

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

§ 1841. Commencement of Proceedings.

(a) *Civil Actions.*

(1) The Attorney General shall have the authority to commence civil actions to collect any taxes assessed under this Division either in the name of the Commonwealth or in the name of the Secretary. It shall not be a defense to the commencement of such actions that the taxpayer has not received any administrative conferences or hearings from the Secretary before the commencement of such actions, or that an administrative conference or hearing was ongoing or pending at the time such actions were commenced. In such a civil action, a written statement by the Secretary or his delegate as to the amount of tax due, the fact that it is unpaid and who is authorized to collect it shall be sufficient evidence of these matters unless it is expressly shown to the contrary.

(2) Action to enjoin income tax return preparers.

(A) Authority to seek injunction. A civil action in the name of the CNMI to enjoin any person who is a CNMI tax return preparer from further engaging in any conduct described in subparagraph (B) or from further acting as an income tax return preparer may be commenced at the request of the Secretary. Any action under this section shall be brought in the Commonwealth Superior Court. The court may exercise its jurisdiction over such action separate and apart from any other action brought by the CNMI against such income tax preparer or any taxpayer.

(B) In any action under subparagraph (A), if the court finds:

(i) That a CNMI tax return preparer has:

(a) Engaged in any conduct subject to penalty under 1922 or 1923, or subject to any criminal penalty provided by this Division,

(b) Misrepresented his eligibility to practice before the Division of Revenue and Taxation or otherwise misrepresented his experience or education as a tax return preparer,

(c) Guaranteed the payment of any tax refund or the allowance of any credit, or

(d) Engaged in any other fraudulent or deceptive conduct which substantially interferes with the proper administration of the CNMI tax laws, and

(ii) That injunctive relief is appropriate to prevent the recurrence of such conduct, the court may enjoin such person from further engaging in such conduct. If the court finds that a CNMI tax return preparer has continually or repeatedly engaged in any conduct described in subparagraph (B)(i)(a-d) of this subsection and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this Division, the court may enjoin such person from acting as a CNMI tax return preparer.

(3) This section shall not apply in cases of jeopardy as defined by § 1871(d)(2).

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(b) *Criminal Actions.* The CNMI Attorney General shall have the authority to commence a criminal action to collect any taxes assessed under this Division in the name of the Commonwealth.

(c) *Taxpayer Commenced Proceedings.*

(1) Tax Court Proceedings. Within 90 days, or 150 days if the notice is addressed to a person outside the CNMI, after mailing of notice of assessment as authorized in section 1839 to the taxpayer's last known address, the taxpayer may file a petition with the Tax Court (Superior Court acting as Tax Court as authorized in section 1818) for a redetermination of the assessment. The filing of a petition with the tax court also requires the taxpayer to file a stay of collection with the Secretary. A stay of collection for purposes of this subsection means that a taxpayer may stay the collection process during the pendency of a tax court proceeding brought under this section by posting with the Secretary and continuously maintaining in effect during the pendency of the court proceeding a surety bond, property or cash satisfactory to the Secretary and upon terms and conditions satisfactory to the Secretary, in an amount or having a value of 100% of the amount of the assessment, plus additional amounts as in the judgment of the Secretary are necessary to cover penalties, interest and other charges that may accrue during the pendency of the court proceeding. Said bond, property or cash shall serve as collateral to secure payment of such amounts as may be determined in the court proceeding to be due the CNMI Government.

(2) Superior Court Proceedings.

(A) No Suit Prior to Filing a Claim for Refund. No suit or proceeding shall be maintained in any court for the recovery of any non-NMTIT alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Secretary, according to the provisions of law in that regard, and the regulations of the Secretary established in pursuance thereof.

(B) Protest or Duress. Such suit or proceeding may be maintained whether or not such tax, penalty, or sum has been paid under protest or duress.

(C) Suits Against Collection Officer a Bar. A suit against any officer or employee of the Commonwealth (or former officer or employee) or his personal representative for the recovery of any Commonwealth tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected shall be treated as if the Commonwealth had been a party to such suit in applying the doctrine of res judicata in all suits in respect of any CNMI tax, and in all proceedings in the Tax Court and on review or decisions of the Tax Court.

(D) Credit Treated as Payment. The credit of an overpayment of any tax in satisfaction of any tax liability shall, for the purpose of any suit for re-

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fund of such tax liability so satisfied, be deemed to be a payment in respect of such tax liability at the time such credit is allowed.

Source: PL 14-35, § 4 (1841).