



Arnold I. Palacios
Governor

David M. Apatang
Lieutenant Governor

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

GOV:COMM
(HOUSE)

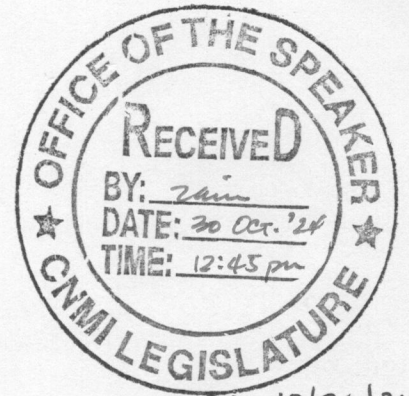
23-137

28 OCT 2024

GOV2025-050

The Honorable Edmund S. Villagomez
Speaker, House of Representatives
Twenty-Third Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

The Honorable Edith E. Deleon Guerrero
President of the Senate
Twenty-Third Northern Marianas
Commonwealth Legislature
Saipan, MP 96950



10/30/24

Dear Mr. Speaker and Madame President:

This is to inform you that I have vetoed **House Bill No. 23-74, HD1, SS1**, entitled "To impose a 3% tax on certain construction activities; and for other purposes," which was passed by the House of Representatives and the Senate of the Twenty-Third Northern Marianas Commonwealth Legislature.

In this time of severe fiscal challenge for the Commonwealth, I support this measure to raise much-needed revenue to sustain essential public services. Revenue-generating measures must always be balanced with the burdens they impose on business and the public. But I share the Legislature's conviction that this measure passes the cost-benefit analysis, in part by mitigating the strains construction activity imposes on the Commonwealth's infrastructure.

As written, however, this bill is insufficiently protective of the reliance interests of contractors which entered into construction contracts prior to the bill's effective date. Retroactively imposing new taxes on vested contractual interests is unfair and may be unlawful.

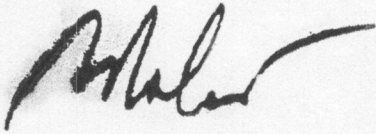
Accordingly, I extend my appreciation to the Legislature for its diligent work on crafting a new, pending version of this legislation, in the form of House Bill 23-120, HD1, as passed with floor amendments.

HOUSE CLERK'S OFF
RECEIVED BY [Signature]
DATE 10/21/24 TIME 2:03pm

This new version of the bill remedies HB 23-74's deficiencies with respect to retroactive application, and I look forward to its swift passage by the Senate to generate crucial revenue for the Commonwealth government.

For the foregoing reasons, I respectfully exercise my constitutional authority to veto this Bill.

Sincerely,



ARNOLD I. PALACIOS
Governor

cc: Lieutenant Governor; Attorney General; Commonwealth Law Revision;
Secretary of Finance; Revenue and Taxation; Public Auditor;
Office of Personnel Management; Special Assistant for Administration;
Programs and Legislative Review Office



TWENTY-THIRD NORTHERN MARIANA COMMONWEALTH LEGISLATURE IN THE HOUSE OF REPRESENTATIVES

SECOND REGULAR SESSION

SEPTEMBER 7, 2023

REPRESENTATIVE RALPH N. YUMUL OF SAIPAN, PRECINCT 3 (*for himself*, Representatives Blas Jonathan "BJ" T. Attao, Roman C. Benavente, Angelo A. Camacho, Diego V. F. Camacho, Joel C. Camacho, Manny G. T. Castro, Marissa R. Flores, Malcolm J. Omar, Edwin K. Propst, Patrick H. San Nicolas, and Denita Kaipat Yangetmai) in an open and public meeting with an opportunity for the public to comment, introduced the following Bill:

H. B. No. 23-74, HD1, SS1

AN ACT

**TO IMPOSE A 3% TAX ON CERTAIN CONSTRUCTIONS
ACTIVITIES; AND FOR OTHER PURPOSES.**

IN THE HOUSE OF REPRESENTATIVES

The Bill was referred to the House Committee on Ways and Means, which submitted Standing Committee Report 23-55, adopted 11/13/2023.

**THE BILL WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON
FIRST AND FINAL READING, JANUARY 12, 2024;**

with amendments in the form of H. B. No. 23-74, HD1 and transmitted to **THE SENATE.**

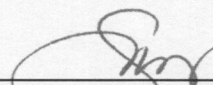
IN THE SENATE

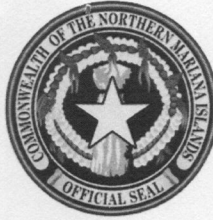
The Bill was referred to the Senate Committee on Fiscal Affairs, which submitted Standing Committee Report 23-108, adopted 9/18/2024.

THE BILL WAS PASSED BY THE SENATE ON FIRST AND FINAL READING, SEPTEMBER 18, 2024;
with amendments in the form of H. B. No. 23-74, HD1, SS1 and returned to **THE HOUSE OF
REPRESENTATIVES.**

The House of Representatives accepted the Senate amendments and passed H. B. No. 23-74, HD1, SS1 during its 3rd Day, Fourth Regular Session on September 24, 2024.

