
A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, by repealing sections 801, 802, 803, 804 and 805, and inserting new sections 801, 802, and 803 designating sections 801, 802 and 803 as subchapter I, and by enacting new subchapters II, III, IV, V, VI, VII, VIII, IX, X, XI, XII and XIII for the purpose of establishing a new Revenue Administration Act of 2011, and for other purposes.

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

1 Section 1. Title 54 of the Code of the Federated States of
2 Micronesia is hereby amended by designating sections 801, 802
3 and 803 of the chapter as subchapter I entitled "General
4 Provisions".

5 Section 2. Section 801 of chapter 8 of title 54 of the Code
6 of the Federated States of Micronesia, is hereby repealed in its
7 entirety and a new section 801 inserted to read as follows:

8 "Section 801. Short title.

9 This chapter may be cited as the Revenue Administration
10 Act of 2011."

11 Section 3. Section 802 of chapter 8 of title 54 of the Code
12 of the Federated States of Micronesia, is hereby repealed in its
13 entirety and a new section 802 inserted to read as follows:

14 "Section 802. Definitions.

15 Wherever used in this chapter, unless the
16 subject matter, context, or sense otherwise
17 requires:

1 (1) 'Arrangement' means any contract, agreement,
2 plan, or understanding whether expressed or implied and
3 whether or not enforceable in legal proceedings.

4 (2) 'Associate' has the meaning in section 515 of
5 this title.

6 (3) 'Authority' means the FSM Unified Revenue
7 Authority established under section 711 of this title.

8 (4) 'Board' means the Board of Directors of the
9 Authority appointed under chapter 7 of this title.

10 (5) 'CEO' means the Chief Executive Officer
11 appointed under chapter 7 of this title.

12 (6) 'FSM' means the Federated States of
13 Micronesia.

14 (7) 'Installment of tax' means an installment of
15 tax payable under chapter 5 of this title.

16 (8) 'Late payment interest' means late payment
17 interest imposed under section 891 of this title.

18 (9) 'Net profit tax' means net profit tax imposed
19 under chapter 5 of this title.

20 (10) 'Objection decision' means the decision
21 referred to in section 831(5) of this title.

22 (11) 'Person' means an individual, company,
23 corporation, partnership, unincorporated association or
24 other business entity, trust, estate, government,
25 political subdivision of a government, or public

1 international organization.

2 (12) 'Prescribed' means prescribed by the
3 Secretary in regulations.

4 (13) 'President' means the President of the FSM.

5 (14) 'Presumptive tax' means the presumptive tax
6 imposed under chapter 5 of this title.

7 (15) 'Private ruling' means a ruling made under
8 sections 884, 885, 886, 887 and 888 of this title.

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

11 (17) 'Representative' means:

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

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

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

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

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

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

20 (i) in the case of a person to whom section
21 843 of this title applies, the trustee of the person
22 under that section, and includes any person that the
23 CEO has, by notice in writing, declared to be a
24 representative of a person for the purposes of this
25 chapter.

1 (18) 'Revenue law' means:

2 (a) any chapter under this title;

3 (b) a law of the FSM imposing a tax or duty
4 if the law provides that the Authority has the
5 responsibility for administering the tax or duty; and

6 (c) a law of a State imposing a tax that the
7 Authority is permitted to administer by virtue of the
8 laws of such State.

9 (19) 'Revenue officer' means the CEO and any
10 officer of the Authority appointed under section 732 of
11 chapter 7 of this title.

12 (20) 'Secretary' means the Secretary of the FSM
13 Department of Finance and Administration.

14 (21) 'Self-assessment' means a self-assessment of
15 net profits tax, presumptive tax, or VAT.

16 (22) 'Self-assessment return' means a tax return
17 required to be furnished by a self-assessment taxpayer.

18 (23) 'Self-assessment taxpayer' means a person
19 liable for net profit tax, presumptive tax, or VAT.

20 (24) 'State' means a State of the FSM.

21 (25) 'Tax' means any tax, duty, or penalty
22 imposed under a revenue law, and includes an
23 installment of tax and withholding tax.

24 (26) 'Tax assessment' means:

25 (a) an assessment of wages and salaries tax

1 under section 152 of this title;

2 (b) a self-assessment;

3 (c) an assessment under subchapter III of
4 this chapter, including an amended assessment; and

5 (d) an assessment of penalty under section
6 896 of this title.

7 (27) 'Tax decision' means:

8 (a) a tax assessment; or

9 (b) a decision in relation to a revenue law
10 on any matter left to the discretion, judgment,
11 direction, opinion, approval, consent, satisfaction, or
12 determination of the CEO, other than such decision made
13 by the CEO in relation to the making of a tax
14 assessment or to take action on subchapter VI of this
15 chapter.

