regulations.

#### PART 10.251.3. DEFINITIONS

(a) Moving Expenses - Moving expenses or allowances provided an employee for the convenience and at the direction of the employer are not to be included in determining the taxable wages or salaries of an employee. However, any portion of the moving expenses or allowance not used by the employee for his cost of moving will be deemed taxable wages or salaries.

Example (1). Mr. Jones is transferred to Rota from Saipan by his employer, the ABC Company. The ABC Company pays for his transportation, household effects

shipment, meals and temporary lodging. These payments made by the ABC Company are not taxable to Mr. Jones.

Example (2). Mr. Smith is transferred to Tinian from Rota. His employer, the Fish Company, pays Mr. Smith a \$2,000.00 moving allowance. The cost of Mr. Smith's move, including personal transportation, household effects shipment and temporary lodging is \$1,500.00. The unused portion of the moving allowance, \$500.00. is taxable to Mr. Smith.

- (b) Military and Naval Forces of the United States "Wages and salaries received from the United States by members of the
  Military or Naval Forces of the United States or the Armed Forces of
  the United States" shall be exempt from tax on wages and salaries under
  Section 252, Title 77, TTC (CNMI), as a result of active duty service.
  Other wages and salaries earned in the Commonwealth of the Northern
  Mariana Islands shall be deemed taxable under the provisions of
  this Act.
- (c) Payment to members of a Board of Directors Compensation for personal services to any person who is a member of any board of directors shall be taxed pursuant to Section 252, 77 TTC (CNMI) as amended by Public Law 1-30.

### PART 10.252. TAX ON WAGES AND SALARIES

Section 1. Tax on Wages and Salaries. There shall be assessed, levied, collected, and paid an annual tax upon all wages and salaries received by an employee, as defined. The tax shall be determined in accordance with the following schedule retroactive to January 1, 1979.

If the gross annual wages and The wage and salary tax is: salaries of an employee are:

(a) Not over \$5,000

No tax.

- (b) Over \$\\$,000 but not over \$7,000 3% of amount over \$5,000.
- (c) Over \$7,000 but not over \$15,000
- Tax computed in accordance with (b) plus 4% of amount over \$7,000.
- (d) Over \$15,000 but not over \$22,000
- Tax computed in accordance. with (b) and (c) plus 5% of amount over \$15,000.

(e) Over \$22,000

Tax computed in accordance with (b), (c) and (d) plus 6% of amount over \$22,000.

Section 2. The Employer's Income Tax Quarterly Withholding Return for 1979, Form OS-3705, requires the employee's U.S. Social Security number, employee's name, taxable wages and tax withheld for each employee. Form OS-3705A is the continuation sheet for Form OS-3705. For proper withholding of wage and salary tax, see Employer's Tax Guide.

Section 3. Deposit of Withheld Wage and Salary Taxes.
Withholding taxes (Trust Funds) must be deposited with the Division of
Revenue and Taxation pursuant to the following instructions:

- (a) If at the end of a quarter, the total amount of undeposited taxes is less than \$200, you are not required to make a deposit. Pay the taxes directly to the Division of Revenue and Taxation along with your quarterly Form OS-3705 on or before the last day of the first month after the end of the quarter.
- (b) If at the end of any month of the quarter, with exception to the third month, the cumulative amount of undeposited taxes is \$200 or more, you must deposit the taxes with the Division of Revenue and Taxation, using Form 500, within 15 days after the end of the month.

(c) If the cumulative amount of undeposited taxes exceed \$200 in the third month of any quarter, payment of the tax may be made along with your quarterly Form OS-3705 on or before the last day of the first month after the end of the quarter.

Section 4. Annual Reconciliation of Employer's Income
Tax Quarterly Withholding. Employers are required to file the original
copy of 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. The A copy of
Form 1169 or Copy A of Form W-2, Wage and Tax Statement, is required
to be attached to the reconciliation form.

Section 5. Effective Date. Withholding tax on wages and salaries by employers pursuant to Section 253 of Title 77 TTC (CNMI) shall commence on the first day of each employer's first payroll period beginning after December 31, 1978. The tax rate shall be in accordance with Section 252, 77 TTC (CNMI), as amended by Public Law No. 1-30. 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.

Example (1). An employer's customary payroll period is weekly from Sunday to the following Saturday. The first payroll period for which tax is to be withheld is the payroll period beginning December 31, 1978.

Example (2). An employer's customary payroll period is semimonthly from the first day to the fifteenth day of each month and from the sixteenth day to the last day of each month. The first payroll period for which tax is to be withheld is the payroll period beginning January 1, 1979.

