

CHAPTER 3

Duty-Free Shops

SECTIONS

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§ 301. Definitions.

For the purpose of this chapter:

- (1) “Person” means any individual, company, corporation, association, or other business activity, which, except as provided in section 303 of this chapter, must be wholly owned by citizens of the Trust Territory.
- (2) “Ports of entry” means the official ports specified under title 18, sections 202 and 203 of this code.
- (3) “Taxes” means excise, tariff, and other taxes levied on the import, export, and sale of merchandise pursuant to the laws of the Trust Territory, but does not include gross revenue taxes.

Source: COM PL 5-70 § 1 (part); TT Code 1980, 33 TTC 401.

Editor’s note: Subsections rearranged in alphabetical order.

Cross-reference: The statutory provisions on Citizenship are found in title 7 of this code. Title 18 of this code is on Territory, Economic Zones and Ports of Entry. The statutory provisions on Taxation and Customs are found in title 54 of this code.

§ 302. Establishment; Operation and maintenance; Transfer; Fees generally.

The High Commissioner is hereby authorized, subject to the conditions and restrictions of this chapter, to grant to any person the privilege of establishing, operating, and maintaining a duty-free retail concession in or adjacent to any port of entry under the jurisdiction of the Trust Territory. He may lease, rent, or let any public land or building or any part thereof or any interest therein, to any person to establish a duty-free retail concession under terms and conditions which, among others determined by him to be reasonable and proper, shall include the following:

(1) Only one duty-free retail concession shall be permitted at each port of entry.

(2) Each duty-free retail concession shall be advertised for public auction or public bidding and be granted to that financially responsible person of good moral character and reputable experience who, in the sole opinion of the High Commissioner, makes the best offer or bid. A noncitizen who wishes to bid for a duty-free retail concession pursuant to section 303 of this chapter shall comply with all applicable Trust Territory foreign-investment laws.

(3) Bids or offers shall be accepted only in conformance with precise terms and conditions uniform in all administrative districts, which terms and conditions, among others, shall include hours of business, standards of operation, reasonableness of prices charged, and appropriate record keeping, cash handling, and audit procedures all in accordance with sound accounting principles.

(4) The term of any duty-free concession shall not exceed five years except as provided in section 303 of this chapter, and regardless of term shall not be extended without public auction or bids.

(5) The concession privilege granted hereunder may not be sold or assigned without the prior written approval of the High Commissioner of the financial responsibility, moral character, and reputable experience of the proposed purchaser or assignee. Any such approval if given shall be without charge or levy upon the seller, purchaser, or assignee as a condition to such approval. A concession privilege may not be sold or assigned to a noncitizen who has not first obtained a foreign investor's business permit in the district in which the duty-free retail concession is located.

(6) The minimum concession fee shall be seven percent of gross sales of each duty-free retail concession. The percentage fee shall be paid within 15 days after the last day of each calendar month. In addition to the concession fee, there shall be a business privilege fee of three percent of the gross sales of each duty-free retail concession which shall be paid within 15 days after the last day of each calendar month and be deposited in and be a part of the General Fund of the Congress of Micronesia. The business privilege fee may not be increased during the term of a concession privilege granted by the High Commissioner.

Source: COM PL 5-70 § 1(part); TT Code 1980, 33 TTC 402.

§ 303. Grant on prepaid concession-fee basis.

At any port of entry where the High Commissioner determines prepayment of the duty-free concession fee to be desirable or necessary to supplement available public funds for purposes of constructing port of entry facilities, including space for said concession, he may require offers or bids on the basis of a prepaid minimum concession fee. In such instances noncitizens may bid for the concession privilege, and the High Commissioner may, with respect to that person who submits the best offer or bid of a prepaid concession fee in excess of \$1,000,000:

- (1) grant a concession term not in excess of 15 years; and
- (2) waive the imposition of gross revenue taxes and district and municipal license and permit fees.

Source: COM PL 5-70 § 1 (part); TT Code 1980, 33 TTC 403.

Cross-reference: The statutory provisions on Taxation and Customs are found in title 54 of this code.

§ 304. Disposition of concession fees.

All concession fees paid by each duty-free retail concession shall, upon receipt, be deposited into and be a part of the general fund of that administrative district in which the concession is situated; provided, that in those districts in which separate authorities or agencies operate port of entry facilities said concession fees may by determination of the High Commissioner be deposited into and become a part of the funds of such authority or agency operating said port of entry facilities.

Source: COM PL 5-70 § 1 (part); TT Code 1980, 33 TTC 405.

§ 305. License fee.

There shall be paid to the Trust Territory Government the sum of \$100 each year by any person who shall be granted a privilege to establish, operate, and maintain a duty-free retail concession in any port of entry of the Trust Territory. Such license fee shall be in addition to any other sums of money which shall be payable to the Government for concession fees, lease of land, or other facilities or privileges.

Source: COM PL 5-70 § 1 (part); TT Code 1980, 33 TTC 406.

§ 306. Importation of goods for resale at duty-free stores.

All foreign merchandise of every description, except such as is prohibited by law, may be imported into the Trust Territory for resale at and from the duty-free retail concessions.

Source: COM PL 5-70 § 1 (part); TT Code 1980, 33 TTC 404 (part).

§ 307. Tax exemptions and refunds.

Any person who operates a duty-free retail concession shall be eligible for refunds of all taxes paid by him upon merchandise sold at and from the duty-free retail concession and such merchandise shall be exempt from all sales taxes.

Source: COM PL 5-70 § 1 (part); TT Code 1980, 33 TTC 404 (part).

Cross-reference: The statutory provisions on Taxation and Customs are found in title 54 of this code.

§ 308. Consumer purchases from duty-free shops—Limitations.

(1) Except as hereinafter provided, all sales of merchandise from such duty-free retail concessions shall be restricted to the crew and passengers of any common carrier engaged in foreign commerce, whether oceangoing or air, for consumption or use outside the limits of the Trust Territory by said crew or passengers.

(2) Persons traveling between ports of entry within the Trust Territory may reimport not more than two fifths of a wine gallon of distilled alcoholic beverages and three cartons of cigarettes into a Trust Territory port of entry which were purchased at a duty-free retail concession at a different Trust Territory port of entry.

Source: COM PL 5-70 § 1 (part); TT Code 1980, 33 TTC 404 (part).

§ 309. Manner of delivery of goods.

Any and all merchandise sold pursuant to this chapter shall be delivered to the purchaser at a point or points and in a manner whereby said merchandise may not reenter the Trust Territory without customs examination and control.

Source: COM PL 5-70 § 1 (part); TT Code 1980, 33 TTC 407.

§ 310. Regulations.

The High Commissioner shall promulgate such rules and regulations as he shall deem necessary to carry out the provisions and intent of this chapter.

Source: COM PL 5-70 § 1 (part); TT Code 1980, 33 TTC 408.

§ 311. Restriction of rights to citizens by district legislature.

The several district legislatures may, by act of the legislature, at any time prior to the time that bids have been publicly solicited or advertised for a duty-free concession, restrict those eligible to bid upon and receive such a concession in that district to citizens of the Trust Territory.

Source: COM PL 5-70 § 1 (part); TT Code 1980, 33 TTC 409.

§ 312. Violations; Penalties.

Any person who violates any of the provisions of this chapter or rules and regulations issued pursuant thereto shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500, or imprisoned for not more than three months, or both.

Source: COM PL 5-70 § 1 (part); TT Code 1980, 33 TTC 410.

Cross-reference: The statutory provisions on Crimes are found in title 11 of this code. The statutory provisions on Criminal Procedure are found in title 12 of this code.