16 (28) 'Tax period' means:

17 (a) in the case of tax imposed on wages
18 and salaries payable by the employer by withholding
19 under section 132 of this title or payable by the
20 employee under section 138 of this title, the
21 quarter;

22 (b) in the case of the net profits tax or
23 presumptive tax, the tax year;

24 (c) in the case of installments of net
25 profit tax, the period to which the installment

1 relates;

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

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

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

8 (29) 'Tax return' means a return required to be
9 filed under a revenue law.

10 (30) 'Tax warrant' means a warrant issued under
11 section 852 of this title.

12 (31) 'Taxpayer' means a person liable for any tax
13 or duty imposed under a revenue law and includes:

14 (a) an employer liable to withhold tax from
15 a payment of wages and salaries under section 132 of
16 this title; and

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

19 (32) 'Taxpayer Identification Number' means a
20 Taxpayer Identification Number issued under section 865
21 of this title.

22 (33) 'VAT' means valued added tax imposed under a
23 revenue Law.

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

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

3 Section 4. Section 803 of chapter 8 of title 54 of the Code
4 of the Federated States of Micronesia is hereby repealed in its
5 entirety and a new section 803 inserted to read as follows:

6 "Section 803. References to terms used in other laws.
7 When this chapter applies in respect of a revenue law,
8 any term not defined in this chapter has the meaning
9 that it has for the purposes of the revenue law."

10 Section 5. Section 804 of chapter 8 of title 54 of the Code
11 of the Federated States of Micronesia is hereby repealed in its
12 entirety.

13 Section 6. Section 805 of chapter 8 of title 54 of the Code
14 of the Federated States of Micronesia, as amended by Public Laws
15 Nos. 7-41, 9-139, 10-68, 13-21, 13-60 and 15-24 is hereby
16 repealed in its entirety.

17 Section 7. Title 54 of the Code of the Federated States of
18 Micronesia is hereby amended by adding a new subchapter II to
19 chapter 8 to be entitled "Tax Returns".

20 Section 8. Title 54 of the Code of the Federated States of
21 Micronesia is hereby amended by adding a new section 811 to
22 subchapter II of chapter 8 to read as follows:

23 "Section 811. Extension of time to file a tax return.

24 (1) A taxpayer required to file a tax return may
25 apply, at any time and in writing, to the CEO for an

1 extension of time to file the return.

2 (2) The CEO may, upon satisfaction that there is
3 reasonable cause (as defined in regulations issued from
4 time to time by the Authority), grant an application
5 under subsection (1) of this section and must serve
6 notice of the decision on the applicant.

7 (3) An extension of time granted under this
8 section does not change the date for payment of tax due
9 as specified in the revenue law under which the return
10 has been made, but shall extend the date from which
11 penalties shall be payable with respect to the late
12 filing of a return."

13 Section 9. Title 54 of the Code of the Federated States of
14 Micronesia is hereby amended by adding a new section 812 to
15 subchapter II of chapter 8 to read as follows:

16 "Section 812. Tax return duly made.
17 A tax return purporting to be filed by or on behalf of
18 a taxpayer is treated as having been filed by the
19 taxpayer or with the taxpayer's authority unless the
20 contrary is proved."

21 Section 10. Title 54 of the Code of the Federated States of
22 Micronesia is hereby amended by adding a new subchapter III to
23 chapter 8 to be entitled "Tax Decisions".

24 Section 11. Title 54 of the Code of the Federated States of
25 Micronesia is hereby amended by adding a new section 821 to

1 subchapter III of chapter 8 to read as follows:

2 "Section 821. Self-assessments.

3 (1) For the purposes of this chapter:

4 (a) a self-assessment taxpayer who has filed
5 a self-assessment return is treated as having made
6 an assessment of the amount of tax payable for
7 the tax period to which the return relates
8 being that amount as set out in the return;
9 and

10 (b) a self-assessment return furnished by a
11 self-assessment taxpayer is treated as a notice
12 of the assessment served by the CEO on the taxpayer
13 on the date the return was filed.

14 (2) Reserved."

15 Section 12. Title 54 of the Code of the Federated States of
16 Micronesia is hereby amended by adding a new section 822 to
17 subchapter III of chapter 8 to read as follows:

18 "Section 822. Assessment of person who fails to file a
19 tax return.

20 (1) If a taxpayer liable for tax on an assessment
21 basis under a revenue law fails to file a tax return
22 for a tax period as required under the revenue law, the
23 CEO may, at any time, make an assessment of the tax
24 payable by the taxpayer.