Section 6. Place of Payment and Filing. Employers who have their principal place of business outside the

Commonwealth of the Northern Mariana stance shall file all returns and make all payments of the tax in accordance with Chapter 11.

Title 77 TTC (CNMI), to the Director of Finance, Cormonwealth of the Northern Mariana Islands, Saivan, CM 96950.

Section 7. Record Maintenance. All books and payroll records necessary to determine employee's wages and salaries and respective withholding taxes imposed by the Commonwealth Government are to be maintained in the Senatorial District within the Commonwealth where the business operation is conducted and shall be made available for examination not later than ten (10) days beginning with the date when the request is received.

# Section 8. Employee's Annual Wage and Salary Tax Return.

- (a) Every employee subject to withholding tax under Section 252 is required to file an Employee's "Annual Wage and Salary Tax Return," Form OS-3810 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 B of Form 1169 or Copy 1 of Form W-2 must be attached to Form OS-3810. No refund will be made without the Wage and Tax Statement attached.
- (b) Employees who perform services during the taxable year, both as an employee receiving salary and wages subject to withholding pursuant to Section 252 and as an individual not subject to withholding tax pursuant to Section 257, are required to file the Employee's Annual Wage and Salary Tax Return, Form OS-3810.

An individual subject to tax under Section 257 must file quarterly returns during the period his/her wages are not subject to withholding taxes. When employment is terminated, a final quarterly return must be filed, reporting wages paid to the date employement is terminated.

The complined salary and wages 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. Forms 1169 and W-2 must be attached to the Tax Return. Credit will be given for taxes paid on the Individual Income Tax Quarterly Return.

#### PART 10.257. INDIVIDUAL TO FILE RETURN ON EARNED INCOME

A total of \$1,250 will be allowed each quarter as a statutory exemption, cumulative by quarter, to a total of \$5,000 per annum. The total statutory exemption of \$5,000 will be allowed on the fourth quarterly return for the taxable year. Effective tax rates have been established for calculating the tax for each quarter. Individual taxpayers who terminate their employement and permanently depart the Commonwealth during any quarter in the taxable year are required to file a fourth quarterly return and pay any tax due thereon as well as to receive a refund for any tax overpaid. Individual taxpayers who terminate their employment and permanently depart the Commonwealth during any quarter in the taxable year will not be subject to the Failure to File Penalty pursuant to Section 265(1) for interim quarterly returns. The departure date must be clearly indicated on the tax return in the space provided. No additional application is necessary in order to receive a refund of any tax overpaid, other than filing the fourth quarterly return, unless the individual received salary and wages as an employee during the same taxable year. In such case, an Employee's Annual Wage and Salary Tax Return must be filed pursuant to Section &(b). Part 10.252 and the fourth quarter Individual Income Tax Quarterly Return An De Group Archentente de March (1984) and Consultan and Consultance of the Consultance is not required.

(i) In the Till notices, readed was not unequestionable and the agreement of the continuous statements of the continuous arrestors give readed at the continuous function of the decision of the continuous function of the continuous function.

COMMONWEALTH REGISTER VOL. 32 No. 3 Section PAGE 822

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Section 4. Agricultural oducers and Pisheries. The tax

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(1%) of gross revenues in excoss of \$20,00. Agricultural producers .000,000,700 and flower and fisheries will be allowed an exemption at \$5,000 each quarter.

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A total of \$1,250 will be allowed general business taxpayers each quarter as a statutory exemption, cumulative by quarter, to a total of \$5,000 per annum. The total statutory exemption of \$5,000 will be allowed on the fourth quarterly return for the taxable year. Effective tax rates have been established for calculating the tax for each quarter. General business taxpayers who terminate, dissolve or sell their business during a taxable year must conform to Section 7 of this Part. In addition, a fourth quarter return must be filed in order to receive a refund that may be due for any tax overpaid. No additional application will be necessary to receive a refund of any overpayment of tax.

Section 3. Banks and Banking Institutions. The tax on the operation of any bank, banking institutions, building and loan association or lending institutions, shall be equivalent to four percent (4%) of the net income received from such business or one percent (1%) of the gross revenue whichever is greater.

Section 4. Agricultural Producers and Fisheries. The tax on agricultural producers and fisheries is at the rate of one percent (1%) of gross revenues in excess of \$20,000. Agricultural producers and fisheries will be allowed an exemption of \$5,000 each quarter, cumulative by quarter to a total of \$20,000 per annum. The total statutory exemption of \$20,000 will be allowed on the fourth quarterly return for the taxable year. Taxpayers who terminate, dissolve or sell their business during a taxable year must conform to Section 7 of this Part. In addition, a fourth quarter return must be filed to receive a refund that may be due for any tax overpaid. No additional application will be necessary to receive a refund of any overpayment of tax.

