MPSC Cong Info file 03/4

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TO: David Lake

FROM: Michael Helfer

DATE: February 22, 1974

RE: MPSC - Tax Provisions

Attached is a draft of a portion of a letter I expect to send early next week to George Eustaquio, Administrative Assistant to Congressman Won Pat, in response to a question he raised at a meeting. Please made any changes you consider appropriate.

Sorry about the typing.

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During our conversation, you raised a question concerning the relationship between Section 931 of the Internal Revenue Code, as it will apply in the Marianas under a new political status agreement, and P. L. 92-606. Section 931 in general provides that income from sources outside the United States is not subject to U. S. tax if 80% or more of a taxpayer's gross income during the current three-year period (or lesser applicable period) is derived from sources within certain U. S. possessions and 50% or more of such income is derived from the active conduct of a trade or business with such possessions. Guam is treated as a possession for purposes of determining the applicability of Section 931 to domestic corporations. Because of Section 1(f) of P. L. 92-606, however, Guam is not treated as a possession for purposes of determining the applicability of Section 931 to individuals. <u>See</u> Section 931(c). The reason for this treatment of individuals is, in the words of the House Report on P. L. 92-606, that "since a new system of taxation is provided for individuals with respect to Guam [by P. L. 92-606] . . . this special possessions-exclusion treatment [of Section 931] is not in the future [<u>i.e.</u>, for taxable years beginning after December 31, 1972] to be available to individuals in the case of Guam." H. R. Rep. No. 92-1479, 92d Cong., 2d Sess, 1972 U. S. Code Cong. 5401, 5408.

The Joint Communique dated December 19, 1973 states that "persons who reside in the Marianas and not in any other part of the United States, and who become United States citizens or nationals pursuant to the Status Agreement" will be subject to federal income tax only on United States source income. Section I(D)(1) at p. 4. The Communique goes on to provide that "other United States citizens and United States corporations doing business in the Marianas" would be eligible for "the tax treatment provided in Section 931 of the Internal Revenue Code." Section I(D)(2) at p. 4.

Accordingly, in answer to your specific question, P. L. 92-606, for the ~~two~~ reasons and to the extent explained above, did alter the effect of Section 931 with respect to Guam. The Joint Communique reflects an agreement that the Marianas will be treated as a possession for purposes of Section 931, as are the Canal Zone, American Samoa, Wake and the Midway Islands, and--for purposes of domestic corporations--Guam and Puerto Rico.