
A BILL FOR AN ACT

To amend chapter 8 of title 54 of the Code of the Federated States of Micronesia to improve administration of the revenue laws, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

2 Section 1. Section 802 of title 54 of the Code of the
3 Federated States of Micronesia, as amended, by Public Law No.
4 17-50, is hereby further amended to read as follows:

5 "Section 802. Definitions.

6 Wherever used in this chapter, unless the subject
7 matter, context, or sense otherwise requires:

8 (1) 'Approved form' means a document that is in
9 the form determined by the CEO under section 921.

10 [1] (2) 'Arrangement' means any contract, agreement,
11 plan, or understanding whether expressed or implied
12 and whether or not enforceable in legal
13 proceedings.

14 [2] (3) 'Associate' has the meaning in section 515 of
15 this title.

16 [3] (4) 'Authority' means the FSM Unified Revenue
17 Authority established under section 711 of this
18 title.

19 [4] (5) 'Board' means the Board of Directors of the
20 Authority appointed under chapter 7 of this title.

1 [5] (6) 'CEO' means the Chief Executive Officer
2 appointed under chapter 7 of this title.

3 (7) "document" includes -

4 (a) a book, account, record, paper,
5 register, or bank statement, VAT invoice, VAT
6 credit note, VAT debit note, Excise documentation
7 and Customs declarations; or

8 (b) any information or data stored on a
9 mechanical or electronic data storage device.

10 [6] (8) 'FSM' means the Federated States of
11 Micronesia.

12 [7] (9) 'Installment of tax' means an installment
13 of tax payable under Chapter 5 of this title.

14 [8] (9) 'Late payment interest' means late payment
15 interest imposed under section 891 of this title.

16 [9] (10) 'Net profit tax' means net profit tax
17 imposed under chapter 5 of this title.

18 [10] (11) 'Objection decision' means the decision
19 referred to in section 831(5) of this title.

20 [11] (12) 'Person' means an individual, company,
21 corporation, partnership, unincorporated
22 association or other business entity, trust,
23 estate, government, political subdivision of a
24 government, government entity, or public
25 international organization.

1 ~~[12]~~ (13) 'Prescribed' means prescribed by the
2 Secretary in regulations.

3 ~~[13]~~ (14) 'President' means the President of the FSM.

4 ~~[14]~~ (15) 'Presumptive tax' means the presumptive tax
5 imposed under chapter 5 of this title.

6 ~~[15]~~ (16) 'Private ruling' means a ruling made under
7 section~~s~~ 884 [~~7, 885, 886, 887 and 888~~] of this
8 title.

9 ~~[16]~~ (17) 'Public ruling' means a ruling made under
10 sections 881, 882, and 883 of this title.

11 ~~[17]~~ (18) 'Representative' means:

12 (a) in the case of an individual under a
13 legal disability, the guardian or manager who
14 receives or is entitled to receive income on
15 behalf, or for the benefit, of the individual;

16 (b) in the case of a company or corporation,
17 the chief executive officer, public officer,
18 managing director, or any director of the company;

19 (c) in the case of a partnership, any
20 partner in the partnership;

21 (d) in the case of a trust, any trustee of
22 the trust;

23 (e) in the case of an unincorporated
24 association or other business entity (other than a
25 company, corporation, or partnership), any

1 individual responsible for accounting for the
2 receipt or payment of moneys or funds on behalf of
3 the association;

4 (f) in the case of the National or a State
5 Government, or a local authority in the FSM, any
6 individual responsible for accounting for the
7 receipt or payment of moneys or funds on behalf of
8 the Government or local authority;

9 (g) in the case of a foreign government,
10 political subdivision of a foreign government, or
11 public international organization, any individual
12 responsible for accounting for the receipt or
13 payment of moneys or funds in the FSM on behalf of
14 the government, political subdivision of the
15 government, or organization;

16 (h) in the case of a non-resident person,
17 any person controlling the person's affairs in the
18 FSM, including any manager of any business of such
19 person and, in relation to customs, the person's
20 customs agent; or

21 (i) in the case of a person to whom section
22 843 of this title applies, the trustee of the
23 person under that section, [~~and~~] or [~~includes~~]

24 (j) any person that the CEO has, by notice
25 in writing, declared to be a representative of a

1 person for the purposes of this chapter.

2 [~~18~~] (19) 'Revenue law' means:

3 (a) any chapter under this title except
4 chapter 3 of title 54 of the Code of the Federated
5 States of Micronesia;

6 (b) a law of the FSM imposing a tax or duty
7 if the law provides that the Authority has the
8 responsibility for administering the tax or duty;
9 and

10 (c) a law of a State imposing a tax that
11 the Authority is permitted to administer by virtue
12 of the laws of such State.

13 [~~19~~] (20) 'Revenue officer' means the CEO and any
14 officer of the Authority appointed under section
15 732 of chapter 7 of this title.

16 [~~20~~] (21) 'Secretary' means the Secretary of the FSM
17 Department of Finance and Administration.

18 [~~21~~] (22) 'Self-assessment' means a self-assessment
19 of net profits tax, presumptive tax, excise tax, or
20 VAT, or any other assessment treated as a self-
21 assessment by a revenue law.

22 [~~22~~] (23) 'Self-assessment return' means a tax return
23 required to be furnished by a self-assessment
24 taxpayer.

25 [~~23~~] (24) 'Self-assessment taxpayer' means a person

1 liable for net profit tax, presumptive tax, excise
2 tax, [øx] VAT, or any person required to file a
3 self-assessment return.

4 [24] (25) 'State' means a State of the FSM.

5 [25] (26) 'Tax' means any tax, duty, or penalty
6 imposed under a revenue law, and includes an
7 installment of tax and withholding tax.

8 [26] (27) 'Tax assessment' means:

9 (a) an assessment of wages and salaries tax
10 under section 152 of this title;

11 (b) a self-assessment;

12 (c) an assessment under subchapter III of
13 this chapter, including an amended assessment;

14 [and]

15 (d) an assessment of penalty under section
16 896 of this title; and

17 (e) an assessment made under a revenue law.

18 [27] (28) 'Tax decision' means:

19 (a) a tax assessment; or

20 (b) a decision in relation to a revenue law
21 on any matter left to the discretion, judgment,
22 direction, opinion, approval, consent,
23 satisfaction, or determination of the CEO, other
24 than such decision made by the CEO in relation to
25 determining the amount of tax assessed under a tax

1 assessment [~~relation to the making of a tax~~
2 ~~assessment~~] or to take action [~~on~~] under subchapter
3 IV or VI of this chapter.

4 [~~28~~] (29) 'Tax period' means:

5 (a) in the case of tax imposed on wages and
6 salaries payable by the employer by withholding
7 under section 132 of this title or payable by the
8 employee under section 138 of this title, the
9 quarter;

10 (b) in the case of the net profits tax or
11 presumptive tax, the tax year;

12 (c) in the case of installments of net
13 profit tax, the period to which the installment
14 relates;

15 (d) in the case of tax withheld from a
16 payment under chapter 5 of this title, the period
17 to which the withholding relates;

18 (e) in the case of VAT, the VAT period; or

19 (f) in any other case, the period for which
20 the tax or duty is reported.

21 [~~29~~] (30) 'Tax return' means a return required to be
22 filed under a revenue law.

23 [~~(30) 'Tax warrant' means a warrant issued under~~
24 ~~section 852 of this title.]~~

25 (31) 'Taxpayer' means a person liable for any tax

1 or duty imposed under a revenue law and includes:

2 (a) an employer liable to withhold tax from
3 a payment of wages and salaries under section 132
4 of this title; and

5 (b) a person liable to withhold tax from a
6 payment under chapter 5 of this title.

7 (32) 'Taxpayer Identification Number' means a
8 Taxpayer Identification Number issued under section
9 865 of this title.

10 (33) 'VAT' means valued added tax imposed under a
11 revenue Law.

12 (34) 'Wages and salaries tax' means the tax
13 imposed under section 121 of this title.

14 (35) 'Withholding tax' means the amount that a payer
15 is required to withhold from a payment as tax."

16 Section 2. Title 54 of the Code of the Federated
17 States of Micronesia, as amended, is hereby further
18 amended, by inserting a new section 807 to read as
19 follows:

20 "Section 807. Collection of levies

21 (1) If a law of the FSM National Government
22 provides that a levy, charge, fee, or similar
23 amount payable to the FSM may be collected by the
24 Authority as agent of the FSM, the levy, charge,
25 fee, or similar amount shall be treated as tax for

1 the purposes of subchapters V and VI, and section
2 891 of this chapter.

3 (2) The terms of the agency relationship for the
4 collection of a levy, charge, fee, or similar
5 amount referred to in subsection (1) may be set out
6 in a Memorandum of Understanding between the FSM
7 and the Authority."

8 Section 3. Section 822 of title 54 of the Code of
9 the Federated States of Micronesia, as amended, is hereby
10 amended to read as follows:

11 "Section 822. Assessment of person who fails to
12 file a tax return.