**H. B. NO. 23-74, HD1, SS1 IS DULY PASSED BY THE TWENTY-THIRD NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE.**


Linda B. Muña, House Clerk



TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
IN THE HOUSE OF REPRESENTATIVES

THIRD DAY, FOURTH REGULAR SESSION
SEPTEMBER 24, 2024

H. B. No. 23-74, HD1, SS1

AN ACT

TO IMPOSE A 3% TAX ON CERTAIN CONSTRUCTIONS
ACTIVITIES; AND FOR OTHER PURPOSES.

**BE IT ENACTED BY THE TWENTY-THIRD NORTHERN
MARIANAS COMMONWEALTH LEGISLATURE:**

1 **SECTION 1. FINDINGS AND PURPOSE.**

2 While construction activity is generally associated with progress and
3 development — with attendant direct and indirect benefits – inevitably, there are
4 also costs associated with certain construction activities. The Legislature finds
5 that the Commonwealth should impose a 3% tax on gross revenues directly
6 derived from non-residential construction projects that cost three hundred fifty
7 thousand dollars (\$350,000.00) or more. This tax shall mitigate the myriad costs
8 to the Commonwealth that are attributable to large scale construction activities,
9 which include waste generation, pollution and emissions from heavy equipment,
10 damage and stress on roads and infrastructure, erosion and pollution control, and

HOUSE BILL 23-74, HD1, SS1

1 the added costs at the ports of entry associated with increased customs activities
2 to ensure that materials and supplies are not co-mingled with contraband.

3 The legislature acknowledges that an additional tax may increase the costs
4 of construction for commercial and government projects as contractors attempt to
5 pass on the increased costs to consumers. Similarly, the legislature is also aware
6 that general contractors often hire subcontractors. As a result, there are
7 legitimate issues with respect to double taxation. There is also a valid concern that
8 this legislation may increase the final costs that are charged to consumers. These
9 concerns, raised by the CNMI Department of Finance and the CNMI Office of the
10 Attorney General, that call attention to these potential adverse impacts, are valid,
11 and have been addressed in this bill.

12 Accordingly, as set forth in section 102, this tax applies specifically to the
13 revenues derived from construction activities from projects with a total cost of
14 three hundred fifty thousand dollars (\$350,000.00) or more. Construction projects
15 below this threshold are not subject to the tax. Moreover, this tax does not apply
16 to revenues attributable to residential construction.

17 In addition, in order to mitigate any adverse effects on the end prices that
18 may be passed along to the consumers, construction contractors subject to this tax
19 are entitled to a non-refundable credit in the same manner as
20 4 CMC section 1308 (a) provides for the Business Gross Revenue Tax.
21 Furthermore, to avoid double taxation, the tax shall be imposed on the total

1 project cost and paid by the general contractor. Thus, if a general contractor
2 utilizes subcontractors, the subcontractors are not required to pay the tax.

3 **SECTION 2. AMENDMENT.**

4 Title 4, Division 1 of the Commonwealth Code is hereby amended to add a
5 new Chapter 14 to read as follows:

6 **“Chapter 14. Construction Activities Tax.**

7 **§101. Definitions.**

8 For the purposes of this chapter:

9 (a) “General Contractor” means a person who contracts for the
10 completion of an entire project, including purchasing all materials, hiring
11 and paying subcontractors, and coordinating all the work.

12 (b) “Qualifying Construction Project” means any construction project,
13 other than construction of Residential Housing, with a total cost of three
14 hundred fifty thousand dollars (\$350,000.00) or more, including change
15 orders, amendments, or modifications resulting in an addition to the total
16 project cost. A construction project is a Qualifying Construction Project if
17 any additions or modifications resulting in changes to the total project cost
18 cause the total cost to meet or exceed the threshold of three hundred fifty
19 thousand dollars (\$350,000.00).

20 (c) “Residential Housing” shall mean construction of individual
21 homes and not apartments, condominium complexes, or commercial
22 residential developments.

1 (d) "Subcontractor" means a person who is awarded a portion of an
2 existing contract by General Contractor.

3 **§102. Tax Imposition on Gross Revenues from Certain**
4 **Construction Activities.**

5 (a) Unless expressly exempted herein, a tax of 3% shall be imposed
6 on the gross revenues of a General Contractor that are directly attributed
7 to or derived from Qualifying Construction Projects.

8 (b) For the purpose of subsection (a), the gross revenue tax shall
9 exclude revenues generated by or derived from construction of Residential
10 Housing.

11 (c) Revenues of a Subcontractor that are derived from construction
12 activities performed on a Qualifying Construction Project are exempted
13 from this tax, if the person was contracted by a General Contractor.