25 (2) The CEO must serve a taxpayer assessed under

1 subsection (1) of this section with notice of the
2 assessment as soon as is practicable after making the
3 assessment. The notice must state:

4 (a) the amount of tax payable;

5 (b) the amount of interest or penalty (if
6 any) payable in respect of the tax payable;

7 (c) the tax period in respect of which the
8 assessment relates;

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

10 (e) the due date for payment of the tax
11 payable under the notice."

12 Section 13. Title 54 of the Code of the Federated States of
13 Micronesia is hereby amended by adding a new section 823 to
14 subchapter III of chapter 8 to read as follows:

15 "Section 823. Advanced tax assessments.

16 (1) The CEO may make an assessment of the tax
17 payable for the tax period and the tax is payable on
18 the date set out in the notice of assessment served on
19 the taxpayer if, in any tax period:

20 (a) a taxpayer liable for tax on an
21 assessment basis under a revenue law ceases to carry on
22 a trade, business, profession, vocation, or employment;
23 or

24 (b) the CEO has reasonable grounds to believe
25 that a taxpayer liable for tax on an assessment basis

1 under a revenue law may leave, or has left, the FSM
2 without filing a return as required under the revenue
3 law for the tax period.

4 (2) The CEO must serve a taxpayer assessed under
5 subsection (1) of this section with notice, in writing,
6 of the assessment as soon as is practicable after
7 making the assessment, and such notice must set out the
8 matters specified in section 822(2) of this title.

9 (3) An assessment made under subsection (1) of
10 this section can be amended under section 824 of this
11 title so that the taxpayer is assessed in respect of
12 the whole of the tax period to which the assessment
13 under subsection (1) of this section relates."

14 Section 14. Title 54 of the Code of the Federated States of
15 Micronesia is hereby amended by adding a new section 824 to
16 subchapter III of chapter 8 to read as follows:

17 "Section 824. Amendment of tax assessments.

18 (1) Subject to this section, the CEO may amend a
19 tax assessment by making such alterations or additions
20 to the assessment as the CEO considers necessary to
21 ensure that a taxpayer is liable for the correct amount
22 of tax payable in respect of the tax period to which
23 the assessment relates.

24 (2) A self-assessment taxpayer can apply to the
25 CEO within the time specified in subsection (3)(b) of

1 this section for the CEO to make an amendment in
2 accordance with subsection (1) of this section to a
3 self-assessment and the CEO shall serve the taxpayer
4 with notice of the decision on the application as soon
5 as is practicable after the making of the assessment.

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

8 (a) in the case of fraud or willful neglect,
9 within six years of the date the CEO served notice of
10 the assessment on the taxpayer or within one year after
11 the fraud or willful neglect is discovered, whichever
12 is the later; or

13 (b) in any other case, within six years of
14 the date the CEO served notice of the assessment on the
15 taxpayer.

16 (4) As soon as practicable after making an
17 amended assessment under this section, the CEO must
18 serve the taxpayer with notice of the amended
19 assessment.

20 (5) Subject to subsection (6) of this section, if
21 a notice of assessment (referred to as the 'original
22 assessment') has been amended under subsection (1) of
23 this section, the CEO may further amend the original
24 assessment within the later of:

25 (a) six years after the CEO served notice of

1 the original assessment on the taxpayer; or

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

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

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

13 (8) The making of an amended assessment does not
14 preclude the liability for any interest and penalty in
15 relation to the tax assessed under amended assessment
16 arising from the date that tax was due under the
17 original assessment."

18 Section 15. Title 54 of the Code of the Federated States of
19 Micronesia is hereby amended by adding a new section 825 to
20 subchapter III of chapter 8 to read as follows:

21 "Section 825. Validity of tax decisions.

22 (1) The validity of a tax decision, a notice of a tax
23 decision, or any other document purporting to be made
24 or executed under a revenue law, if it is, in substance
25 and effect, in conformity with the law under which it

1 has been made, issued, or executed and the person
2 assessed, or intended to be assessed or affected by the
3 decision or document, is designated in it according to
4 common understanding:

5 (a) cannot be quashed or deemed to be void or
6 voidable for want of form; or

7 (b) is not affected by reason of any immaterial
8 mistake, defect, or omission therein.

9 (2) Reserved."

10 Section 16. Title 54 of the Code of the Federated States of
11 Micronesia is hereby amended by adding a new section 826 to
12 subchapter III of chapter 8 to read as follows:

13 "Section 826. Correctness of tax decisions.