13 (1) If a taxpayer liable for tax on an assessment
14 basis under a revenue law fails to file a tax
15 return for a tax period as required under the
16 revenue law, the CEO may, at any time, make an
17 assessment of the tax payable by the taxpayer.

18 (2) The CEO must serve a taxpayer assessed under
19 subsection (1) of this section with notice of the
20 assessment as soon as is practicable after making
21 the assessment. The notice must state:

22 (a) the amount of tax payable;

23 (b) the amount of late payment interest or
24 penalty (if any) payable in respect of the tax
25 payable;

1 (c) the tax period in respect of which the
2 assessment relates;

3 (d) the date of issue of the notice; and

4 (e) the due date for payment of the tax
5 payable under the notice.”

6 Section 4. Section 824 of title 54 of the Code of
7 the Federated States of Micronesia, as amended, is hereby
8 amended to read as follows:

9 “Section 824. Amendment of tax assessments.

10 (1) Subject to this section, the CEO may amend a
11 tax assessment by making such alterations or
12 additions to the assessment as the CEO considers
13 necessary to ensure that a taxpayer is liable for
14 the correct amount of tax payable in respect of the
15 tax period to which the assessment relates.

16 (2) A self-assessment taxpayer can apply to the
17 CEO within the time specified in subsection (3)(b)
18 of this section for the CEO to make an amendment in
19 accordance with subsection (1) of this section to a
20 self-assessment and the CEO shall serve the
21 taxpayer with notice of the decision on the
22 application as soon as is practicable after the
23 making of the assessment.

24 (3) The amendment of a tax assessment under
25 subsection (1) of this section may be made:

1 (a) in the case of fraud or willful neglect,
2 within six years of the date the CEO served notice
3 of the assessment on the taxpayer or within one
4 year after the fraud or willful neglect is
5 discovered, whichever is the later; or

6 (b) in any other case, within six years of
7 the date the CEO served notice of the assessment on
8 the taxpayer.

9 (4) As soon as practicable after making an
10 amended assessment under this section, the CEO must
11 serve the taxpayer with notice of the amended
12 assessment.

13 (5) Subject to subsection (6) of this section, if
14 a notice of assessment (referred to as the
15 'original assessment') has been amended under
16 subsection (1) of this section, the CEO may further
17 amend the original assessment within the later of:

18 (a) six years after the CEO served notice of
19 the original assessment on the taxpayer; or

20 (b) one year after the CEO served notice of
21 the amended assessment on the taxpayer.

22 (6) If subsection (5)(b) of this section applies,
23 the CEO is limited to amending the alterations and
24 additions made in the amended assessment to the
25 original assessment.

1 (7) An amended assessment is treated in all
2 respects as a tax assessment for the purposes of
3 this chapter (other than subsection (1) or (2) of
4 this section) and the revenue law under which the
5 original assessment has been made.

6 (8) The making of an amended assessment does not
7 preclude the liability for any late payment
8 interest and penalty in relation to the tax
9 assessed under amended assessment arising from the
10 date that tax was due under the original
11 assessment."

12 Section 5. Section 831 of title 54 of the Code of the
13 Federated States of Micronesia, as amended, is hereby amended
14 to read as follows:

15 "Section 831. Objection to tax decision.

16 (1) A person dissatisfied with a tax decision
17 must lodge an objection to the decision with the
18 CEO within 30 days of service of the notice of the
19 decision.

20 (2) If the CEO has amended an assessment under
21 section 824 of this title, the taxpayer has no
22 further right of objection that the taxpayer would
23 have had if the amendment had not been made, except
24 to the extent that by reason of the amendment a
25 fresh liability is imposed on the taxpayer or an

1 existing liability is increased.

2 (3) An objection must substantially comply with
3 the [~~prescribed~~] approved form and state fully and
4 in detail the grounds upon which the person
5 objecting relies to support the objection.

6 (4) A person may apply, in writing, to the CEO
7 for an extension of time to lodge an objection and
8 the CEO may, if satisfied there is reasonable
9 cause, grant an application under this section and
10 must serve notice of the decision on the applicant
11 as soon as is practicable after making the
12 decision.

13 (5) Subject to subsection (6) of this section,
14 the CEO must consider the objection and either
15 allow the objection in whole or part, or disallow
16 it, and the CEO's decision is referred to as an
17 'objection decision'.

18 (6) The CEO is not required to consider an
19 objection unless and until the person objecting has
20 complied with all the requirements under this
21 chapter or the revenue law to which the objection
22 relates in relation to the making of tax returns
23 and payment of tax.

24 (7) The CEO must serve notice of the objection
25 decision on the person objecting as soon as

1 practicable after making the decision.”

2 Section 6. Section 832 of title 54 of the Code of the
3 Federated States of Micronesia, as amended, is hereby amended
4 to read as follows:

5 “Section 832. Judicial review.

6 (1) A person dissatisfied with an objection
7 decision may institute an action for review in a
8 court of competent jurisdiction in the FSM. Such
9 action is commenced by filing a petition, within
10 sixty days after service of notice of the objection
11 decision, setting forth:

12 (a) assignments of errors alleged to have
13 been committed by the CEO in making the objection
14 decision;

15 (b) the facts relied upon to sustain such
16 assignments of errors; and

17 (c) a prayer for appropriate relief.

18 (2) The CEO is the defendant in proceedings under
19 subsection (1) of this section.

20 (3) The payment of the amount of tax in dispute,
21 in whole or part, after the filing of a petition
22 under subsection (1) of this section does not
23 deprive the court of jurisdiction.

24 (4) When the decision of the court or an appeal
25 there from becomes final, the CEO must, upon

1 presentment of a certified copy of the decree;~~7~~

2 (a) in respect of an assessment, make such
3 adjustments to comply with the decree as are
4 necessary to correct, amend, or [~~abate~~] to
5 otherwise correct the assessment; or [~~7~~and
6 ~~determine whether an additional amount of tax is to~~
7 ~~be assessed.~~]

8 (b) in respect of any other tax decision,
9 take such steps as are necessary to give effect to
10 the Court's decree.

11 [~~(5) This section shall not condition or limit the~~
12 ~~right of a taxpayer to seek immediate judicial~~
13 ~~review of any action taken or to be taken under~~
14 ~~subchapter VI of this chapter.]”~~

15 Section 7. Section 843 of title 54 of the Code of the
16 Federated States of Micronesia, as amended, is hereby amended
17 to read as follows:

18 “Section 843. Trustees, liquidators, and
19 executors.

20 (1) In this section:

21 (a) “trustee” means:

22 (i) a liquidator of a company being
23 wound up;

24 (ii) a receiver for debenture holders
25 who has taken possession of any assets of a

1 company;

2 (iii) a trustee in bankruptcy;

3 (iv) a mortgagee in possession;

4 (v) an executor of a deceased estate;

5 or

6 (vi) any other person holding a similar
7 office or acting in a similar capacity; and

8 (b) "taxpayer", in relation to a trustee,
9 means the person whose assets are in the possession
10 or control of the trustee, including if the trustee
11 is an executor, the estate of the deceased person.

12 (2) A trustee must, within 14 days after becoming
13 a trustee in respect of, or assuming the control of
14 assets of a taxpayer in the capacity as trustee,
15 give written notice thereof to the CEO.

16 (3) The CEO must notify the trustee, in writing,
17 of the amount of any tax that is payable by the
18 taxpayer and such notice must be served on the
19 trustee within one month of the CEO being served
20 with a notice under subsection (2) of this section.

21 (4) Subject to subsection (5) of this section, a
22 trustee:

23 (a) must not, without the leave of the CEO,
24 dispose of any asset of the taxpayer until a notice
25 has been served on the trustee under subsection (3)

1 of this section;

2 (b) must set aside, out of the assets
3 available for the payment of tax due by the
4 taxpayer, assets to the value of the amount
5 notified under subsection (3) of this section, or
6 the whole of the assets if their value is less
7 than the amount notified; and

8 (c) is, to the extent of the value of the
9 assets required to be set aside, liable for the tax
10 due by the taxpayer.

11 (5) ~~[A trustee may pay the expenses properly~~
12 ~~incurred by the trustee in the capacity as such,~~
13 ~~including the trustee's remuneration, in priority~~
14 ~~to the amount notified under subsection (3) of this~~
15 ~~section.] Nothing in subsection (4) prevents a~~
16 ~~trustee from paying the following amounts in~~
17 ~~priority to the amount of tax notified under~~
18 ~~subsection (3):~~

19 (a) the expenses properly incurred by the
20 trustee in the capacity as such, including the
21 trustee's remuneration;

22 (b) any social security tax owing by the
23 taxpayer.

24 (6) If two or more persons are trustees in
25 respect of a taxpayer, the obligations and

1 liabilities under this section apply jointly and
2 severally to the trustees but may be discharged by
3 any of them.

