

TITLE 4: ECONOMIC RESOURCES
DIVISION 1: REVENUE AND TAXATION

§ 1402. Excise Tax.

(a) *General.* For the privilege of first sale, use, manufacture, lease or rental of goods, commodities, resources, or merchandise in the Commonwealth for business purposes or for personal use exceeding the value specified in subsection (c) of this section, there is imposed an excise tax as follows:

(1) Soft drinks, one-half of one cent (\$0.005) per fluid ounce or fractional equivalent thereof;

(2) Foodstuffs, one percent ad valorem;

(3) Commodities used in the production of agricultural products, including fertilizers, seed, animal feeds, pesticides and herbicides, agricultural equipment, machinery, tools, irrigation equipment and accessories intended specifically for agricultural use, one percent ad valorem;

(4) Perfumery, articles of perfumery including cologne and other fragrances whether in sachets or otherwise, 23 percent ad valorem;

(5) Cosmetics, including all preparations used as applications to the hair or skin, lipsticks, eye shadows, mascara, pomades, powders, makeup and other preparations not having medicinal properties or hygienic purposes, 17.25 percent ad valorem;

(6) Hygiene products and toiletries, one percent ad valorem;

(7) Prescription drugs and medicines, one percent ad valorem;

(8) Construction equipment, construction materials, and construction machinery, three percent ad valorem;

(9) Leather goods or related products, 5.75 percent ad valorem;

(10) Jewelry, 5.75 percent ad valorem;

(11) Precious metals, precious or semiprecious stones or related commodities, 5.75 percent ad valorem;

(12) Passenger vehicle having a value not exceeding \$30,000 per unit, five percent ad valorem;

(13) Passenger vehicle having a value in excess of \$30,000 per unit, 5.75 percent ad valorem;

(14) Boats and yachts, whether capable of being powered by sail or motor, and having a value in excess of \$500,000 per unit, 5.75 percent ad valorem;

(15) Goods, commodities, resources, or merchandise manufactured grown or entirely derived from sources within the Commonwealth, one percent of retail price, unless otherwise specified within this chapter.

(16) Cigarettes, \$2.75 (two dollars and seventy-five cents) per every twenty cigarettes, or fractional equivalent thereof, for three years after September 16, 2014 thereafter, \$3.75 (three dollars and seventy-five cents) per every twenty cigarettes or fractional equivalent thereof;

(17) Tobacco or tobacco substitute or chewable tobacco product, or other smokable or snuffable substance, material or product, other than cigarettes, sixty percent of the invoice price;

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(18) Beer and malt beverages, 2 cents per fluid ounce or fractional equivalent thereof;

(19) Distilled alcoholic beverages, 18 cents per fluid ounce or fractional equivalent thereof;

(20) Wine and sake, 5 cents per fluid ounce or fractional equivalent thereof;

(21) All other goods, commodities, resources, or merchandise not otherwise provided by law, five percent ad valorem.

(b) *Interpretation.* A sale, use, manufacture, lease or rental of goods, commodities, resources, or merchandise is, for purposes of this section, the first sale, use, manufacture, lease or rental of goods, commodities, resources, or merchandise in the Commonwealth if it is so in fact, or if the goods, commodities, resources, or merchandise were previously exempt from taxation on account of their sale, use, manufacture, lease or rental within or into a Commonwealth Free Trade Zone and further sale, use, manufacture, lease or rental occurs within the Commonwealth to or outside a Free Trade Zone, or if the goods, commodities, resources, or merchandise, although previously taxed under this section, have lost their identity on account of manufacturing, remanufacturing, processing, reprocessing, production, assembly, or other activity within a Free Trade Zone.

(c) *Exemptions from Excise Tax.* The following items shall be exempt from excise tax:

(1) Capital equipment and machinery used in businesses primarily engaged in manufacturing for export with a fair market value exceeding \$1,000 per unit and raw materials used in businesses primarily engaged in manufacturing for export.

(2) Sacramental wine for use in religious rites of a religious organization.

(3) Books and other educational materials purchased for nonbusiness use by a public or private school or a library open to the public.