Section 5. Business taxpayers in all three categories are required to file quarterly tax returns, reporting their gross revenue, even though no tax liability is due. Books and records must be maintained on the business premises in the Senatorial District within the Commonwealth where the business operations are conducted.

(a) Unincorporated "Unitary Business" - A "unitary business" is one carrying on one kind of business of which the component parts are too closely connected and necessary to each other to justify division or separate consideration. Unincorporated "unitary businesses" will be assessed, levied, collected, and the tax shall be paid as required under Section 258 of Title 77 TTC (CNMI), Chapter 11 as amended by Public Law No. 1-30.

Example - Mr. Walker owns a movie theater and in the theater he has a snack bar serving refreshments to the patrons of the theater. The gross income from the theater and the snack bar would be taxed as one business since it is a "unitary business."

(b) Unincorporated "Non-Unitary Business" - A "non-unitary business" is one which shows units of substantial separateness and completeness, such as might be maintained as an independent business and capable of producing profit in and of themselves. A "non-unitary business" will be assessed, levied, collected and the tax shall be paid as required under Section 258 of Title 77 TTC (CNMI), Chapter 11, as amended by Public Law No. 1-30, on each unit of substantial separateness and completeness.

Example - Mr. Johnson owns a grocery store and next to the grocery store he owns a restaurant. Mr. Johnson would have to pay tax on the gross revenue of the grocery store and a separate tax on the gross revenue of the restaurant because it would be a "non-unitary business" with each unit being substantially separate and complete.

(c) Incorporated Businesses - A corporation consisting of two or more separate and distinct businesses would pay the tax on the combined gross revenues of all the business since it is a "unitary business."

Example - Mr. Stein is the sole stockholder of a corporation which consists of a restaurant, grocery store, and a fast food outlet. The combined gross revenues of the three (3) businesses would be taxed as one business.

Section 7. Businesses Dissolving During a Taxable Year.

Any person who dissolves a business during a taxable year is required to make a final return within fifteen (15) days following the dissolution of the business. A penalty of ten percent (10%) of the tax due shall be added for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it is actually filed; provided, however, that the minimum penalty shall be twenty-five dollars (\$25.00). Interest of six percent (6%) per annum shall also be imposed on the total amount paid after the deadline prescribed in this section.

Section 8. Definitions Relating to Gross Revenues of Business.

(a) Exclusion of Taxes Collected - Gross revenue as defined by Section 251(7), Title 77 TTC (CNMI), Chapter 11, does not include business revenue or receipts which represent taxes imposed upon the purchaser by a taxing authority and collected by the seller. Taxes imposed by Chapter 11, Title 77 TTC (CNMI), are not imposed upon the purchaser of goods, but are imposed upon the gross revenue of a business.

Example (1) - Mr. Z owns a movie theater. The price of a ticket is 75¢ per person which includes a Municipal imposed 10¢ head tax on each ticket. Mr. Z would report his gross revenue on the basis of 65¢ per ticket and exclude the amount of the head tax.

Example (2) - Mr. X owns a grocery store. He is subject to the Business Gross Revenue Tax pursuant to Section 258, Title 77 TTC (CNMI) as re-enacted by Public Law No. 1-30. In this case, the Business Gross Revenue Tax is imposed upon the gross revenue of the business and may not be added as a tax upon the sale price of goods and collected from the purchaser.

(b) Exclusions of Amounts Not Collected - Gross revenue as defined by Section 251(7), Title 77 TTC (CNMI), Chapter 11, does not include revenues which are accrued but which subsequently are found to be uncollectible. The amounts of such accrued revenue which are determined to be uncollectible may be deducted from gross revenue in the year in which it is determined that the revenue is not collectible, provided that the uncollectible amounts were accrued after April 1, 1976. No deduction will be allowed unless a serious effort was made to collect the debt. This may include legal action or other collection efforts.

Example - A business sells merchandise both for cash and on credit, establishing accounts receivable for the credit sales. In 1976, this business has the following sales:

Cash \$20,000 Credit 15,000 Total \$35,000

The business pays tax on \$35,000 for 1976. As at December 31, 1976, the business had uncollected accounts receivable in the amount of \$2,400 of which \$1,000 represented sales accrued after April 1, 1976.

If in 1977, the business found that any part of the \$1,000 could not be collected after a serious effort was made to collect the debt and so recorded written off would be deducted from the taxable gross revenue for 1977.