4 (7) The amount that a trustee is liable for under
5 subsection (4)(c) of this section is treated as if
6 it were tax payable by the trustee as taxpayer for
7 the purposes of this subchapter, subchapter VI of
8 this chapter, and section 871 of this title."

9 Section 8. Section 844 of title 54 of the Code of the
10 Federated States of Micronesia, as amended, is hereby amended
11 to read as follows:

12 "Section 844. Recovery of unpaid tax from third
13 party.

14 (1) In this section, "payer" means a person who:

15 (a) owes or may subsequently owe money to a
16 taxpayer;

17 (b) holds or may subsequently hold money,
18 for or on account of, a taxpayer;

19 (c) holds money on account of some other
20 person for payment to a taxpayer; or

21 (d) has authority from some other person to
22 pay money to a taxpayer.

23 (2) This section applies if a taxpayer is liable
24 to pay tax and the tax has not been paid by the
25 taxpayer by the due date for payment. This remedy

1 shall be in addition to any right of levy and
2 execution set forth in subchapter VI of this
3 chapter.

4 (3) If this section applies, the CEO may, by
5 notice in writing, require a payer in respect of
6 the taxpayer to pay the amount specified in the
7 notice to the CEO, being an amount that does not
8 exceed the amount of tax that has not been paid.

9 (4) A payer must pay the amount specified in a
10 notice under subsection (3) of this section by the
11 date specified in the notice, being a date that is
12 not before the date that the amount owed to the
13 taxpayer becomes due to the taxpayer or held on the
14 taxpayer's behalf.

15 (5) If a notice served under subsection (3) of
16 this section requires a payer to deduct amounts
17 from wages or salaries, the amount required to be
18 deducted by the payer from each payment must not
19 exceed twenty percent of the amount of each payment
20 of wages or salaries.

21 (6) If a person served with a notice under
22 subsection (3) of this section is unable to comply
23 with the notice by reason of lack of moneys owing
24 to, or held for, the taxpayer, the person must
25 notify the CEO, in writing, setting out the reasons

1 for the person's inability to comply.

2 (7) If a notice is served on the CEO under
3 subsection (6) of this section, the CEO may, by
4 notice in writing:

5 (a) accept the notification and cancel or
6 amend the notice issued under subsection (3) of
7 this section; or

8 (b) reject the notification.

9 (8) The CEO must, by notice in writing to the
10 payer, revoke or amend a notice served under
11 subsection (3) of this section if the taxpayer has
12 paid the whole or part of the tax due or has made
13 an arrangement satisfactory to the CEO for payment
14 of the tax.

15 (9) A copy of a notice served on a payer under
16 this section must be served on the taxpayer.

17 (10) An amount deducted from a payment by a payer
18 pursuant to a notice served on a payer under this
19 section is held by the payer in trust for the
20 Authority.

21 (11) A payer making a payment under this section
22 is treated as acting under the authority of the
23 taxpayer and of all other persons concerned and is
24 hereby indemnified in respect of the payment.

25 (12) The CEO must apply any amount paid by a payer

1 under this section to the tax owing by the
2 taxpayer.

3 (13) A payer who, without reasonable cause, fails
4 to comply with a notice under this section is
5 personally liable for the amount specified in the
6 notice.

7 (14) The amounts referred to in subsections (10)
8 and(13) of this section are treated as if they were
9 tax payable by the payer as taxpayer for the
10 purposes of this subchapter, subchapter VI of this
11 chapter, and section 871 of this title.

12 (15) Nothing in this section shall be deemed to
13 give priority over any social security tax owing by
14 the taxpayer"

15 Section 9. Section 845 of title 54 of the Code of the
16 Federated States of Micronesia, as amended, is hereby amended
17 to read as follows:

18 "Section 845. Seizure of goods.

19 (1) In addition to any other right of levy and
20 execution set forth in subchapter VI of this
21 chapter and the powers of forfeiture under
22 subchapter IV of chapter 2 of this title, the CEO
23 or a revenue officer authorized by the CEO in
24 writing for the purposes of this section may seize
25 any goods if the VAT that is payable in respect of

1 the supply or the import duty or excise tax in
2 respect of the import of those goods has not been
3 paid or the CEO or authorized officer has
4 reasonable grounds to believe that such VAT or
5 import duty or excise tax will not be paid.

6 (2) Any goods seized under this section must be
7 stored in a place approved by the CEO or authorized
8 officer for the storage of seized goods.

9 (3) If goods have been seized under subsection(1)
10 of this section, the CEO or authorized officer
11 must, as soon as is practicable after the seizure,
12 serve on the owner of the goods or the person who
13 had custody or control of the goods immediately
14 before the seizure, a notice in writing:

15 (a) identifying the goods;

16 (b) stating that the goods have been seized
17 under this section and the reason for seizure; and

18 (c) setting out the terms of subsections
19 (6), (7), and (8) of this section.

20 (4) The CEO or authorized officer is not required
21 to serve a notice under subsection (3) of this
22 section if, after making reasonable enquiries, the
23 CEO or authorized officer does not have sufficient
24 information to identify the person on whom the
25 notice should be served.

1 (5) If subsection (4) of this section applies,
2 the CEO or authorized officer may serve a notice
3 under subsection (3) of this section on any person
4 claiming the goods, provided the person has given
5 the CEO or authorized officer sufficient
6 information to enable the notice to be served.

7 (6) The CEO or authorized officer may authorize
8 any goods seized under subsection (1) of this
9 section to be delivered to the person on whom a
10 notice under subsection (3) of this section has
11 been served if that person has paid, or makes an
12 arrangement satisfactory to the CEO or authorized
13 officer for payment of, the VAT that is payable in
14 respect of the supply or import duty or excise tax
15 in respect of the import of the goods.

16 (7) Except if subsection (6) of this section
17 applies, the CEO or authorized officer must detain
18 the goods seized under subsection (1) of this
19 section:

20 (a) in the case of perishable goods, for
21 such period as the CEO or authorized officer
22 considers reasonable having regard to the condition
23 of the goods; or

24 (b) in any other case, for ten days after
25 seizure of the goods.

1 (8) If the detention period in subsection (7) of
2 this section has expired, the CEO or authorized
3 officer may sell the goods by public auction or, in
4 the case of perishable goods, may sell the goods in
5 such manner as the CEO or authorized officer
6 determines, and apply the proceeds of sale as
7 follows:

8 (a) first towards the cost of taking,
9 keeping, and selling the goods seized;

10 (b) then towards payment of any social
11 security tax owing by the taxpayer;

12 [~~b~~] (c) then towards payment of any VAT that is
13 payable in respect of the supply or import duty or
14 excise tax in respect of the import of the goods;
15 and

16 [e] (d) then towards payment of any other tax
17 due by the person whose goods have been seized; and

18 [~~d~~] (e) the remainder of the proceeds, if any,
19 must be paid to the person whose goods have been
20 seized.

21 (9) If the proceeds of disposal are less than the
22 sum of the cost of taking, keeping, and selling the
23 goods seized and the VAT or import duty or excise
24 tax due, the CEO or authorized officer may proceed
25 under this chapter to recover the excess.

1 (10) The costs of taking, keeping, and selling the
2 seized goods is treated as if they were tax payable
3 by the person whose goods have been seized as
4 taxpayer for the purposes of this subchapter and
5 section 871 of this title.

6 (11) A decision made by the CEO under this section
7 is not a tax decision."

8 Section 10. Section 848 of title 54 of the Code of the
9 Federated States of Micronesia, as amended, is hereby amended
10 to read as follows:

11 "Section 848. Temporary closure of business.

12 (1) If a taxpayer fails to pay VAT or tax
13 withheld from wages and salaries on or before the
14 due date, the CEO or a revenue officer authorized
15 by the CEO, in writing, for the purposes of this
16 section may notify the taxpayer in writing of the
17 intention to close down part or the whole of the
18 taxpayer's business unless the taxpayer pays the
19 tax due within seven days of the date of the
20 notice.

21 (2) If a taxpayer fails to comply with a notice
22 under subsection (1) of this section, the CEO or
23 authorized officer may issue an order to close down
24 part or the whole of the business of that person
25 for a period not exceeding 14 days.

1 (3) The CEO or authorized officer may, at any
2 time, enter any premises described in an order
3 issued under subsection (2) of this section for the
4 purposes of executing the order and shall require a
5 police officer to be present while the order is
6 being executed.

7 (4) The CEO or authorized officer shall affix, in
8 a conspicuous place on the front of the premises of
9 the business or part of the business which has been
10 closed under an order issued under subsection (2)
11 of this section, a notice in the following words
12 "CLOSED TEMPORARILY FOR NOT COMPLYING WITH TAX
13 OBLIGATIONS BY ORDER OF THE CEO OF THE FSM UNIFIED
14 REVENUE AUTHORITY UNDER SECTION 848 OF THE REVENUE
15 ADMINISTRATION ACT".

16 (5) If the tax due is paid in full within the
17 period of closure, or a satisfactory arrangement is
18 reached with the CEO with respect to payment of the
19 tax, the order issued under subsection (2) of this
20 section ceases to have effect and the CEO must
21 immediately arrange for removal of the notice
22 referred to in subsection (4) of this section.