14 (c) Revenues from construction activities derived from Qualifying
15 Construction Products that were received on or before December 31, 2024
16 are exempt from the tax imposed in subsection 102. Provided however, that
17 any amounts previously paid shall be included in determining the total
18 project cost.

19 **§103. Non-Refundable Tax Credit.**

20 (a) A person subject to the tax in Section 102 may take the tax
21 imposed on gross revenues in such section as a non-refundable tax credit
22 against any taxes imposed on Commonwealth source income under

1 Subtitle A of the NMTIT pursuant to Chapter 7 of this division
2 (4 CMC sections 1701 *et. seq.*). No such credit shall be allowed for any
3 amount deducted in determining taxable income under the NMTIT as
4 shown on the taxpayer's return.

5 (b) Partners and S corporation shareholders may take their
6 respective share of taxes imposed on gross revenues reported and paid by
7 their respective partnerships and S corporations under Section 102 as a
8 nonrefundable credit against the tax imposed on Commonwealth source
9 income under Subtitle A of the NMTIT pursuant to chapter 7 of this division
10 (4 CMC §§ 1701 *et seq.*); provided, that the total of all such credits shall not
11 exceed the total taxes paid. No credit shall be allowed under this subsection
12 (b) for the amount of any taxes taken as a credit under subsection (a) of this
13 section.

14 (c) No such credit shall be allowed for any amount deducted in
15 determining taxable income under the NMTIT as shown on the taxpayer's
16 return.

17 **§ 104. Returns and Payment of Tax.**

18 (a) *In General.* Every person subject to this chapter shall file a return
19 and pay the tax, if any, on a monthly basis. The secretary shall by regulation
20 prescribe monthly rates as necessary to carry out the intent and purpose of
21 this section.

1 (b) *Filing Returns and Payment.* The monthly returns and tax
2 payments under subsection (a) of this section shall be filed and the tax paid,
3 if any, on or before the last day of the month following the close of each
4 month, to wit: on or before February 28, March 31, April 30, May 31, June
5 30, July 31, Aug 31, September 30, October 31, November 30, December 31
6 and January 31. The payment shall be based on the payors gross revenue
7 derived from Qualifying Projects in the preceding month, and the amount
8 of tax imposed by this chapter shall be paid to the Commonwealth
9 government through the secretary or his appointee or appointees. Each
10 business shall, on or before the date provided for payment of tax under this
11 section, make a full, true, and correct return showing all such gross revenue
12 received, accrued, or earned, whichever is earlier, and the amounts
13 deducted and set aside on account during the preceding month. This return
14 shall be filed with the secretary and include such other information as may
15 be required or prescribed by the secretary. The secretary for good cause,
16 may extend the time for making payments and returns, but not beyond the
17 last day of the first month succeeding the regular due date.

18 (c) *Tax Returns of Transferor.* The requirement to deduct, withhold
19 and pay over tax for the account of the transferor shall not relieve the
20 transferor from the duty to file any tax returns required by law.

21 (d) *Penalty.* Failure to comply with the provisions of this section shall
22 be punishable under the penalties prescribed by this division.

1 **§ 105. Enforcement.**

2 Two percent or \$300,000, whichever is less, of the taxes collected
3 pursuant to this chapter shall be earmarked annually to the Division of
4 Revenue & Taxation for the implementation and enforcement of this
5 chapter. The earmarked funds in this section shall not be subject to fiscal
6 year limitations.”

7 **SECTION 3. REGULATIONS.**

8 The Secretary of Finance is hereby authorized to promulgate rules and
9 regulations including but not limited to providing definitions, and other matters
10 necessary for the proper implementation of this Act.

11 **SECTION 4. SEVERABILITY.**

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

17 **SECTION 5. SAVINGS CLAUSE.**

18 This Act and any repealer contained herein shall not be construed as
19 affecting any existing right acquired under contract or acquired under statutes
20 repealed or under any rule, regulation, or order adopted under the statutes.
21 Repealers contained in this Act shall not affect any proceeding instituted under or
22 pursuant to prior law. The enactment of the Act shall not have the effect of

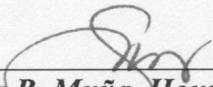
HOUSE BILL 23-74, HD1, SS1

1 terminating, or in any way modifying, any liability, civil or criminal, which shall
2 already be in existence on the date this Act becomes effective.

3 **SECTION 6. EFFECTIVE DATE.**

4 This Act shall take effect upon its approval by the Governor, or it becoming
5 law without such approval.

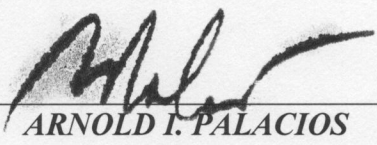
Attested to by:


Linda B. Muña, House Clerk

Certified by:


SPEAKER EDMUND S. VILLAGOMEZ
House of Representatives
23rd Northern Marianas Commonwealth Legislature

Disapproved this 28th day of October, 2024


ARNOLD I. PALACIOS
Governor
Commonwealth of the Northern Mariana Islands