

TWENTY-FOURTH NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

_____ Session, 2026

H. B. 24- 98

A BILL FOR AN ACT

To amend Title 4 of the Commonwealth Code to provide Business Gross Revenue Tax relief for taxpayers operating at a net loss under the Northern Mariana Islands Territorial Income Tax; and for other purposes.

**BE IT ENACTED BY THE 24TH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings and Purpose.** The Legislature finds that the
2 Commonwealth administers a mirror-code income tax system, known as the
3 Northern Mariana Islands Territorial Income Tax (NMTTIT), pursuant to Section
4 601 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands
5 in Political Union with the United States of America and applicable provisions of
6 federal law, under which tax revenues are retained by the Commonwealth. The
7 Commonwealth also imposes a Business Gross Revenue Tax (BGRT) under Title
8 4 of the Commonwealth Code, which is assessed on gross receipts derived from
9 business activity within the Commonwealth, without regard to profitability.
10 BGRT and NMTTIT are separate and cumulative taxes, and current law
11 provides no general offset or credit between the two. As a result, businesses

1 operating in the Commonwealth may be required to pay BGRT even when
2 operating at a net loss for the same taxable year under the NMTTIT.

3 Evidence from multiple industries demonstrates that the combined
4 application of BGRT and NMTTIT can, in certain circumstances, result in effective
5 tax burdens that exceed net income, particularly for low-margin, capital-intensive,
6 or labor-intensive businesses. Such outcomes are structural in nature, arising from
7 the interaction of a gross-based tax and a net-income-based tax, rather than from
8 noncompliance or tax avoidance.

9 Courts have consistently upheld gross receipts taxes as constitutionally valid
10 exercises of a legislature's taxing authority. However, questions of economic
11 distortion, tax neutrality, and proportionality arising from the structure or
12 interaction of taxes are matters of public policy, not constitutional adjudication.
13 Accordingly, responsibility for correcting structural distortions or inequitable
14 outcomes within the tax system rests with the Legislature, not the Judiciary.

15 Sound public finance principles favor tax systems that avoid imposing tax
16 liability where no net income exists, minimize distortion of business behavior and
17 investment decisions, and align burden with a taxpayer's actual ability to pay. As
18 currently structured, the Business Gross Revenue Tax, when stacked with the
19 Northern Mariana Islands Territorial Income Tax without offset mechanisms, fails
20 commonly accepted tax neutrality standards. This failure constitutes a policy

1 deficiency, not a legal defect in the validity of the tax.

2 The Legislature determines that targeted relief in loss years is the most
3 fiscally responsible and administratively efficient means of addressing this policy
4 deficiency at this time. This approach preserves the Business Gross Revenue Tax
5 as a stable revenue source while preventing confiscatory taxation of businesses that
6 are demonstrably unprofitable.

7 The purpose of this Act is to ensure that the Business Gross Revenue Tax is
8 not imposed on taxpayers who have incurred a net operating loss under the Northern
9 Mariana Islands Territorial Income Tax for the same taxable year, thereby
10 promoting economic stability, tax fairness, and compliance without undermining
11 the Commonwealth's revenue base.

12 **Section 1A. Policy Summary.** The Legislature hereby adopts the following
13 policy summary to guide interpretation and implementation of this Act:

14 (a) Courts have consistently upheld gross receipts taxes as
15 constitutionally permissible; however, constitutional validity does not equate
16 to optimal tax policy.

17 (b) The Business Gross Revenue Tax, while lawful, produces non-
18 neutral outcomes when applied concurrently with a net-income tax and
19 without adjustment.

20 (c) When stacked with the Northern Mariana Islands Territorial Income
21 Tax without offset mechanisms, the BGRT can impose tax burdens that

1 exceed a taxpayer's net income, undermining economic neutrality and
2 fairness.

3 (d) These outcomes represent a policy failure rather than a legal defect,
4 and therefore warrant legislative – not judicial – correction.

5 (e) Relief limited to loss years:

6 (1) Prevents taxation in the absence of economic gain;

7 (2) Reduces distortion without eliminating the BGRT;

8 (3) Preserves revenue stability in profitable years; and

9 (4) Encourages accurate income tax reporting and compliance.

10 (f) This Act is intended as an incremental reform that addresses the
11 most severe distortions while allowing the Legislature to evaluate future
12 measures, including credits or rate caps, based on fiscal performance and
13 economic conditions.

14 **Section 2. Amendment.** Title 4, Division 1, Chapter 3, Section 1301 is
15 hereby amended by adding a new subsection (c) to read as follows:

16 **“(c). Loss-Year Relief.**

17 (1) Notwithstanding any other provision of this chapter, no
18 Business Gross Revenue Tax shall be imposed for any taxable year in
19 which a taxpayer demonstrates a net operating loss under the Northern
20 Mariana Islands Territorial Income Tax for the same taxable year.

1 (2) Eligibility for relief under this subsection shall be established

2 by:

3 (i) The Filing of a timely territorial income tax return; and

4 (ii) Certification by the Division of Revenue and Taxation

5 that the taxpayer incurred a net operating loss for that year.

6 (3) This subsection shall apply only to the taxable year for which

7 the net operating loss is demonstrated and shall not create any refund,

8 credit, carryforward, or carryback of Business Gross Revenue Tax paid

9 in prior years.

10 (4) The Secretary of Finance shall promulgate regulations as

11 necessary to implement and administer this subsection, including

12 coordination between BGRT filings and territorial income tax filings.”

13 **Section 3. Rulemaking Authority.** The Secretary of Finance shall adopt
14 rules and regulations pursuant to the Administrative Procedure Act to carry out the
15 provisions of this Act, provided that such regulations shall be consistent with the
16 Covenant, Title 4 of the Commonwealth Code, and the Internal Revenue Code as
17 mirrored in the Commonwealth.

18 **Section 4. Severability.** If any provisions of this Act or the application of
19 any such provision to any person or circumstance should be held invalid by a court
20 of competent jurisdiction, the remainder of this Act or the application of its

1 provisions to persons or circumstances other than those to which it is held invalid
2 shall not be affected thereby.

3 **Section 5. Savings Clause.** This Act and any repealer contained herein shall
4 not be construed as affecting any existing right acquired under contract or acquired
5 under statutes repealed or under any rule, regulation, or order adopted under the
6 statutes. Repealers contained in this Act shall not affect any proceeding instituted
7 under or pursuant to prior law. The enactment of the Act shall not have the effect
8 of terminating, or in any way modifying, any liability, civil or criminal, which shall
9 already be in existence on the date this Act becomes effective.

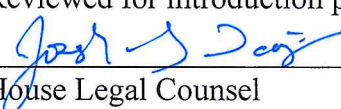
10 **Section 6. Effective Date.** This Act shall take effect upon its approval by the
11 Governor or it becoming law without such approval.

Prefiled: 2/19/2020

Date: _____

Introduced by: 
Rep. Marissa R. Flores

Reviewed for introduction purposes only by:


House Legal Counsel
2-19-20

Date