23 (6) A decision made by the CEO under this section
24 is not a tax decision."

25 Section 11. Section 851 of title 54 of the Code of the

1 Federated States of Micronesia is hereby repealed in its
2 entirety and a new section 851 inserted to read as follows:

3 "Section 851. Tax as lien on property.

4 (1) If any person fails to pay or collect and pay
5 any tax that is due under a revenue law, the amount
6 of the tax shall be a lien in favor of the
7 Authority on all the property of that person as
8 allowed hereunder.

9 (2) The lien imposed by subsection (1) of this
10 section shall arise at the time that the tax is due
11 under the relevant revenue law, and shall continue
12 until the liability for payment of the amount
13 assessed or demanded is satisfied or extinguished.

14 (3) The lien imposed by subsection (1) of this
15 section shall have priority over all other claims
16 and liens, except for claims and liens for social
17 security taxes.

18 (4) Notwithstanding any other provision of this
19 Act, the following described property shall be
20 exempt from the taking of liens and subsequent
21 attachment and execution as imposed under this Act:

22 (a) Personal and household goods. All
23 necessary household furniture, cooking and eating
24 utensils, and all necessary wearing apparel,
25 bedding, and provisions for household use

1 sufficient for four months;

2 (b) Necessities for trade or occupation.

3 All tools, implements, utensils, work animals and
4 vehicles that are not used for personal
5 transportation, including travel from residence to
6 place of employment and return thereto, and
7 equipment necessary to enable the person against
8 whom the attachment or execution is issued to carry
9 on his usual occupation; and

10 (c) Certain Interests in land. All
11 interests in land, exclusive of leasehold
12 interests, except where such interests can be shown
13 to have been acquired to avoid attachment or
14 execution with respect to the cause of action to
15 which the attachment or execution is ordered, or
16 where attachment or execution against such interest
17 in land is specifically permitted under a real
18 property mortgage statute or real property deed of
19 trust statute for the State in which the interest
20 is located."

21 Section 12. Section 852 of title 54 of the Code of the
22 Federated States of Micronesia is hereby repealed in its
23 entirety and a new section 852 inserted to read as follows:

24 "Section 852. Levy and sale.

25 (1) Upon the failure of any person to pay or to

1 collect and pay any tax, the CEO may notify such
2 person of such failure and demand payment, and
3 notify the person of the CEO's intention to levy.
4 For purposes of this section, an assessment made
5 under Section 822 of this chapter may contain a
6 demand for payment and notice of intent to levy.
7 If the person, upon notice and demand by the CEO,
8 fails or refuses within 30 days after receipt of
9 the notice and demand to pay all taxes due, such
10 taxes may be collected by levy in the manner
11 prescribed by this chapter, or in the manner of a
12 levy of execution.

13 (2) If the CEO has reason to believe that
14 providing notice and demand required by subsection
15 (1) of this section may result in an inability to
16 collect taxes due, then the CEO may authorize levy
17 without prior notice and demand. The person shall
18 be afforded notice and a hearing within seven days.

19 (3) Any property of the person, except as
20 provided in section 1-151(4), may be levied and
21 converted to money in accordance with this Act.
22 Filing of a notice of tax lien shall not be
23 required prior to execution.

24 (4) A levy shall be executed by taking possession
25 of the person's property or by serving notice of

1 the levy upon the person, upon any other person in
2 possession of property of the person, or upon any
3 person or depository, including any officer or
4 employee of any governmental entity, subdivision or
5 agency, who owes or who will owe money to the
6 person, who is holding funds of the person, and
7 ordering him to reveal the extent thereof and
8 surrender it forthwith or agree to surrender it or
9 the proceeds therefrom in the future.

10 (5) Notice of levy may be directed to the
11 Attorney General, Chief of Police, or other person
12 duly authorized to receive a writ of execution
13 issued by any court, which shall have the same
14 effect as a levy and sale under a writ of
15 execution.

16 (6) A notice of levy shall:

17 (a) bear on its face a statement of the
18 authority for its issuance and service and compel
19 compliance with its terms;

20 (b) identify the person whose liability for
21 taxes is sought to be enforced, the amount thereof,
22 and the date or approximate date on which the tax
23 became due;

24 (c) state that the Authority claims a lien
25 for the entire amount of tax asserted to be due,

1 including applicable late payment interest and
2 penalties;

3 (d) order the person on whom it is served to
4 reveal all property in his possession, custody or
5 control that belongs to the person and the extent
6 of his own interest therein; and to reveal the
7 amount and kind of property of the person that, to
8 the best of his knowledge, is in the possession,
9 custody or control of others;

10 (e) order the person on whom it is served to
11 surrender the property forthwith, but may allow him
12 to agree, in writing, to surrender the property or
13 the proceeds therefrom on a certain date in the
14 future when the person's right to it would
15 otherwise mature; and

16 (f) state on its face that penalties exist
17 for willful failure by any person upon whom it is
18 served to comply with its terms.

19 (7) Whenever any property upon which levy has
20 been made is not sufficient to satisfy the claim
21 for which levy is made, the CEO, thereafter, and as
22 often as may be necessary, may proceed to levy in
23 like manner upon any other property of the person
24 against whom the claim exists, until the amount due
25 from the person is fully paid."

1 Section 13. Section 853 of Title 54 of the Code of the
2 Federated States of Micronesia is hereby repealed in its
3 entirety and a new section 853 inserted to read as follows:

4 "Section 853. Surrender of property subject to
5 levy; penalty and notice.

6 (1) Upon receipt of a notice of levy issued
7 pursuant to section 852, any person in possession
8 or control of property subject to levy shall
9 immediately surrender the property or discharge the
10 obligation to the CEO; but not that part of the
11 property that is already the subject of a bona fide
12 attachment, execution, levy or other similar
13 process.

14 (2) Any person who receives a notice of levy and
15 wrongfully fails or refuses to comply therewith
16 shall be liable in his own person and estate in a
17 sum equal to the value of the property not so
18 surrendered or paid over, but not exceeding the
19 amount of the taxes for the collection of which
20 such levy has been made, together with penalties
21 and late payment interest on such sum from the date
22 of such levy, plus the costs of executing the levy.

23 (3) As soon as practicable after the levy, the
24 CEO shall notify the person whose property has been
25 levied of the amount and kind of property seized

1 and of the total amount demanded in payment of tax.

2 (4) The amount that a person is personally liable
3 for under subsection (2) is treated as if they were
4 tax payable by the person for the purposes of this
5 subchapter, subchapter V, and sections 871 and 891."

6 Section 14. Section 854 of Title 54 of the Code of the
7 Federated States of Micronesia is hereby repealed in its
8 entirety and a new section 854 inserted to read as follows:

9 "Section 854. Property seized by levy.
10 Property seized by levy, excepting cash or liquid
11 deposits, shall be treated in the manner provided
12 for by Section 845 of this chapter. The foregoing
13 notwithstanding, stocks, bonds, certificates of
14 deposit, promissory notes or other securities which
15 have a specific value or prevailing market price
16 may be sold by the Authority at a private sale at a
17 price not lower than the specific price or
18 prevailing market price, or may otherwise be
19 liquidated to their cash value in accordance with
20 prescribed regulations."

21 Section 15. Section 855 of title 54 of the Code of the
22 Federated States of Micronesia is hereby repealed in its
23 entirety and a new section 855 shall be reserved for future
24 use as follows:

25 "Section 855. RESERVED"

1 Section 16. Section 856 of title 54 of the Code of the
2 Federated States of Micronesia is hereby repealed in its
3 entirety and a new section 856 shall be reserved for future
4 use as follows:

5 "Section 856. RESERVED"

6 Section 17. Section 862 of title 54 of the Code of the
7 Federated States of Micronesia is hereby repealed in its
8 entirety and a new section 862 inserted to read as follows:

9 "Section 862. Inspection of records

10 (1) For the purposes of administering a revenue
11 law, the CEO, or a revenue officer authorized by
12 the CEO, in writing, shall at all times during
13 reasonable business hours have full and free access
14 to any premises, place, property, documents, or
15 data storage device, and for that purpose may make
16 extracts from or copies, (including electronic
17 copies), of any such documents.

18 (2) A revenue officer is not entitled to enter or
19 remain on or in any building or place under this
20 section if, on being requested by the occupier of
21 the building or place for proof of authority, the
22 revenue officer does not produce an authority in
23 writing signed by the CEO stating that the officer
24 is authorized to exercise powers under this
25 section.

1 (3) The owner or lawful occupier of a building or
2 place entered or proposed to be entered by the CEO,
3 or by a revenue officer, under subsection (1) shall
4 provide the CEO or the revenue officer with all
5 reasonable facilities and assistance for the
6 effective exercise of powers under this section.

7 (4) This section has effect notwithstanding any
8 contractual duty of confidentiality.

