

# MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
OFFICE OF THE SECRETARY

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TO : Office for Micronesia Status Negotiations  
Department of Interior  
Attention: Mr. Adrian de Graffenreid

DATE: September 25, 1974

FROM : Office of the General Counsel  
Social Security Division

SUBJECT: Request for informal memorandum

This is in response to the telephone request of September 19 by Mr. Adrian de Graffenreid of your office for our informal comments on a proposal to include the Northern Marianas Islands within the definition of "United States" for purposes of the Social Security Act, as amended. <sup>1/</sup> If such proposal were implemented, the residents of those Islands would become full participants in the U.S. social security program subject only to limitations designated in the proposal itself.

We are not aware of any precedent in the United States social security program whereby one group of individuals would pay, solely on the basis of geographic residence, a lower level of contributions than that required generally under the program. Such disparity of treatment in a Federal program of general application (whereby the Marianas residents would be contributing less than all other participants in the United States program) could possibly raise constitutional questions, e.g. questions involving unequal taxation and concomitant denial of due process under the Fifth Amendment. Such questions, however, would not be within the jurisdiction and expertise of this office and would properly be addressed to the Department of the Treasury. In the event there were constitutional objections to the proposal in its current form, it may be possible to delay the entry of Marianas residents into the United States social insurance program until such time as the residents and their employers could make the same percentage of contributions as would be required generally under the U.S. program. In the meanwhile, however, contributions for residents of the Northern Marianas would be progressively increased under the Trust Territory social insurance program.

We might also point out that the question whether or not to "incorporate" the Trust Territory social security retirement fund into the Federal Old-Age and Survivors Insurance Trust Fund would be primarily a policy question rather than a legal question. In the U.S. social security program at present there are instances whereby monies to finance "gratuitous" payments for limited groups of individuals may be appropriated under prescribed

<sup>1/</sup> We have attached as an appendix to this memorandum the proposal described by telephone on September 19th to Mr. Garrett of this office by Mr. de Graffenreid.

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circumstances from the general revenue to the Trust Funds. See, for example, section 217 and 229 of the Social Security Act, as amended, 42 U.S.C. 417, 429.

We trust that this will be of assistance to you.

GGA/De  
Gerald G. Altman, Jr.  
Chief, Cash Benefits Branch

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