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OFFICE FOR MICRONESIAN STATUS NEGOTIATIONS
WASHINGTON, D.C. 20240

6 May 1974

MEMORANDUM

To: Captain Richard Y. Scott, Director, Office
for Micronesian Status Negotiations

From: Adrian de Graff *Adrian de Graff*, Legal Advisor, Office
for Micronesian Status Negotiations

Subj: Treatment of the Commonwealth as a U.S. "possession"
for purposes of existing federal Internal Revenue laws

I have formally requested Brewster Chapman to undertake to provide our office with all relevant data on the subject. Brewster has contacted the Internal Revenue Office and has informed me and Mr. Wilson that the IRS would require information on: (1) what kind of precise preferential treatment the MPSC desired; and (2) the precise IRS provisions under which the MPSC desire preferential treatment. Brewster feels that no further U.S. study is appropriate until this data is received from the MPSC.

The IRS position was forwarded to Howard Willens prior to the Joint Legal Working Group meeting on 26 April. Willens did not wish to provide the data at this time, but noted his satisfaction with a general U.S. agreement in principle during MPSC III. Willens agreed that this issue required more precise and detailed study by both legal groups before concrete agreement could be reached. During the Joint Legal Working Group, however, Willens noted that the "Officials at the Department of Treasury" were in agreement that the Marianas should not follow the tax precedents set for Guam. Presumably this would apply to all U.S. internal revenue provisions; and, Willens has indicated that his group believes that the Marianas should follow no precedent at all and should not be bound by the federal territorial relationships set forth in the other territories.

Recommendation

The burden of furnishing more precise data for further U.S. consideration of whether to treat the Marianas as a U.S. "possession" for purposes of federal internal revenue laws is now with the MPSC. The United States should not make a further commitment on this matter until the MPSC responds in more precise detail to the IRS position.

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