9 Section 18. Section 863 of title 54 of the Code of the
10 Federated States of Micronesia is hereby repealed in its
11 entirety and a new section 863 inserted to read as follows:

12 "Section 863. Power to Enter and Search

13 (1) For the purposes of administering a revenue
14 law, the CEO or a revenue officer authorized by the
15 CEO, in writing -

16 (a) shall , upon presentation of a warrant
17 issued by a court of competent jurisdiction, have
18 full and free access to any premises, place,
19 property, documents, or data storage device;

20 (b) may, upon presentation of a warrant
21 issued by a court of competent jurisdiction, make
22 extracts or copies (including electronic copies),
23 of any documents to which access is obtained under
24 paragraph (a);

25 (c) may, upon presentation of a warrant

1 issued by a court of competent jurisdiction, seize
2 any documents that, in the opinion of the CEO or
3 authorized officer, affords evidence that may be
4 material in determining the tax liability of a
5 taxpayer;

6 (d) may retain any documents seized under
7 paragraph (c) for as long as they may be required
8 for determining a taxpayer's tax liability or for
9 any proceeding under a revenue law; and

10 (e) may, if a hard copy or copy on data
11 storage media of information stored on a data
12 storage device is not provided, seize and retain
13 the device for as long as is necessary to copy the
14 information required.

15 (2) The CEO or authorized revenue officer may
16 require a police officer to be present for the
17 purposes of exercising powers under this section.

18 (3) Upon presentation by the CEO or authorized
19 revenue officer of a warrant issued by a court of
20 competent jurisdiction, the owner or lawful
21 occupier of the premises or place to which an
22 exercise of power under subsection (1) relates must
23 provide all reasonable facilities and assistance to
24 the CEO or authorized revenue officer.

25 (4) A person whose documents have been seized

1 under subsection (1) may examine them and make
2 copies (including electronic copies), at the
3 person's expense, during office hours.

4 (5) A person whose data storage device has been
5 seized under subsection (1) may have access to the
6 device during office hours on such terms and
7 conditions as the CEO or authorized revenue officer
8 may specify.

9 (6) The CEO or authorized revenue officer must
10 sign for all documents or data storage devices
11 removed and retained under this section and,
12 subject to subsection 1(e), return them to the
13 owner within 14 days of the conclusion of the
14 investigation to which they relate and all related
15 proceedings.

16 (7) This section has effect notwithstanding -
17 (a) any law relating to privilege; or
18 (b) any contractual duty of
19 confidentiality."

20 Section 19. Section 864 of title 54 of the Code of the
21 Federated States of Micronesia is hereby repealed in its
22 entirety and a new section 864 inserted to read as follows:

23 "Section 864. Administrative Summons

24 (1) The CEO may, for the purposes of
25 administering any revenue law, by notice in

1 writing, require any person:

2 (a) to furnish such information as the CEO
3 may require;

4 (b) to attend and give evidence concerning
5 that person's or any other person's tax affairs; or

6 (c) to produce all documents, in the
7 person's custody or under the person's control
8 relating to that person's or any other person's tax
9 affairs.

10 (2) If a notice served under subsection (1)
11 requires the production of documents it is
12 sufficient if such documents are described in the
13 notice with reasonable certainty.

14 (3) A notice issued under this section must be
15 served personally upon the person to whom it is
16 directed or left at the person's last known usual
17 place of business or abode and the certificate of
18 service signed by the person serving the notice is
19 conclusive evidence of the facts stated therein.

20 (4) The CEO may require the information or
21 evidence referred to in subsection (1) to be given
22 on oath, verbally or in writing, and, for that
23 purpose, the CEO may administer the oath.

24 (5) This section has effect notwithstanding any
25 contractual duty of confidentiality."

1 Section 20. Section 865 of title 54 of the Code of the
2 Federated States of Micronesia is hereby repealed in its
3 entirety and a new section 865 inserted to read as follows:

4 "Section 865. Audit of Taxpayer's Tax Affairs

5 (1) The CEO may select any taxpayer for an audit
6 of the taxpayer's tax affairs for the purpose of a
7 revenue law having regard to -

8 (a) the taxpayer's history of compliance or
9 non-compliance with the revenue law or any other
10 revenue law, including a law treated as a revenue
11 law for the purposes of the Revenue Administration
12 Act of a State Government;

13 (b) the amount of tax payable by the
14 taxpayer;

15 (c) the class of business conducted by the
16 taxpayer; or

17 (d) any other matter that the CEO considers
18 relevant to ensuring the collection of tax due.

19 (2) The fact that a taxpayer has been audited in
20 relation to a tax period does not preclude the
21 taxpayer from being audited again in relation to
22 the next and following tax periods if there are
23 reasonable grounds for the audits, particularly
24 having regard to the matters referred to in
25 subsection (1).

1 (3) An audit of a taxpayer's tax affairs may be
2 conducted for the purposes of more than one revenue
3 law, including a law treated as a revenue law for
4 the purposes of the Revenue Administration Act of a
5 State Government.

6 Section 21. Section 866 of title 54 of the Code of the
7 Federated States of Micronesia is hereby repealed in its
8 entirety and a new section 866 inserted to read as follows:

9 "Section 866. Issue of Taxpayer Identification
10 Numbers.

11 (1) The CEO may, for the purposes of
12 identification and cross-checking, require a
13 taxpayer to apply for a Taxpayer Identification
14 Number.

15 (2) An application for a Taxpayer Identification
16 Number must be:

17 (a) in the prescribed form;

18 (b) accompanied by documentary evidence of
19 the person's identity as prescribed; and

20 (c) lodged in the prescribed manner.

21 (3) If a person has applied for a Taxpayer
22 Identification Number under subsection (1) of this
23 section and the CEO is satisfied that the
24 applicant's identity has been established, the CEO
25 must issue a Taxpayer Identification Number to the

1 applicant by written notice.

2 (4) The CEO must refuse an application under this
3 section:

4 (a) if the CEO is not satisfied as to the
5 applicant's true identity;

6 (b) if the applicant has already been issued
7 with a Taxpayer Identification Number that is still
8 in force; or

9 (c) for any other reason the CEO considers
10 appropriate.

11 (5) The CEO must serve the applicant with written
12 notice of the decision to refuse an application
13 under this section within fourteen days after
14 making the decision.

15 (6) The CEO may, without an application being
16 made, issue a Taxpayer Identification Number to any
17 person liable for tax under a revenue law."

18 Section 22. Section 867 of title 54 of the Code of the
19 Federated States of Micronesia is hereby repealed in its
20 entirety and a new section 867 inserted to read as follows:

21 "Section 867. Cancellation of Taxpayer
22 Identification Number.

23 (1) A person who ceases to be a taxpayer must
24 apply to the CEO, in the prescribed form, for
25 cancellation of the person's Taxpayer

1 Identification Number within thirty (30) days of
2 the date on which the person ceased to be a
3 taxpayer.

4 (2) The CEO must, by notice in writing, cancel a
5 Taxpayer Identification Number:

6 (a) if the person has ceased to be a
7 taxpayer;

8 (b) if a Taxpayer Identification Number has
9 been issued to the person under an identity that is
10 not the person's true identity;

11 (c) if the person has already been issued
12 with a Taxpayer Identification Number that is still
13 in force; or

14 (d) for any other reason the CEO considers
15 appropriate.

16 (3)The CEO may, at any time, by notice in writing,
17 cancel the Taxpayer Identification Number issued to
18 a person and issue the person with a new Taxpayer
19 Identification Number."

20 Section 23. Section 868 of title 54 of the Code of the
21 Federated States of Micronesia is hereby repealed in its
22 entirety and a new section 868 inserted to read as follows:

23 "Section 868. Quotation of Taxpayer Identification
24 Number.

25 The CEO may require a taxpayer to state the

1 taxpayer's Taxpayer Identification Number in any
2 tax return, notice, or other document used for the
3 purposes of any revenue law."

4 Section 24. Section 872 of title 54 of the Code of the
5 Federated States of Micronesia, as amended, is hereby amended
6 to read as follows:

7 "Section 872. Liability for tax payable by a
8 company left with insufficient assets.

9 (1) This section applies if an arrangement has
10 been entered into with the intention of rendering a
11 company unable to satisfy a current or future tax
12 liability under a revenue law.

13 (2) Subject to subsection (~~43~~) of this section,
14 if this section applies, every person who was a
15 director or controlling shareholder of the company
16 at the time the arrangement was entered into is
17 jointly and severally liable for the tax liability
18 of the company and any late payment interest
19 payable in respect of that liability.

20 (3) The amount that a person is liable for under
21 subsection (2) of this section is treated as if it
22 were tax payable by the person for the purposes of
23 subchapters V and VI of this chapter, and section
24 891 of this title.

