

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

§ 1421. User Fees.

Any person requiring the certification of the Department of Finance for country of origin or other purposes relating to exports from the Commonwealth shall be charged a user fee. The user fee shall be 3.7 percent of the gross value of the merchandise to be certified which shall become due and payable to the Commonwealth Treasury upon certification. No less than five percent of the amount collected shall be reserved for use by the Division of Customs Services without further appropriation. The secretary shall impose the interest charge imposed by 4 CMC § 1819 on all user fees not paid when due.

Source: PL 9-22, § 1 (§ 1421) (repealing PL 4-14, § 1); amended by PL 11-23, § 2.

Commission Comment: With respect to the references to the “Department of Finance” and the “Division of Customs Services,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

PL 11-23 took effect on July 10, 1998. According to PL 11-23, § 1:

Section 1. Findings and Purpose.

The Legislature finds that it is necessary to assess an additional fee for the employment of non-resident workers in the garment industry in order to offset the costs of regulating the industry, the cost of enforcing labor and immigration laws, to mitigate the effects of the industry on the physical and social environment and to address related issues. This additional fee is assessed by increasing the user fee imposed for customs service certification from 3.5 to 3.7 percent.

PL 12-79, which amended 4 CMC §§ 1103(n) and 1305(a) and added 4 CMC §§ 1305(i) and 1427, stated:

Section 1. Purpose. It has come to the attention of the CNMI Legislature that the Commonwealth Department of Revenue and Taxation has implemented policies and taken positions misconstruing the amount of taxation to be imposed upon goods produced or manufactured in the Commonwealth solely for export to destinations outside of the Commonwealth. The Legislature finds that in this time of economic hardship when the Commonwealth is attempting to attract new foreign investment with the creation of a Free Trade Zone and the offering of other tax incentives, that the actions taken by Revenue and Taxation are potentially damaging to the Commonwealth’s efforts to attract investment. The Legislature has been made aware that the Department of Revenue and Taxation has imposed a double taxation on companies producing and manufacturing goods in the Commonwealth for export by assessing both the Gross Revenue Tax of 4 CMC §1301 and the Customs Certification User Fee of 4 CMC §1421 on goods produced in the Commonwealth for export. The Legislature wishes to clarify that the production or manufacture of goods in the Commonwealth that are shipped to buyers outside the Commonwealth does not presently and has

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never, under CNMI tax statutes, subjected the producer or manufacturer of such goods to the Gross Revenue Tax or any similar flat tax.

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

Section 7. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 8. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes.