

**TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE
IN THE HOUSE OF REPRESENTATIVES**

Regular Session, 2021

H. B. 22-25

A BILL FOR AN ACT

To provide relief to CNMI taxpayers affected by disasters by allowing relief from penalties and interest on unpaid taxes; and for other purposes.

**BE IT ENACTED BY THE 22ND NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings.** The Legislature finds that in an effort to collect
2 outstanding tax revenues, Public Law(s) 12-51, 14-28, 18-29 and 18-65 established
3 a tax amnesty programs that has since expired. The Legislature further finds that
4 the program was highly successful because it allowed many delinquent taxpayers
5 to come forward and become compliant.

6 The Legislature further finds:

- 7 (1) In August 2015 Super Typhoon Soudelor devastated the island of Saipan
8 and significantly slowed down the economy by affecting commerce in and out of
9 CNMI. The recovery and rebuilding efforts took a few years.
- 10 (2) In September 2018 Super Typhoon Manghkut devastated the island of
11 Rota. Rota residence and business had to endure months of rebuilding in an already

1 weakened economic position.

2 (3) A month later in October CNMI experienced the devastation of Super
3 Typhoon Yutu. Individuals and business establishments in both islands of Tinian
4 and Saipan were severely impacted by this natural disaster. Typhoon Yutu's
5 impact resulted with the halting of travel into CNMI for those that were not disaster
6 related or returning resident. This affected tourism, the major CNMI economic
7 industry.

8 (4) Nearly all business establishments had to acquire and or use its own
9 generator for power to operate its business. Businesses were unable to pass the
10 additional cost of operating a generator through normal price increases since the
11 CNMI was under a prize freeze directive from the Attorney General's office.

12 (5) On January 29, 2020, the Governor issued Executive Order 2020-01
13 declaring a state of significant emergency regarding the COVID-19 outbreak.

14 (6) On March 13, 2020 President Donald J. Trump declared a national
15 emergency over the COVID-19 outbreak in the continental United States.

16 (7) On March 16, 2020 the Governor issued Executive Order 2020-04
17 declaring a State of Public Health Emergency and a continues Declaration of a
18 Significant Emergency for the CNMI due to the significant and imminent threat of
19 harm to the community, environment and people of the CNMI.

20 (8) Because of the COVID-19 outbreak and the resulting suspension of
21 flights, our economy has come to a standstill which has depressed economic activity

1 and drastically reduced tax revenue.

2 (9) While the U.S. Federal Government provided aid and relief to many
3 CNMI residence, the business establishments were left with little alternative but to
4 rebuild and seek and or use its own financing to continue operating its business.

5 (10) To recover from major disasters, lawmaker use tax policy tools to
6 respond to natural disasters to assist citizens in their recovery and rebuilding efforts
7 and in turn speed up economic recovery.

8 (11) The Internal Revenue Service and other State Taxing authorities have
9 discretionary tools at their disposal to provide taxpayer relief. These tools include
10 waiver of tax penalties and extension of time to pay taxes. This relief also permits
11 taxpayers to deduct allowable casualty losses on their tax returns during the disaster
12 year which can potentially reduce their tax liability or carry back the losses to the
13 preceding year to reduce their tax liability and/or get a tax refund. Federally enacted
14 and proposed legislation such as the Katrina Emergency Tax Relief Act of 2005,
15 the Hurricane Sandy Tax Relief Acts of 2012 and 2013, and the recently introduced
16 Hurricane Florence Tax Relief Act (2019-2020), are all legislative responses to the
17 needs of taxpaying citizens in the aftermath of a federally declared disaster.
18 Individuals and business are able to take casualty loss deductions when reporting
19 their Northern Marianas Territorial Income Tax for the affected year. Similarly,
20 these Federal tax policy tools were made available to assist affected CNMI
21 taxpayers on the devastations caused by Super Typhoon Soudelor in 2015 followed

1 by Typhoon Mangkhut and Super Typhoon Yutu in 2018. These relief are provided
2 in IRS announcements NMI-2018-1, Oct. 5, 2018, and NMI-2018-2, October 30,
3 2018, respectively.

4 (12) Presently, some members of the U.S. Congress are seeking to make
5 taxpayer disaster relief a permanent statute when the U.S. president declare a
6 federal disaster.

7 (13) However, there are no similar provisions in the local taxing statute that
8 provides any sort of taxpayer relief, except for excise tax relief when importing
9 generators. Hence, the highest tax burden in the CNMI are the local taxes such as
10 the Business Gross Revenue Tax and the Wage and Salary and Earnings Tax.

11 (14) Natural disasters are actually a major trigger that affects taxes. They
12 often cause a chain reaction of challenges that lead to economic hardships.
13 Recovery and rebuilding require financial capital infusion by individuals and
14 businesses and in many instances, it is a slow protracted process.

15 (15) When an extraordinary event (e.g., natural disaster) occur, it makes it
16 very difficult for taxpayers to implement their rebuilding plans and at the same time
17 meet their tax obligations.

18 (16) The citizens of the CNMI have demonstrated resiliency in the recovery
19 efforts, the challenge continue to exist in rebuilding and the chain reaction in
20 economic hardship and under these circumstances, the burden of having to divert
21 funding sources to pay penalty and interest will prolong the suffering and hinder

1 economic growth despite the resilience of the CNMI citizens.

2 (17) The work of recovery and rebuilding is long term and the Legislature
3 recognizes the need to support the business community in their recovery and
4 rebuilding efforts.

5 (18) In light of the successive disasters over the span of the last years, and
6 the suffering and burden that these disasters have caused our citizens and business
7 community, the Legislature finds that a special consideration should be given to
8 providing relief, such as a waiver or cancellation of penalty and interest charges on
9 late tax remittances or late filing of a return. Such Legislative response is
10 appropriate and necessary in the CNMI's rebuilding process and at the same time
11 accelerate economic growth.

12 This Act, unlike the U.S. that allows deduction for disaster/casualty losses,
13 is not seeking for revenue or income deduction. It only seeks the relief of penalties,
14 and to a certain extent relief on interest charges on the tax principal paid within the
15 specified time period. The waiver of interest will promote collection of taxes.
16 Providing this waiver will likely put taxpayers in a better position to commit to
17 rebuilding and as a result accelerate economic growth. Therefore, the purpose of
18 this legislation is to provide taxpayer relief as stated herein.

19 The Legislature concludes that the provisions of this Act are nearly identical
20 to those of Public Law(s) 12-51, 14-28, 18-29, 18-65 and should, like the previous
21 Public Laws, encourage persons and entities to come into compliance with the law.

1 Therefore, the intent of this Act is to provide a tax amnesty period that will expire
2 60 days after this Act is enacted into law.

3 **Section 2. Tax Amnesty.** Unless otherwise provided, the following
4 provisions shall apply to all taxes, including withholding taxes and all returns,
5 including deductions, exemptions, credits erroneously claimed in returns filed for
6 all tax years prior to the 2020 calendar year as well as penalties for failing to timely
7 file information returns including form W2 and penalties of withholding on real
8 estate transactions filed for all tax years prior to the 2020 calendar year:

9 (a) Voluntary Statement of Wages, Salary, or Earnings. Any person
10 who has not filed a return as required under Chapter 2 of Title 4, Division
11 1 of the CNMI Code or who, having filed such return, failed to report all
12 wages, salaries and/or earnings or pay all taxes as required shall have the
13 option to file a special return. The special return shall state the amount of
14 wages and salaries and/or earnings and the taxable years or period in which
15 such wages and salaries and/or earnings were earned, derived or received.
16 The special return shall be accompanied by the payment of taxes owed
17 thereon in accordance with subsection (f).

18 (b) Voluntary Statement of Gross Revenue. Any person who has
19 not filed a return as required under Chapter 3 of Title 4, Division 1 of the
20 CNMI Code or who, having filed such a return, failed to report all gross
21 revenue or pay all taxes as required shall have the option to file a special

1 return. The special return shall state the amount of gross revenue and the
2 taxable years or period in which such gross revenue was received, accrued
3 or earned. The special return shall be accompanied by the payment of taxes
4 owed thereon in accordance with subsection (f).

5 (c) Voluntary Statement of Room and Bar. Any person who has not
6 filed a return as required under Chapter 5 of Title 4, Division 1 of the CNMI
7 Code or who, having filed such return, failed to report all revenue and/or
8 winnings or failed to pay the tax shall have the option to file a special return.
9 The special return shall state the amount of revenue and/or winning and the
10 taxable years or period in which such revenue and/or winning was accrued
11 or received. The special return shall be accompanied by the department of
12 taxes owed thereon in accordance with subsection (f).

13 (d) Voluntary Declaration of Excise Tax. Any taxpayer who has not
14 declared an article subject to excise tax under Chapter 4, Title 4, Division 1
15 of the CNMI Code or who, having made such a declaration, failed to declare
16 all articles or pay all tax as required shall have the option of filing a special
17 return. The special return shall state the article subject to excise tax, its
18 taxable worth, and the corresponding tax. The special return shall be
19 accompanied by the payment of taxes owed thereon in accordance with
20 subsection (f).

21 (e) Voluntary Statement of Income and/or Tax Pursuant to the

1 NMTIT. Any person who has not filed a return as required under Chapter
2 7 of Title 4, Division 1 of the CNMI Code or who, having filed such a return,
3 failed to report all income or had claimed excessive deductions or credits or
4 failed to pay all tax as required shall have the option to file a special return.
5 The special return shall state the amount of taxable income and the taxable
6 years or period in which such income was accrued or received. The special
7 return shall be accompanied by the payment of taxes owed thereon in
8 accordance with subsection (f).

9 (f) Filing of a Special Return and Release from the Payment of
10 Penalty and Interest. Within fifteen (15) days of the effective date of this
11 Act, the Department of Finance shall make available to the public the
12 special returns required by this Act. Except as otherwise provided by this
13 section, any person who files a special return, together with a request for
14 waiver of penalties and interest, and pays the tax owed thereon to the CNMI
15 prior to the expiration of this Act is released from the payment of penalties
16 and interest as follows:

17 (1) Where a special return is properly filed and full payment
18 of all tax owed hereon is made to the CNMI government, 100
19 percent of all penalty and interest charges shall be waived,
20 notwithstanding any previous or existing agreement by the taxpayer
21 for the payment thereof.

1 (2) Where a special return is properly filed but payment of
2 less than 100 percent of all tax owed thereon is made to the CNMI
3 government, 100 percent of the penalty shall be waived along with
4 that portion of the interest attributable to the principal paid with the
5 special return, provided that the taxpayer has first entered into an
6 agreement with the Director of Revenue and Taxation in the
7 Department of Finance for the payment of the remaining balance of
8 the tax and interest charges.

9 (3) Interest due pursuant to the NMTIT shall not be waived.

10 (4) Penalties may be waived under the NMTIT only upon a
11 showing of reasonable cause.

12 (5) This act shall not apply to:

13 (i) any person who is a party to a civil or criminal tax
14 action;

15 (ii) any person who has had a civil or criminal
16 judgment rendered against them and who has not paid such
17 judgment in full;

18 (iii) any person who has been convicted of a sex
19 offense against a minor as such terms are defined in Section
20 111 of the Sex Offender Registration and Notification Act
21 (42 U.S.C 16911); and

1 (iv) any business engaged in gambling, including but
2 not limited to e-gaming, poker, casino enterprises.

3 (g) Immunity.

4 (1) Grant of Immunity. Except as otherwise provided, any
5 person who complies with the provisions of this Section shall not be
6 subject to civil or criminal penalties under the tax laws of the CNMI.

7 (2) Scope of Immunity. The immunity granted in this
8 section shall be limited to the amount declared and determined
9 according to subsection (a), (b), (c), (d), or (e).

10 (3) Limitation. Immunity may only be obtained within the
11 effective period of this Act.

12 (4) Exclusion. The following persons are not entitled to
13 immunity under the provisions of this Act:

14 (i) any person against whom a criminal or civil action
15 has been initiated and is pending for any violation of the tax
16 laws of the CNMI or any person being investigated for fraud;

17 (ii) any person who has been convicted of tax fraud;

18 (iii) any person whose source of income is illegal;

19 (iv) any person who fraudulently files a special return
20 under this Act.