25 (4) A director of a company is not liable under

1 this section for the tax liability of the company
2 if the CEO is satisfied that the director derived
3 no financial or other benefit from the arrangement
4 and:

5 (a) the director has on, becoming aware of
6 the arrangement, formally recorded with the company
7 his or her dissent and notified the CEO, in
8 writing, of the arrangement; or

9 (b) the director satisfies the CEO that, at
10 the time the arrangement was entered into:

11 (i) the director was not involved in
12 the executive management of the company; and

13 (ii) the director had no knowledge of,
14 and could not reasonably have been expected to know
15 of the arrangement.

16 (5) For the purposes of this section, a
17 controlling shareholder of a company is any person
18 who beneficially holds, either alone or together
19 with an associate or associates:

20 (a) more than fifty percent (50%) of the
21 voting rights in the company;

22 (b) more than fifty percent (50%) of the
23 rights to dividends; or

24 (c) more than fifty percent (50%) of the
25 rights to capital."

1 Section 25. Section 882 of title 54 of the Code of the
2 Federated States of Micronesia, as amended, is hereby amended
3 to read as follows:

4 "Section 882. Making a public ruling.

5 (1) The CEO shall [~~print and~~] maintain a gazette
6 or other publication of public rulings to be made
7 available free of charge to the public. The CEO
8 shall make a public ruling by publishing a notice
9 of the ruling in such gazette or other publication.

10 (2) A public ruling must state that it is a
11 public ruling and have a number and subject heading
12 by which it can be identified.

13 (3) A public ruling applies from the date
14 specified in the ruling and if no date is
15 specified, from the date of publication in the
16 gazette or other publication identified in
17 subsection (1) of this section.

18 (4) A public ruling is not a tax decision for the
19 purposes of the Act and the decision to make a
20 public ruling cannot otherwise be challenged by a
21 taxpayer."

22 Section 26. Section 883 of title 54 of the Code of the
23 Federated States of Micronesia, as amended, is hereby amended
24 to read as follows:

25 "Section 883. Withdrawal of a public ruling.

1 (1) The CEO may withdraw a public ruling, in
2 whole or part, by publishing notice of the
3 withdrawal in the gazette or other publication
4 identified in section 882 of this title.

5 (2) If legislation is passed, or the CEO makes
6 another public ruling, that is inconsistent with an
7 existing public ruling, the existing ruling is
8 treated as withdrawn to the extent of the
9 inconsistency.

10 (3) The withdrawal of a public ruling, in whole
11 or part, has effect:

12 (a) if subsection (1) of this section
13 applies, from the date specified in the notice of
14 withdrawal and if no date is specified, from the
15 date notice of the withdrawal is published in the
16 gazette or other publication; or

17 (b) if subsection (2) of this section
18 applies, from the date of application of the
19 inconsistent legislation or public ruling.

20 (4) A public ruling that has been withdrawn in
21 whole or in part:

22 (a) continues to apply to a transaction
23 commenced before the public ruling was withdrawn; and

24 (b) does not apply to a transaction
25 commenced after the ruling was withdrawn to the

1 extent that the ruling is withdrawn.

2 (5) The CEO's decision to withdraw a public
3 ruling is not a tax decision for the purposes of
4 the Act and cannot otherwise be challenged by a
5 taxpayer."

6 Section 27. Section 884 of title 54 of the Code of the
7 Federated States of Micronesia is hereby repealed in its
8 entirety and a new section 884 inserted to read as follows:

9 "Section 884. Binding Private Rulings
10 The Regulations may provide for the issue by the
11 CEO of a binding private ruling setting out the
12 CEO's position regarding the application of a
13 revenue law to a transaction entered into, or
14 proposed to be entered into, by a taxpayer."

15 Section 28. Section 885 of title 54 of the Code of the
16 Federated States of Micronesia is hereby repealed in its
17 entirety and a new section 885 shall be reserved for future
18 use as follows:

19 "Section 885. RESERVED"

20 Section 29. Section 886 of title 54 of the Code of the
21 Federated States of Micronesia is hereby repealed in its
22 entirety and a new section 886 shall be reserved for future
23 use as follows:

24 "Section 886. RESERVED"

25 Section 30. Section 887 of title 54 of the Code of the

1 Federated States of Micronesia is hereby repealed in its
2 entirety and a new section 887 shall be reserved for future
3 use as follows:

4 "Section 887. RESERVED"

5 Section 31. Section 888 of title 54 of the Code of the
6 Federated States of Micronesia is hereby repealed in its
7 entirety and a new section 888 shall be reserved for future
8 use as follows:

9 "Section 888. RESERVED"

10 Section 32. Section 893 of title 54 of the Code of the
11 Federated States of Micronesia, as amended, is hereby amended
12 to read as follows:

13 "Section 893. Penalty for failure to pay tax by
14 due date.

15 (1) A taxpayer who fails to pay tax when due is
16 liable for a penalty equal to 10 percent of the
17 amount of tax due for each month, or part of a
18 month, that the tax remains unpaid subject to a
19 maximum penalty of 100 percent of the unpaid tax.

20 (2) The penalty imposed under subsection (1) of
21 this section is in addition to late payment
22 interest payable under section 891 of this title
23 for late payment of tax. The ceiling on the amount
24 of penalty payable under subsection (1) of this
25 section does not apply to or take into account late

1 payment interest payable under section 891 of this
2 title.

3 (3) Penalty paid by a taxpayer under subsection
4 (1) shall be refunded to the taxpayer to the extent
5 that the tax on which the penalty has been paid is
6 found not to have been payable.

7 [~~3~~] (4) The reference to "tax" in subsection (1) of
8 this section does not include penalty."

9 Section 33. Section 895 of title 54 of the Code of the
10 Federated States of Micronesia, as amended, is hereby amended
11 to read as follows:

12 "Section 895. Penalty for making false or
13 misleading statement.

14 (1) This section applies to a person:

15 (a) who makes a statement to a revenue
16 officer that is false or misleading in a material
17 particular or omits from a statement made to a
18 revenue officer any matter or thing without which
19 the statement is false or misleading in a material
20 particular; and

21 (b) whose statement results in the tax
22 liability of any person computed on the basis of
23 the statement being less than it would have been if
24 the statement had not been false or misleading (the
25 difference being referred to as the "tax

1 shortfall”).

2 (2) Subject to subsection (3) of this section, a
3 person to whom this section applies is liable:

4 (a) if the statement or omission was made
5 knowingly or recklessly, for a penalty equal to 50
6 percent (50%) of the tax shortfall; or

7 (b) in any other case, for a penalty equal
8 to ten percent (10%) of the tax shortfall.

9 (3) No penalty is payable under subsection (2) of
10 this section if:

11 (a) the person who made the statement did
12 not know and could not reasonably be expected to
13 know that the statement was false or misleading in
14 a material particular; or

15 (b) the tax shortfall arose as a result of a
16 self-assessment taxpayer taking a reasonably
17 arguable position on the application of a revenue
18 law to the taxpayer’s circumstances in filing a
19 self-assessment return; or

20 (c) the statement or omission was due to a
21 clerical or similar error.

22 (4) A position taken by a taxpayer in making a
23 self assessment that is contrary to an applicable
24 ruling issued by the CEO and in force at the time
25 the statement was made is not a reasonably arguable

1 position for the purposes of subsection (3)(b).

2 [4] (5) Nothing in subsection (3) of this section
3 prevents the imposition of late payment interest
4 under section 891 of this title in respect of a tax
5 shortfall if the tax is not paid by the due date.

6 [5] (6) A reference in this section to a statement
7 made to a revenue officer means a statement made in
8 writing or orally to a revenue officer acting in
9 the performance of the officer's duties under a
10 revenue law, and includes a statement made:

11 (a) in any application, certificate,
12 declaration, notification, tax return, objection,
13 or other document furnished or lodged under a
14 revenue law;

15 (b) in any information required to be
16 furnished under a revenue law;

17 (c) in any document furnished to a revenue
18 officer;

19 (d) in answer to a question asked of a
20 person by a revenue officer; or

21 (e) to another person with the knowledge or
22 reasonable expectation that the statement would be
23 passed on to a revenue officer."

24 Section 34. Section 902 of title 54 of the Code of the
25 Federated States of Micronesia, as amended, is hereby amended

1 to read as follows:

2 "Section 902. Offense for failure to comply with
3 obligations under this chapter.

4 (1) A person is guilty of an offense:

5 (a) who, without reasonable cause, fails to:

6 (i) comply with section 843 of this
7 title;

8 (ii) comply with a notice served on the
9 person under section 844 of this title;

10 (iii) provide security as required under
11 section 846 of this title;

12 (iv) provide facilities and assistance
13 as required by section 862(3) [4] and 863(3) of this
14 title; or

15 (v) comply with a notice under section
16 86[3] (4) of this title; or

17 (b) who, knowing that a certificate has been
18 issued under section 847(2) of this title leaves or
19 attempts to leave the FSM without paying the tax
20 due or making an arrangement satisfactory to the
21 CEO for payment or who otherwise leaves or attempts
22 to leave the FSM with the intention of avoiding
23 payment of tax due or that will become due.