(4) Merchandise, equipment, devices, and other items, including wheelchairs, hearing aids, braille material, canes, walkers, prosthetic devices, braces, crutches, or prescription lenses and eye glasses brought in by persons to be used by handicapped individuals who are either residing or visiting in the Commonwealth, provided however, that such merchandise, equipment, devices and other items are not brought into the Commonwealth for sale, lease, or rent to the handicapped.

(5) Merchandise, equipment, devices, hygiene products, cribs, strollers, diapers, lotions, creams, powders, and other products primarily intended for use in the daily and ordinary care of children aged 24 months or less.

(6) Equipment, machinery, merchandise, devices, and other items which produce, or are components of a system that produces, electric power from wind, solar, water, landfill gas, waste, geothermal sources, ocean thermal, ocean current or wave energy, biomass, municipal solid waste, biofuels, or fuels derived from organic sources, hydrogen fuels, or fuel cells where the fuel is derived from renewable sources.

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(7) Goods, commodities, resources, or merchandise brought into the Commonwealth temporarily and solely for the purpose of display or demonstration and not for the purpose of sale. Any goods, commodities, resources, or merchandise temporarily imported under this subsection must be entered pursuant to a written application as prescribed by the secretary and filed with the secretary. The secretary may by regulation place restrictions on any temporary importation free of tax under this section to ensure that all relevant goods, commodities, resources, or merchandise are in fact used only for temporary display or demonstration.

(8) Capital equipment, machinery, spare parts, and other items brought into a Commonwealth Free Trade Zone and used to operate facilities located within the Zone(s) pursuant to an exemption duly granted by the Free Trade Zone Authority, to the extent (amount and duration, which shall not exceed 20 years) prescribed by such exemption.

(9) Raw material and other goods, except if they enter the CNMI Customs Territory, brought into a Commonwealth Free Trade Zone for incorporation into products produced or assembled within the Free Trade Zone(s), to the extent (amount, and duration, which shall not exceed 20 years) of an exemption duly granted by the Commonwealth Free Trade Zone Authority. This exemption shall not apply to consumable supplies used in the course of ordinary business operations or to construction materials.

(10) Domestic articles on which an excise tax has previously been paid, reentering the CNMI Customs Territory from a Commonwealth Free Trade Zone, to the extent of the tax previously paid; provided that, no exemption shall be allowed if, in the opinion of the secretary, the domestic articles have lost their identity.

(11) The secretary may prescribe regulations to exempt any other goods, commodities, resources, or merchandise from taxation under this chapter. The secretary may also prescribe regulations for the supervision and identification of goods sent into the Commonwealth Free Trade Zone(s) from the Customs Territory of the CNMI. For purposes of this section, Customs Territory of the CNMI or CNMI Customs Territory means the territory of the Commonwealth of the Northern Mariana Islands with the exclusion of Free Trade Zones established by or pursuant to law.

(12) Refrigerators, stoves, ovens, and other devices for preserving or cooking food, which are certified ENERGY STAR by the U.S. Environmental Protection Agency and the U.S. Department of Energy.

(13) Non-commercial household appliances not intended for resale, including but not limited to the following: freezers, refrigerators, washers, dryers, and power generators, provided that each item is not more than \$6,000. Notwithstanding any provision of law, this exemption shall be applied once per household separate and apart for each item, for the duration of the declaration of disaster pursuant to [4 CMC § 5142](#)(a) or within thirty days of said declaration, whichever period is longer.

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(d) *Nonbusiness Use Exemption.* Any person may bring for personal use and consumption exempt from excise tax imposed by this section the following goods, commodities, resources, or merchandise:

(1) Any goods, commodities, resources or merchandise (including those exempt) that do not exceed a combined total value of \$1,000, except as otherwise provided in this section. For purposes of ascertaining which goods, commodities, resources or merchandise equal the first \$1,000 of exempted goods, commodities, resources or merchandise, the value of those goods, commodities, resources, or merchandise with the lowest excise rate shall be included first.

(2) An amount of cigarettes that are commercially packaged and that do not exceed 30 packages of 20 cigarettes per package.

(3) An amount of tobacco or tobacco substitute, or chewable tobacco product or other smokable or snuffable substance, material or product other than cigarettes, not to exceed one pound, provided that such substance, material or product is not contraband.

(4) An amount of distilled alcoholic beverages not to exceed 77 ounces.

(5) An amount of beer or other malt beverage not to exceed 288 fluid ounces.

