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February 26, 1974

Mr. George Eustaquio
Administrative Assistant to
Congressman Won Pat
216 Cannon Building
Washington, D. C. 20515

Dear George:

Robert Kelley and I want to thank you and Roger Stillwell for taking the time to meet with us to discuss the Marianas negotiations. We found the discussion very informative and helpful.

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. See 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 [i.e., for taxable

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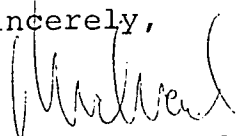
years beginning after December 31, 1972] to be available to individuals in the case of Guam." H. R. Rep. No. 92-1479, 92d Cong., 2d Sess., reprinted in 1972 U. S. Code Cong. 5401, 5408.

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 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.

I have discussed with Howard Willens your suggestion that he and the Congressman meet to discuss issues of common concern, and he has asked me to tell you that he is, of course, available whenever the Congressman would like to meet with him. Just give Howard or me a call at your convenience to arrange a suitable time.

Sincerely,



Michael S. Helfer

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