24 (2) *Penalty.* A person convicted of an offense
25 under this section shall be subject to a fine not

1 exceeding five hundred dollars (\$500), or, if a
2 natural person, imprisoned for not more than six
3 months, or both.

4 (3) A person who notifies the CEO in writing
5 under section 844(6) is considered to be in
6 compliance with a notice served on the person under
7 section 844(3) until the CEO serves the person with
8 a notice under section 844(7) amending the notice
9 served under section 844(3) or rejecting the
10 person's notice under section 844(6)."

11 Section 35. Section 909 of title 54 of the Code of the
12 Federated States of Micronesia, as amended, is hereby amended
13 to read as follows:

14 "Section 909. Offenses by revenue officers.

15 (1) A revenue officer who directly or indirectly
16 asks for, or takes in connection with any of the
17 officer's duties, any payment or reward whatsoever,
18 whether pecuniary or otherwise, or promise or
19 security for any such payment or reward, not being
20 a payment or reward that the officer was lawfully
21 entitled to receive is guilty of an offense.

22 (2) *Penalty.* A person convicted of an offense
23 under subsection (1) of this section shall be
24 subject to a fine not exceeding fifty thousand
25 dollars (\$50,000), or imprisoned for not more than

1 one year, or both.

2 (3) A revenue officer who enters into or
3 acquiesces in any agreement to do any act or thing,
4 abstain from doing any act or thing, permit or
5 connive in the doing of any act or thing, or
6 conceal any act or thing, whereby the National or a
7 State Government is or may be defrauded of revenue,
8 or that is contrary to the provisions of a revenue
9 law or to the proper execution of the officer's
10 duty is guilty of an offense.

11 (4) *Penalty.* A person convicted of an offense
12 under subsection (3) of this section shall be
13 subject to a fine not exceeding fifty thousand
14 dollars (\$50,000) or imprisoned for not more than
15 one year, or both.

16 (5) A person who directly or indirectly offers or
17 gives to a revenue officer any payment or reward
18 whatsoever, whether pecuniary or otherwise, or any
19 promise or security for any payment or reward, not
20 being a payment or reward that the officer was
21 lawfully entitled to receive, is guilty of an
22 offense.

23 (6) *Penalty.* A person convicted of an offense
24 under subsection (5) of this section shall be
25 subject to a fine not exceeding fifty thousand

1 dollars (\$50,000), or, if a natural person,
2 imprisoned for not more than one year, or both.

3 (7) A person who proposes or enters into any
4 agreement with a revenue officer in order to induce
5 the officer to do any act or thing, abstain from
6 doing any act or thing, permit or connive in the
7 doing of any act or thing, or conceal any act or
8 thing, whereby the National or a State Government
9 is or may be defrauded of revenue, or that is
10 contrary to the provisions of a revenue law or to
11 the proper execution of the officer's duty is
12 guilty of an offense.

13 (8) *Penalty.* A person convicted of an offense
14 under subsection (7) of this section shall be
15 subject to a fine not exceeding fifty thousand
16 dollars (\$50,000), or, if a natural person,
17 imprisoned for not more than one year, or both.

18 (9) A person who impersonates a revenue officer
19 is guilty of an offense.

20 (10) *Penalty.* A person convicted of an offense
21 under subsection (9) of this section shall be
22 subject to a fine not exceeding fifty thousand
23 dollars (\$50,000), or, if a natural person,
24 imprisoned for not more than one year, or both.

25 [9] (11) For the purposes of this section, a revenue

1 officer includes any person employed or engaged by
2 the Authority in any capacity and includes a
3 director or former director of the Board, a member
4 or former member of a committee of the Board, a
5 person invited to a Board or committee meeting, or
6 a former officer or employee of the Authority.”

7 Section 35. Section 921 of title 54 of the Code of the
8 Federated States of Micronesia, as amended, is hereby amended
9 to read as follows:

10 “Section 921. Forms and notices; authentication of
11 documents

12 (1) A form, notice, tax return, statement, table,
13 or any other document [~~prescribed or~~] published by
14 the CEO for the purposes of any revenue law may be
15 in such form as the CEO determines for the
16 efficient administration of the revenue laws.

17 (2) The CEO must make the documents referred to
18 in subsection (1) of this section available to the
19 public at the offices of the Authority and at such
20 other locations, or by mail or such other means, as
21 the CEO may determine.

22 (3) A notice or other document issued, served, or
23 given by the CEO under a revenue law is
24 sufficiently authenticated if the name or title of
25 the CEO, or authorized officer, is printed,

1 stamped, or written on the document.”

2 Section 36. Section 922 of title 54 of the Code of the
3 Federated States of Micronesia, as amended, is hereby amended
4 to read as follows:

5 “Section 922. Manner of lodging documents.

6 Except as provided in section 924 of this title, a
7 tax return, application, notice, or other document
8 to be filed or lodged with the CEO under ~~the a~~
9 revenue law must be delivered by personal delivery
10 or ~~registered~~ first class post to an office of the
11 Authority.”

12 Section 37. Section 923 of title 54 of the Code of the
13 Federated States of Micronesia, as amended, is hereby amended
14 to read as follows:

15 “Section 923. Service of notices.

16 (1) Subject to section 924 of this title and
17 except as otherwise provided in a revenue law, a
18 notice or other document required to be served by
19 the CEO on a person for the purposes of a revenue
20 law is treated as properly served on the person if:

21 (a) personally served on the person;

22 (b) left at the person’s usual or last known
23 place of abode or business in the FSM; or

24 (c) sent by registered post to the person’s
25 usual or last known address in the FSM.

1 (2) If a notice or other document is served by
2 [~~registered~~] first class post, service is, in the
3 absence of proof to the contrary, deemed to have
4 been effected at the time at which the notice or
5 other document would be delivered in the ordinary
6 course of post, and in proving such service it is
7 sufficient to prove that the envelope containing
8 the notice or other document was properly addressed
9 and was posted.

10 (3) If the person to whom a notice or other
11 document has been sent by registered post is
12 informed of the fact that there is a registered
13 letter awaiting the person at a post office, and
14 the person refuses or fails to take delivery of the
15 letter, and the letter consists of the notice or
16 other document, service of the notice or other
17 document is deemed to have been effected.

18 (4) The validity of service of a notice under a
19 revenue law cannot be challenged after the notice
20 has been wholly or partly complied with.

21 (5) The reference to "person" in this section
22 includes the representative of the person."

23 Section 38. Section 924 of title 54 of the Code of the
24 Federated States of Micronesia, as amended, is hereby amended
25 to read as follows:

1 "Section 924. Electronic returns and notices.

2 (1) The CEO may establish and operate a procedure
3 (referred to as the "electronic notice system") for
4 electronic filing of tax returns or other documents
5 to the CEO and electronic service of notices and
6 other documents by the CEO and, for this purpose,
7 the CEO may provide written conditions for:

8 (a) the registration of taxpayers to
9 participate in the electronic notice system
10 (referred to as "registered users");

11 (b) the issuing and cancellation of
12 authentication codes to registered users;

13 (c) the tax returns and other documents that
14 may be transmitted through the electronic notice
15 system, including the form and manner in which they
16 are to be transmitted;

17 (d) the correction of errors in or
18 amendments to electronic returns or other
19 documents;

20 (e) the use of the electronic notice system,
21 including the procedure applicable if there is a
22 breakdown or interruption in the system;

23 (f) the use in any electronic transmission
24 of symbols, codes, abbreviations, or other
25 notations to represent any particulars or

1 information required under a revenue law; and

2 (g) any other matters for the better
3 provision of the electronic notice system.

4 (2) A registered user may, in accordance with the
5 conditions set by the CEO under subsection (1) of
6 this section, file a tax return or other document
7 to the computer account of the CEO.

8 (3) The CEO may, in accordance with the
9 conditions set by the CEO under subsection (1) of
10 this section, serve a notice or other document to
11 the computer account of a registered user.

12 (4) If a tax return or other document of a
13 registered user has been transmitted to the
14 computer account of the CEO using the
15 authentication code assigned to the registered user
16 either with or without the authority of the
17 registered user, and before the registered user has
18 applied to the CEO for cancellation of the
19 authentication code, the return or other document
20 is, for the purposes of the revenue law under which
21 it has been filed, presumed to be filed by the
22 registered user unless the registered user proves
23 to the contrary.

24 (5) For the purposes of a revenue law, an
25 electronic tax return, notice, or other document,

1 or a copy thereof, shall not be ruled inadmissible
2 in evidence merely on the basis that it was filed
3 or served without the filing or delivery of any
4 equivalent document or counterpart in paper form.

5 (6) If an electronic tax return, notice, or other
6 document is admissible under subsection (5) of this
7 section, it is presumed that, until the contrary is
8 proved, the contents of the electronic return,
9 notice, or other document have been accurately
10 transmitted.