(6) An amount of wine and *sake* not to exceed 128 ounces.

(7) Equipment, machinery, merchandise, devices, and other items which produce, or are components of a system that produces, electric power from wind, solar, water, landfill gas, waste, geothermal sources, ocean thermal, ocean current or wave energy, biomass, municipal solid waste, biofuels, or fuels derived from organic sources, hydrogen fuels, or fuel cells where the fuel is derived from renewable sources.

(8) Equipment, machinery, merchandise, devices, and other items which are certified ENERGY STAR by the U.S. Environmental Protection Agency and the U.S. Department of Energy.

(e) *Regulations.* The secretary may by regulation require that persons importing quantities of goods, commodities, resources, or merchandise in the Commonwealth which are not normally indicative of a nonbusiness use must supply proof of the nonbusiness nature of the use intended for the goods, commodities, resources, or merchandise in order to avoid taxation under this section. The secretary shall prescribe by regulation the nature of the proof required to show the nonbusiness purpose. The Secretary of Finance is further authorized to classify new products for taxation purposes as necessary through rules and regulations promulgated under the Administrative Procedure Act.

(f) *Special Rule on Separate Purchases of Articles and Parts and Accessories.* Under regulations prescribed by the secretary:

(1) *In General.* Except as provided by subsections (e)(2) and (e)(3) of this section, if:

(i) The owner, lessee, or operator of any passenger vehicle, boat or yacht taxable under subsection (a)(13) and (a)(15) of this section, (determined

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without regard to price) installs (or causes to be installed) any part or accessory on such article, and

(ii) Such installation is not later than the date six months after the date the article was first placed in service,

then there is hereby imposed on such first sale or use a tax equal to the sum of:

(A) 10 percent of the total price of such part or accessory, plus

(B) 10 percent of the article taxable under this chapter (determined without regard of price).

(2) *Limitation.* Where the article taxable under this section was previously taxed under subsection (a) of this section, the tax imposed by subsection (e)(1) of this section shall be reduced by that tax previously imposed and paid under subsection (a) of this section.

(3) *Exceptions.* Subsection (e)(1) of this section shall not apply if:

(i) The part or accessory installed is a replacement part or accessory, or

(ii) The aggregate price of the parts and accessories described in subsection (e)(1) of this section with respect to the taxable article does not exceed \$200 (or such other amount or amounts as the secretary may by regulation prescribe).

(g)(1) Seven percent of excise taxes collected under this section shall be reserved for the solid waste management program and shall be deposited into the Solid Waste Management Revolving Fund.

(2) Three percent of excise taxes collected under this section shall be reserved for cancer treatment and programs and shall be deposited into a Cancer Fund Special Account, separate from the General Fund, to be appropriated to provide financial assistance to non-profit and governmental organizations that provide patient directed services for the prevention of cancers, its treatment, diagnosis, and other services that may be required to access treatment, including, but not limited to, off-island transportation and temporary housing.

(3) Fifty percent of all excise taxes collected under [4 CMC § 1402](#)(a)(16) shall be deposited into an account to fund the payment of the Commonwealth Government's share of the Group Health and Life Insurance benefits and for enforcement.

Source: [PL 9-22](#), § 1 (§ 1402) (repealing [PL 3-11](#), § 402, as amended by [PL 3-28](#), § 2, [PL 3-37](#), § 14, [PL 3-87](#), § 1, and [PL 8-23](#), § 5); amended by [PL 9-57](#), § 1; subsection (a)(16) amended by [PL 11-25](#), § 3; new subsection (b) added by [PL 12-20](#), § 28(b) (redesignating former subsections (b) through (e) redesignated as (c) through (f)); and redesignated subsection (c)(9) repealed, new subsections (c)(9) through (12) added by [PL 12-20](#), § 28(c); subsections (a)(16)-(20) repealed and reenacted by [PL 13-38](#), § 2, modified; subsection (g) added by [PL 13-42](#), § 5, modified; (c)(6) amended and (c)(13), (d)(7), and (d)(8) added by [PL 15-30](#), §§ 2, 3, and 4, respectively; subsections (a)(16) and (g) amended by [PL 18-64](#) §§ 2, 3 (Sept. 16, 2014), modified; subsection (c)(14)

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enacted by [PL 19-04](#) § 2 (Sept. 3, 2015), modified; (h) enacted by [PL 19-42](#) § 14(A) (Apr. 11, 2016), modified; (c)(7)–(13) and (e) amended by [PL 19-46](#) § 2 (May 30, 2016), modified; (h) expired April 11, 2017 by [PL 19-42](#) § 14(A) (Apr. 11, 2016).

Commission Comment: With respect to the references to the “secretary” of the Department of Finance, see Executive Order 94-3 (effective Aug. 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to [1 CMC § 2001](#). The Commission modified the phrase “effective date of this Act” in subsection (a)(16) to “September 16, 2014” pursuant to [1 CMC § 3806\(g\)](#).

The Commission modified the reference number “4 CMC Section 5142 (a)” in subsection (c)(14) to “4 CMC § 5142(a)” pursuant to 1 CMC § 3806(g). The Commission struck the figure “(30)” in subsection (c)(14) as a mere repetition of words pursuant to 1 CMC § 3806(e).

PL 11-25, § 3 amended subsection (a)(16). PL 11-25 took effect on August 10, 1998. Section 2 of PL 11-25 contained findings as follows:

Section 2. Findings. The Legislature finds that 4 CMC § 1402(a), as enacted by Public Law 9-22, was amended by Public Law 9-57. The Legislature further finds that this statute is in need of further amendment to help alleviate the financial crisis facing the Commonwealth government, by eliminating sunset provisions that would reduce tax revenues. Likewise, the excess credit tax on the Earned Income Credit under the Northern Marianas Territorial Income Tax (NMTIT), which was partially eliminated by Public Law 9-22, must be reinstated. The Commonwealth can no longer afford to pay this credit. In addition, the Commonwealth’s implementation of the Earned Income Credit in a manner that diverges from that of the U.S. Internal Revenue Code exposes the CNMI government to potential liability in the tens of millions of dollars. Re imposition of the excess tax credit on the Earned Income Credit will eliminate this risk to the Commonwealth and CNMI taxpayers.

The Legislature also finds and declares that the amendment to 4 CMC § 1402(a) made by Public Law 9-57 had the effect of extending the sunset date for 4 CMC § 1402(a)(16), as amended, until October 6, 1998.

The Legislature also finds that the ceiling on the number of poker and pachinko slot machine licenses is a deterrent to economic growth in the Commonwealth and should be lifted. Accordingly, the ceiling on poker and pachinko slot machines is repealed and license fees for such machines are increased. Each Senatorial District is authorized to adopt additional license fees which shall be available for local appropriation.

PL 11-125, the Excise Tax Abatement Act of 1999, provided for a suspension of certain excise taxes for a period of six months. PL 11-125 contained legislative findings, suspension, severability, and savings clause provisions as follows:

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Section 2. Legislative Findings. The Legislature finds that steps need to be taken to stimulate our economy, especially in the First Senatorial District. We see constant changes in telecommunications technologies as necessary components to economic revitalization, and long term economic growth and stability. We realize, however, that the needs of private industry must be balanced against the government's need to raise revenue. We feel that by waiving the excise tax for telecommunications equipment and machinery for a limited time both interests will be saved. It is our specific intention that this abatement applies to telecommunications equipment and machinery.

Section 3. Suspension. Imposition of excise tax pursuant to 4 CMC § 1402(a)(8) is hereby suspended, with regards to applicable telecommunications equipment for first use in the First Senatorial District, for a period of six (6) months from November 1, 1999 or from the date of this act becoming law, whichever comes first.

Section 4. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

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

PL 13-38, which became effective December 13, 2002, established a Tobacco Control Fund (codified as [3 CMC § 2191](#)) wherein a portion of the collections from 4 CMC § 1402(a)(16) along with other collections are credited to, and contained the following findings and purpose, in addition to a severability clause:

Section 1. Findings and Purpose. Cigarette Smoking is the single most critical risk associated with the leading chronic diseases in the CNMI, namely, cancer, heart disease, and emphysema. Heart disease and cancer make up more than 60% of the off-island medical referral costs. More than \$2 million is spent each year treating diseases related to tobacco and alcohol use in the CNMI. Studies indicate that the pervasive use of tobacco among minors and young adults will likely decrease if the price of tobacco is increased. In response to concerns for the health of the youth and public as a whole, a number of states have increased the excise taxes on tobacco products. Furthermore the Healthy People 2010 Initiative, which the CNMI has adopted, has identified the objective to increase the national average of state and federal taxes on tobacco products to \$2.00 by year 2010. It is therefore in the best interest of the

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CNMI to increase taxes on alcohol and tobacco products. This increase in revenue would be reserved for funding tobacco control programs.