Section 9. Casual Sales. Except in connection with a trade or business, any person having annual gross revenue from the combined sales of any property, real or personal, tangible or intangible, of less than \$5,000 shall be considered "casual sales" and therefore exempt from the tax on gross revenues.

- (a) The lease or rental of one (1) or more properties as described above, of any type, such as furniture, machinery, equipment, automotive vehicles, land or buildings shall be considered within the definition of casual sales. Irrespective of the amount of gross revenue which may be exempt, a business gross revenue return must be filed. A refund, if due, will be made after the close of the taxable year pursuant to Section 267, Title 77 TTC (CNMI).
- (b) The lease, rental or sale of real or personal property, tangible or intangible, in excess of \$5,000.00, whether a one time or isolated sale or not connected with a trade or business, shall be deemed to be gross revenue and subject to the tax on gross revenue, pursuant to Section 258, 77 TTC (CNMI), as amended by Public Law No. 1-30.

Section 10. Sale or Transfer of Business. If a business is sold or transferred by one employer to another, each must file a separate return. But neither should report wages paid by the other. Such a transfer occurs, for example, if a sole proprietor forms a partnership or a corporation.

(a) If there has been a change of ownership or other transfer of the business during the quarter, attach a statement showing the name of the present owner; whether the present owner is an individual, a partnership, or a corporation; the nature of the change or transfer; and its date.

When a statutory merger or consolidation occurs, the obligation of the continuing corporation to file a Form OS-5705 and report wages is the same as if the continuing and dissolved corporations constituted one person.

Section 11. Refund of Overpayment of Business Gress Fevenue Tax. A refund of an overpayment of Business Gross Revenue Tax will be made after the fourth quarterly return has been filed and reviewed.

PART 10.260. APPORTIONMENT

Application for apportionment of taxes withheld by an employer on the wages and salaries of an employee or for Business Gross Revenue taxes paid for any quarter during the calendar year, must be filed within one year after the end of the calendar year in which the amount to be refunded was withheld or paid pursuant to Section 267(1)(c), 77 TTC (CNMI).

PART 10.272-IRC. TERRITORIAL INCOME TAX - EFFECTIVE JANUARY 1, 1979

Section 1. Citizens or Residents of the Northern Mariana Islands.

- (a) Any person, citizen or resident of the Northern Mariana Islands, having gross income from any source, is subject to the Territorial Income Tax. However, such person having income solely from within the Northern Mariana Islands shall be entitled to a rebate of one hundred percent (100%) of such tax for each taxable year beginning January 1, 1979, through the taxable years prior to the termination of the Trusteeship Agreement, pursuant to Section 1, Chapter II of Public Law No. 1-30. No amount of such tax imposed on income derived from sources without the Northern Mariana Islands shall be rebated.
- (b) Where an employee's wage and salary income arises solely from sources within the Northern Mariana Islands, no withholding

of Territorial Income Tax on such wage and salary income shall be required, provided Form W-4 indicating exempt status is filed with the withholding agent. However, pursuant to Section 3(a)(2) of Public Law No. 1-30, every person is required to file an income tax return on Form 1040A-CM on or before April 15, 1980.

(c) Any person, citizen or resident of the Northern Mariana Islands having gross income from both within and without the Northern Mariana Islands, who is a resident of the Northern Mariana Islands on the last day of the taxable year is subject to Territorial Income Tax on his gross income from without the Northern Mariana Islands. Such person shall file a Territorial Individual Income Tax Return on Form 1040CM on or before April 15, following the close of the taxable year. However, if such person permanently departs the territory between January 1 and April 15, a tax return must be filed prior to departure. In cases where all income data is not available, income from without the Northern Mariana Islands may be based upon the prior year, subject to amendment when all income information is complete.

#### (d) Declaration of Estimated Tax -

- (1) Individuals, citizens or residents of the Northern Mariana Islands having gross income from without the Northern Mariana Islands who expect to have a tax liability for the taxable year in excess of \$100, not covered by Territorial withholding tax, are required to file an estimated tax return with the Director of Finance.
- (2) The payment of estimated tax is due in four equal quarterly installments. The tax liability is based upon an allocable percentage of gross income from without the Northern Mariana Islands to total income. The gross income from within the Northern Mariana Islands, rebatable at 100%, is considered in the computation of total income. The estimated tax liability for the current year may be based on the prior years tax liability without the exclusion of foreign earned income.

Example - For the taxable year ending December 31, 1980, the following are the installment payment dates.

April 15, 1980

June 15, 1980

September 15, 1980

January 15, 1981

Since the Northern Mariana Islands is considered part of the United States in 1979 for income tax purposes, no foreign earned income exclusion or deduction for excess cost of living will be allowable under Internal Revenue Code Sections 911 or 913.

