

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

September 7, 2023

Sec. Reg. Session, 2023

H. B. 23-74

A BILL FOR AN ACT

To impose an additional 3% tax on the yearly gross revenue of constructions activities in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) for a period of three years.

BE IT ENACTED BY THE 23RD NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Findings and Purpose. The Legislature finds that in recent
2 years, numerous construction projects have taken place within the CNMI.
3 Significantly, however, licensed construction contractors have paid a tax rate
4 between 2.5% and 5% as set forth in 4 CMC section 1301.

5 The Legislature acknowledges that an additional tax may increase the costs
6 of construction for commercial projects and possibly residential projects as
7 contractors attempt to pass on the increased costs to consumers. Similarly, we are
8 also aware that general contractors often hire subcontractors on commercial
9 projects. Relevant to this bill, there are legitimate issues with respect to double
10 taxation. There is also a valid concern that this legislation may increase the final
11 costs that are charged to consumers. These concerns, raised by the CNMI

1 amended by adding a new provision to read as follows:

2 **“§101. Tax Imposition on Construction Activities Gross**
3 **Revenue In Excess of \$250,000.**

4 (a) Unless expressly exempted herein, in addition to the taxes
5 imposed by 4 CMC §1301 (Tax on Gross Revenue), a yearly tax of 3% shall
6 be imposed on the gross revenue directly attributed to or derived from
7 construction activities in excess of \$250,000. Any revenue less than this
8 sum shall not be assessed an additional tax.

9 (b) For the purpose of subsection (a), the yearly gross revenue tax
10 shall exclude construction activity gross revenue generated by or derived
11 from residential housing construction activities that is intended primarily
12 for living purposes, for clarity, “residential housing” under this Act shall
13 mean construction of individual homes and not apartments or similar
14 activities. Revenues unrelated to construction activities are not subject to
15 the tax set forth in subsection (a).

16 (c) Revenues from construction activities for construction projects
17 engaged in prior to the effective date of this Act are exempt from the tax
18 imposed in subsection 101. Provided however, that should change orders
19 occur after the effective date of this Act, taxes imposed in §101 shall apply.

20 **§102. Non-Refundable Tax Credit.** A person subject to the tax in
21 Section 101 may take the tax imposed on gross revenues in such section as

1 Department of Finance and the CNMI Office of the Attorney General, that call
2 attention to these potential adverse impacts, are valid.

3 With respect to tax impacts and other considerations, we find that there will
4 never be a good time to raise taxes. Accordingly, the Legislature finds that as set
5 forth in section 101, the CNMI should impose an additional 3% tax on yearly gross
6 revenue that is directly derived from construction activities, in excess of Two
7 Hundred Fifty Thousand Dollars (\$250,000.00). This tax is inapplicable to the
8 construction contractor as a corporate entity or taxpayer per se, the tax is however
9 applicable to the revenue that is directly derived from construction activities that
10 are over the \$250,000 threshold. In other words, if a construction activity generates
11 \$250,000 or less, this tax shall not apply. If a construction contractor generates
12 revenues directly attributable to residential construction, this tax does not apply.

13 In addition, in order to mitigate any adverse effects on the end prices that
14 may be passed along to the consumers, this bill via section 102, provides, similar
15 to 4 CMC section 1308 (a) of the Business Gross Receipts Tax, a non-refundable
16 tax credit that shall be available for new taxes imposed pursuant to this bill.

17 Furthermore, the Legislature also finds it appropriate to establish a Sunset
18 Clause for a period of three years to lessen the financial burden imposed by such
19 additional tax.

20 **Section 2. Amendment.** Subject to codification by the CNMI Law Revision
21 Commission, Title 4, Division 1, Chapter 3 of the Commonwealth Code is hereby

1 a non-refundable tax credit against the tax imposed on the Commonwealth
2 source income under Subtitle A of the NMTIT pursuant to Chapter 7 of this
3 division (4 CMC sections 1701 et. seq.”

4 **Section 3. Sunset Clause.** The Provisions of this Act Shall expire three
5 years after the effective date of this Act but not earlier than December 31st of such
6 year.

7 **Section 4. Regulations.** The Secretary of Finance is hereby authorized to
8 promulgate rules and regulations including but not limited to providing definitions,
9 and other matters necessary for the proper implementation of this Act.

10 **Section 5. Severability.** If any provisions of this Act or the application of
11 any such provision to any person or circumstance should be held invalid by a court
12 of competent jurisdiction, the remainder of this Act or the application of its
13 provisions to persons or circumstances other than those to which it is held invalid
14 shall not be affected thereby.

15 **Section 6. Savings Clause.** This Act and any repealer contained herein
16 shall not be construed as affecting any existing right acquired under contract or
17 acquired under statutes repealed or under any rule, regulation, or order adopted
18 under the statutes. Repealers contained in this Act shall not affect any proceeding
19 instituted under or pursuant to prior law. The enactment of the Act shall not have
20 the effect of terminating, or in any way modifying, any liability, civil or criminal,
21 which shall already be in existence on the date this Act becomes effective.

1 **Section 7. Effective Date.** This Act shall take effect upon its approval by
2 the Governor, or its becoming law without such approval.

Prefiled: 9/7/2023

Date: _____

Introduced by: _____
Rep. Ralph N. Yumul

Reviewed for Legal Sufficiency by:
Jorge D. Diaz
House Legal Counsel