11 (7) Section 826 shall apply to:

12 (a) an electronic tax assessment served by
13 the CEO on the basis that the reference in section
14 826(1)(b) of this title to a copy of a notice of a
15 tax assessment includes a certificate under the
16 hand of the CEO identifying the tax assessment, and
17 stating the authentication code of the registered
18 user and the device involved in the production and
19 transmission of the electronic tax assessment; and

20 (b) an electronic tax return [~~furnished~~
21 filed] by a registered user on the basis that the
22 reference in section 826(1)(c) of this title to a
23 copy of a tax return includes a certificate under
24 the hand of the CEO identifying the tax return, and
25 stating the authentication code of the registered

1 user and the device (if known) involved in the
2 production and transmission of the electronic tax
3 return.

4 (8) A person furnishing an electronic tax return
5 or other document on behalf of another person must
6 not divulge or disclose the contents of the return
7 or document, or a copy thereof, without the prior
8 written consent of the CEO.

9 (9) A person who fails to comply with subsection
10 (8) of this section is guilty of an offense.

11 (10) *Penalty.* A person convicted of an offense
12 under subsection (8) of this section shall be
13 subject to a fine not exceeding five hundred
14 dollars (\$500) or imprisoned for not more than six
15 months, or both."

16 Section 39. Chapter 8 of title 54 of the Code of the
17 Federated States of Micronesia, as amended, is hereby amended
18 by being renamed "Tax Agent Registration".

19 Section 40. Chapter 8 of title 54 of the Code of the
20 Federated States of Micronesia, as amended, is hereby
21 repealed in its entirety and a new section 931 is hereby
22 inserted to read as follows:

23 "Section 931. Application for Tax Agent
24 Registration

25 (1) An individual, partnership, or company may

1 apply to the CEO for registration as a tax agent.

2 (2) An application for registration as a tax
3 agent under subsection (1) shall be in the approved
4 form and accompanied by the prescribed fee."

5 Section 41. Section 932 of title 54 of the Code of the
6 Federated States of Micronesia, as amended, is hereby
7 repealed in its entirety and a new section 932 is hereby
8 inserted to read as follows:

9 "Section 932. Registration of Tax Agents

10 (1) The CEO shall register an applicant under
11 section 931 who is an individual if satisfied that
12 the individual is a fit and proper person to
13 prepare tax returns, objections, and otherwise
14 transact business with the Authority under the
15 revenue laws on behalf of taxpayers.

16 (2) The CEO shall register an applicant under
17 section 931 that is a partnership or company if
18 satisfied that:

19 (a) a partner in the partnership, or
20 employee of the company, is a fit and proper person
21 to prepare tax returns, objections, and otherwise
22 transact business with the Authority under the
23 revenue laws on behalf of taxpayers; and

24 (b) every partner in the partnership or
25 every director, manager, and other executive

1 officer of the company, are of good character and
2 integrity.

3 (3) Registration of a tax agent remains in force
4 for 12 months from the date of registration.

5 (4) The CEO shall provide an applicant under
6 section 931 with notice, in writing, of the
7 decision on the application."

8 Section 42. Section 933 of title 54 of the Code of the
9 Federated States of Micronesia is hereby repealed in its
10 entirety and a new section 933 is hereby inserted to read as
11 follows:

12 "Section 933. Renewal of Tax Agent Registration

13 (1) A tax agent may apply to the CEO for renewal
14 of the tax agent's registration.

15 (2) An application under subsection (1) shall be:

16 (a) in the approved form and accompanied by
17 the prescribed fee; and

18 (b) lodged with the CEO within 21 days prior
19 to the date of expiry of the tax agent's
20 registration or such later date as the CEO may
21 allow.

22 (3) The CEO shall renew the registration of a tax
23 agent who has applied under subsection (1) if the
24 tax agent continues to satisfy the conditions for
25 registration in section 932.

1 (4) The renewal of a tax agent's registration
2 remains in force for 12 months from the date the
3 existing registration expires.

4 (5) The CEO shall provide an applicant under
5 subsection (1) with notice, in writing, of the
6 decision on the application.

7 Section 43. Section 934 of title 54 of the Code of the
8 Federated States of Micronesia is hereby repealed in its
9 entirety and a new section 934 is hereby inserted to read as
10 follows:

11 "Section 934. Cancellation of Registration

12 (1) A tax agent that ceases to carry on business
13 as a tax agent shall notify the CEO, in writing,
14 within 7 days prior to ceasing to carry on business
15 as tax agent.

16 (2) A tax agent may apply to the CEO, in the
17 approved form, for cancellation of the agent's
18 registration if the agent no longer wishes to be
19 registered.

20 (3) The CEO shall cancel the registration of a
21 tax agent if any of the following applies:

22 (a) a tax return prepared and filed by the
23 tax agent is false in any material particular,
24 unless the tax agent establishes to the
25 satisfaction of the CEO that this was not due to

1 any willful or negligent conduct of the tax agent;

2 (b) the tax agent ceases to satisfy the
3 conditions for registration in section 932;

4 (c) the tax agent has ceased to carry on
5 business as a tax agent;

6 (d) the tax agent has applied for
7 cancellation of the agent's registration under
8 subsection (2).

9 (4) The CEO shall give notice, in writing, of a
10 decision to cancel the registration of a tax agent.

11 (5) The cancellation of the registration of a tax
12 agent takes effect on the earlier of:

13 (a) the date the tax agent ceases to carry
14 on business as tax agent; or

15 (b) 60 days after the tax agent has been
16 served with notice of the cancellation."

17 Section 44. Title 54 of the Code of the Federated
18 States of Micronesia is hereby amended by inserting a new
19 section 935 to subchapter XIII of chapter 8 to read as
20 follows:

21 "Section 935. Limitation on the Performance of Tax
22 Services for Taxpayers

23 (1) Subject to subsection (3), a person, other
24 than a tax agent, shall not demand or receive any
25 fee for or in relation to:

1 (a) the preparation of a tax return or an
2 objection to a tax decision; or

3 (b) the transaction of any business on
4 behalf of any person in respect of that other
5 person's rights or obligations under a tax law.

6 (2) Subject to subsection (3), a person, other
7 than a registered tax agent, must not:

8 (a) represent another person as that other
9 person's tax agent; or

10 (b) indicate that, for reward, the person
11 will offer assistance to another person in respect
12 of that other person's rights or obligations under
13 a tax law.

14 (3) Subsections (1) and (2) shall not apply to a
15 licensed attorney performing legal work in relation
16 to a tax law.

17 (4) A person who knowingly or recklessly violates
18 this section is guilty of an offense.

19 (5) *Penalty.* A person convicted of an offense
20 under this section shall be subject to a fine not
21 exceeding one thousand dollars (\$1,000), or, if a
22 natural person, imprisoned for not more than six
23 months, or both."

24 Section 45. Title 54 of the Code of the Federated
25 States of Micronesia is hereby amended by adding a new

1 subchapter XIV to chapter 8 to be entitled "Final
2 Provisions".

3 Section 46. Title 54 of the Code of the Federated
4 States of Micronesia, as amended, is hereby amended by
5 inserting a new section 936 to subchapter XIV of chapter 8 to
6 read as follows:

7 "Section 936. Regulations.

8 (1) The Secretary shall, subject to approval of
9 the President, prescribe and have printed
10 reasonable regulations for the enforcement of this
11 chapter and such regulations shall have force and
12 effect of law if they are not in conflict with the
13 express provisions of this chapter or other laws of
14 the FSM.

15 (2) The regulations shall also provide for
16 matters prescribed under the Chapter to be made by
17 regulation."

18 Section 47. Title 54 of the Code of the Federated
19 States of Micronesia, as amended, is hereby amended by
20 inserting a new section 937 to subchapter XIV of chapter 8 to
21 read as follows:

22 "Section 937. Transition.

23 (1) Subject to this section, this chapter applies
24 to any act or omission occurring, or any taxation
25 assessment made, before this chapter came into

1 force.

2 (2) Any appeal or prosecution commenced before
3 this chapter came into force shall be continued and
4 disposed of as if this chapter had not come into
5 force.

6 (3) If the period for any application, appeal, or
7 prosecution had expired before this chapter came
8 into force, nothing in this chapter shall be
9 construed as enabling the application, appeal, or
10 prosecution to be made under this chapter by reason
11 only of the fact that a longer period is specified
12 in this chapter.

13 (4) Any tax liability that arose before this
14 chapter came into force may be recovered under this
15 chapter, but without prejudice to any action
16 already taken for the recovery of the tax."

17 Section 48. Title 54 of the Code of the Federated
18 States of Micronesia, as amended, is hereby amended by
19 inserting a new section 938 to subchapter XIII of chapter 8
20 to read as follows:

21 "Section 938. Commencement of Administration.
22 Administration of this Act shall commence on the
23 commencement of administration date of the Unified
24 Revenue Authority Act as determined by section 769
25 of this title.

1 Section 49. This act shall become law upon approval by
2 the President of the Federated States of Micronesia or upon
3 its becoming law without such approval.

4

5 Date: 8/20/13

Introduced by: /s/ Florencio S. Harper

Florencio S. Harper
(by request)

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