PL 13-42 became effective December 19, 2002 and established the Solid Waste Revolving Fund, codified as [2 CMC § 3551](#). PL 13-42 contained findings and purposes, severability, and savings clause provisions.

[PL 15-30](#) was enacted on September 26, 2006, and contained the following findings and purpose in addition to severability and savings provisions:

Section 1. Findings and Purpose. The Legislature finds that to move the Commonwealth towards energy self-sufficiency is imperative. There is great need to pursue the acquisition and use of products that will generate power from renewable energy sources, lower the use of fossil fuels, and lower the demand for electrical power from the CUC. The Legislature further finds that financial incentives are often the most powerful form of persuasion, and are necessary to encourage and empower businesses, utilities, and private citizens.

Therefore, the purpose of this act is to empower and encourage businesses and private individuals to pursue the acquisition and use of products that utilize alternative energy sources and products that conserve the use of energy from any source, by providing excise tax exemptions.

[PL 18-64](#) (Sept. 16, 2014) contained, in addition to savings and severability clauses, the following Findings section:

Section 1. Findings. Cigarette smoking results in a high cost to society in increased illness and a reduction in life expectancy. U.S. Centers for Disease Control & Prevention estimates show that total smoking-caused health costs and lost productivity totals more than \$10.28 per pack nationwide. The highest combined state-local tax rate is \$5.85 in New York City, with the rest of New York State at \$4.35 per pack. The average state cigarette tax is now \$1.46 per pack. In order to discourage cigarette smoking, the Legislature finds that it is appropriate to gradually increase the cigarette tax from \$2.00 per pack to \$2.75 per pack for three years after the effective date of this Act; thereafter, the cigarette tax shall be increased to \$3.75 per pack.

[PL 19-04](#) (Sept. 3, 2015) contained, in addition to savings and severability clauses, the following Findings and Purpose section:

Section 1. Findings and Purpose. The Legislature finds that due to the recent tragedy of a typhoon ravaging our beloved Commonwealth, citizens have lost and are lacking the necessary home appliances to sustain a comfortable living. The lack of access to water and electricity continues to exacerbate the living conditions and aggravate the citizens who have been inflicted by this calamity. Therefore, proper measures must be taken in order [to] improve the living situation of citizens badly affected by this catastrophe.

The Legislature finds that imposing a tax on non-commercial generators and home appliances during times of natural disaster is

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counter-productive. While citizens continue to suffer from emotional and financial stress, exempting power generators and personal household appliances from an excise tax will help the recovery.

The purpose of this Act is to amend [4 CMC Section 1402](#)(c) by adding a new subsection (14) to exempt generators and personal household appliances from being charged an excise tax, provided that this clause will automatically take effect upon a price declaration pursuant to [4 CMC Section 5142](#) (a) and also sunset after the disaster abates within a reasonable 30 day period.

[PL 19-42](#) § 14(A) temporarily enacted subsection (h) by the Legislature's express intent, becoming effective on April 11, 2016 for one year. The Commission changed "\$1,000.00" in subsection (h) to "\$1,000"; changed "Non-Business" in subsection (h) to "Nonbusiness"; changed "§1402(d)" in subsection (h) to "[4 CMC § 1402](#)(d)"; and changed "this law" in subsection (h) to "the Special Act for Firearms Enforcement" pursuant to [1 CMC § 3806](#)(g).

[PL 19-46](#) became effective on May 30, 2016. The Legislature purported to amend subsections (c)(7)–(13) but did not include the text of subsection (c)(13) in the amendment. In accordance with the legislative history of [PL 19-46](#) the Commission applied the amendment as a repeal of subsection (c)(7) and renumbering of subsections (c)(8)–(13). See H.B. 19-115. The Commission renumbered subsection (c)(14) to (c)(13) pursuant to [1 CMC § 3806](#)(a).

On April 11, 2017, (h) expired pursuant to [PL 19-42](#) § 14(A).