21 **Section 3. Compliance Requirements.**

1 (a) Future Compliance with the Tax Laws. Notwithstanding any
2 other provision of this Act, the Director of Revenue and Taxation may
3 assess and collect from a taxpayer all penalties and interest forgiven through
4 the tax amnesty program established in this Act, within three years after the
5 expiration of this Act:

6 (i) The taxpayer who received amnesty under this Act fails
7 to file a return or pay a tax due for two or more consecutive periods
8 and the taxpayer has not contested the liability on a timely basis in
9 an administrative or judicial proceeding; or

10 (ii) The taxpayer who received amnesty under this Act is six
11 months or more late in the filing of a return due on an annual basis
12 or the payment of taxes due thereon and the taxpayer has not
13 contested the liability on a timely basis in an administrative or
14 judicial proceeding.

15 (iii) Any person who has had penalties and/or interest
16 waived pursuant to this Act, and who has entered into an installment
17 agreement pursuant to subsection (f)(2) of this Act and who has
18 defaulted in making payment as required under such agreement shall
19 be assessed and required to pay the penalty and interest previously
20 waived.

21 **Section 4. Limitations.**

1 (a) Previously paid interest and penalties. No person is entitled to a
2 refund of or credit on interest or penalties paid to the CNMI prior to the
3 effective date of this Act.

4 (b) Proceedings relating to tax amnesty return barred. A taxpayer
5 who elects to take advantage of the amnesty program established by the
6 provisions of this Act shall waive any right he or she may otherwise have
7 to seek administrative or judicial relief in connection with returns filed or
8 tax or interest paid under the provisions of this Act.

9 (c) Undisclosed Liabilities. Nothing in this Act shall be construed
10 to prohibit the department from instituting civil or criminal proceedings
11 against any taxpayer with respect to any amount of tax that is not disclosed
12 on the tax amnesty program.

13 (d) Limitation of Deficiency Assessment. If after the expiration of
14 this Act, the department issues a deficiency assessment with respect to a
15 special return filed under the provisions of this Act, the department may
16 seek penalty and interest charges or pursue civil or criminal action only with
17 respect to the difference between the tax shown on that amnesty return and
18 the correct amount of tax.

19 (e) The taxpayer (person, sole proprietor, company, partnership, or
20 corporation) who received amnesty under Public Law 12-51, Public Law
21 14-28, Public Law 18-30 or Public Law 18-65 shall not be eligible for tax

1 amnesty pursuant to this Act.

2 **Section 5. Waiver of Penalties for Payment of Business License Fees.**

3 During the effective period of this Act, any person or entity that is required
4 to obtain a business license pursuant to Public Law 11-73, as codified in 4 CMC,
5 Division 5, Chapter 6, and that has failed to comply is entitled to a waiver of all
6 penalties imposed by Public Law 11-73, as codified in 4 CMC Section 5613, if such
7 person or entity pays all the business license fees due under 4 CMC Section 5611.

8 **Section 6. Expiration of Application.** The provisions of this Act shall
9 become effective upon its becoming law and shall remain in effect for a period of
10 60 days after it is enacted into law.

11 **Section 7. Rules and Regulations.** The Secretary of Finance is authorized
12 to promulgate rules and regulations to administer this Act.

13 **Section 8. Severability.** If any provisions of this Act or the application of
14 any such provision to any person or circumstance should be held invalid by a court
15 of competent jurisdiction, the remainder of this Act or the application of its
16 provisions to persons or circumstances other than those to which it is held invalid
17 shall not be affected thereby.

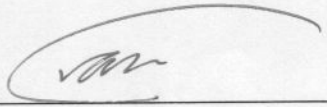
18 **Section 9. Savings Clause.** This Act and any repealer contained herein
19 shall not be construed as affecting any existing right acquired under contract or
20 acquired under statutes repealed or under any rule, regulation, or order adopted
21 under the statutes. Repealers contained in this Act shall not affect any proceeding

1 instituted under or pursuant to prior law. The enactment of the Act shall not have
2 the effect of terminating, or in any way modifying, any liability, civil or criminal,
3 which shall already be in existence on the date this Act becomes effective.

4 **Section 10. Effective Date.** This Act shall take effect upon its approval by
5 the Governor, or its becoming law without such approval.

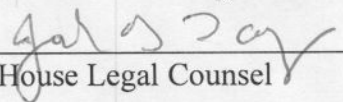
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Introduced By: 

Rep. Ivan A. Blanco

Reviewed for Legal Sufficiency by:


House Legal Counsel