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Example - Husband and wife, under 65 and in good health, no children, filed a joint return in 1978 reporting U.S. interest income of \$2,000, wages and salaries from NMI of \$18,025. The tax liability without the foreign earned income exclusion from IRC Tax Table B is \$2,911.

# Computation of Estimated Tax:

|                         | Gross<br>Income | Percentage to<br>Total Income |
|-------------------------|-----------------|-------------------------------|
| Income from without NMI | \$2,000         | .10                           |
| Income from within NMI  | 18,025          | .90                           |
| Total Income            | 20,025          | 100%                          |

The percentage of income from without NMI is 10%; therefore, 10% X the 1978 tax liability of \$2,911 is \$291.10. The 1979 NMI Declaration of Estimated Tax should show \$291.10 which would be payable in the three remaining installments as follows:

June 15, 1979 - 97.03

September 15, 1979 - 97.03

January 15, 1980 - 97.03

\$291.10

(3) Residents of the Northern Mariana Islands - No Territorial Income Tax return was required for taxable years prior to January 1, 1979. Therefore, a Declaration of Estimated Tax may be based upon income from without the Northern Mariana Islands received in the taxable year 1978 as shown in the example. There is no tax liability on income from within the Northern Mariana Islands pursuant to Public Law No. 1-30.

(4) Where to File Your Declaration - You should file your Declaration of Estimated Tax with the jurisdiction (United States or the Northern Mariana Islands) with which you would file your income tax return if your tax year were to end on the date your estimated tax return is first due. All subsequent payments should be filed where your original estimated tax return was filed. For further information, see Publication 570, which is available at the Division of Revenue and Taxation in Chalan Piao, Saipan, CM 96950.

#### (e) Nonresident Aliens -

(1) All aliens are considered nonresident aliens unless they acquire residence in the Northern Mariana Islands. The essential quality of a nonresident alien's stay in the Northern Mariana Islands is that of presence as a transient or sojourner, in other words, merely a visitor for a short time. Ordinarily, an alien whose stay in the Northern Marianas is limited to a definite period by the immigration laws is a nonresident alien. However, an alien with a limited visa may be considered a resident alien under certain circumstances. The alien must be able to obtain from immigration authorities the necessary visa extension, or extensions to lengthen his stay into an extended period.

(2) The precise length of an extended period is not set by law. If the alien has resided in the Northern Mariana Islands for as much as one year, there is a presumption that he is a resident, and will be treated as a resident alien for tax purposes.

(3) A nonresident alien of the Northern Mariana Islands is subject to territorial income tax in the same manner as a nonresident alien of the United States and is subject to Territorial Withholding Tax and required to file an income tax return on Form 1040NR pursuant to the provisions of the Internal Revenue Code.

These regulations shall be effective retroactive to EFFECTIVE DATE. January 1, 1979.

April 07, 1980

Acting Director of Finance

I, Tomas B. Aldan, Acting Director of Finance, certify that this is a true and correct copy of Revenue Regulations Chapter No. 5901 as adopted by this agency.

April 15, 1980

Acting Director of Finance

ACKNOWLEDGMENT

SUBSCRIBED AND SWORN to before me this 15 day of April, 1980.

OFFICIAL SEAL STACY POUNUS, Notary Public Government of the Northern Mariana Islands



# Commonwealth of the Northern Mariana Islands

Department of Ratural Resources

Saipan, Sariana Jelande 96950

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# PUBLIC NOTICE

# ANIMAL QUARANTINE REGULATION

The Department of Natural Resources wishes to advise the general public of the following changes in importation and quarantine procedures for Animal and Livestock.

For purposes of importation of birds, poultry and livestock into the U.S. and its territories as covered in Part 92 of the Code of Federal Regulations, the Trust Territory of the Pacific Islands are considered Foreign.

All foreign birds, poultry and livestock imported into the Northern Marianas Commonwealth and Guam must be quarantined in one of the approved federal stations. There are nine stations for pet birds and three for poultry. The Honolulu Station is approved for all birds, poultry and livestock.

Birds, poultry and livestock moving between Guam, the Northern Marianas Commonwealth and the United States are considered interstate shipments. There would be no federal quarantine. Only the territories', commonwealth's, state's requirements would have to be fulfilled. These requirements do not have application to cats or dogs; thus, cats and dogs may be moved from the Trust Territories directly into the Northern Marianas.

Further information regarding these provisions may be obtained from either the Department of Natural Resources or Dr. Ignacio T. Dela Cruz, Chief Animal Health and Animal Industry at telephone no. 6169.

Pedro

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