14 (1) Except in proceedings under subchapter IV of
15 this chapter:

16 (a) no tax decision can be disputed in any
17 court or in any other proceedings on any ground
18 whatsoever;

19 (b) the production of the original notice of
20 a tax assessment or a document under the hand of the
21 CEO purporting to be a copy of a notice of such
22 assessment is conclusive evidence of the making of the
23 assessment and that the amount and particulars of the
24 assessment are correct; and

25 (c) in the case of a self-assessment

1 taxpayer, the production of the original self-
2 assessment return or a document under the hand
3 of the CEO purporting to be a copy of such return
4 is conclusive evidence of the contents of
5 the return.

6 (2) A court must, in all proceedings, take
7 judicial notice of the signature of the CEO in
8 either the original or copy of a notice of a tax
9 decision."

10 Section 17. Title 54 of the Code of the Federated States of
11 Micronesia is hereby amended by adding a new section 827 to
12 subchapter III of chapter 8 to read as follows:

13 "Section 827. Rectification of mistakes.
14 If the CEO is satisfied that an order made or document
15 issued by the CEO under a revenue law contains a
16 mistake that is apparent on the face of the record or
17 document and the mistake does not involve a dispute as
18 to the interpretation of the law or facts of the case,
19 the CEO may, for the purposes of rectifying the
20 mistake, amend the order or document any time before
21 the expiry of six years from the date of making or
22 issuing the order or document."

23 Section 18. Title 54 of the Code of the Federated States of
24 Micronesia is hereby amended by adding a new subchapter IV to
25 chapter 8 to be entitled "Objections and Appeals".

1 Section 19. Title 54 of the Code of the Federated States of
2 Micronesia is hereby amended by adding a new section 831 to
3 subchapter IV of chapter 8 to read as follows:

4 "Section 831. Objection to tax decision.

5 (1) A person dissatisfied with a tax decision must
6 lodge an objection to the decision with the CEO within
7 30 days of service of the notice of the decision.

8 (2) If the CEO has amended an assessment under
9 section 824 of this title, the taxpayer has no further
10 right of objection that the taxpayer would have had if
11 the amendment had not been made, except to the extent
12 that by reason of the amendment a fresh liability is
13 imposed on the taxpayer or an existing liability is
14 increased.

15 (3) An objection must substantially comply with
16 the prescribed form and state fully and in detail the
17 grounds upon which the person objecting relies to
18 support the objection.

19 (4) A person may apply, in writing, to the CEO
20 for an extension of time to lodge an objection and the
21 CEO may, if satisfied there is reasonable cause, grant
22 an application under this section and must serve notice
23 of the decision on the applicant as soon as is
24 practicable after making the decision.

25 (5) Subject to subsection (6) of this section,

1 the CEO must consider the objection and either allow
2 the objection in whole or part, or disallow it, and the
3 CEO's decision is referred to as an 'objection
4 decision'.

5 (6) The CEO is not required to consider an
6 objection unless and until the person objecting has
7 complied with all the requirements under this chapter
8 or the revenue law to which the objection relates in
9 relation to the making of tax returns and payment of
10 tax.

11 (7) The CEO must serve notice of the objection
12 decision on the person objecting as soon as practicable
13 after making the decision."

14 Section 20. Title 54 of the Code of the Federated States of
15 Micronesia is hereby amended by adding a new section 832 to
16 subchapter IV of chapter 8 to read as follows:

17 "Section 832. Judicial review.

18 (1) A person dissatisfied with an objection
19 decision may institute an action for review in a court
20 of competent jurisdiction in the FSM. Such action is
21 commenced by filing a petition, within sixty days after
22 service of notice of the objection decision, setting
23 forth:

24 (a) assignments of errors alleged to have
25 been committed by the CEO in making the objection

1 decision;

2 (b) the facts relied upon to sustain such
3 assignments of errors; and

4 (c) a prayer for appropriate relief.

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

7 (3) The payment of the amount of tax in dispute,
8 in whole or part, after the filing of a petition under
9 subsection (1) of this section does not deprive the
10 court of jurisdiction.

11 (4) When the decision of the court or an appeal
12 there from becomes final, the CEO must, upon
13 presentment of a certified copy of the decree, make
14 such adjustments to comply with the decree as are
15 necessary to correct, amend, or abate the assessment,
16 and determine whether an additional amount of tax is to
17 be assessed.

18 (5) This section shall not condition or limit the
19 right of a taxpayer to seek immediate judicial review
20 of any action taken or to be taken under subchapter VI
21 of this chapter."

22 Section 21. Title 54 of the Code of the Federated States of
23 Micronesia is hereby amended by adding a new section 833 to
24 subchapter IV of chapter 8 to read as follows:

25 "Section 833. General provisions relating to

1 objections and appeals.

2 (1) In any proceeding under this chapter:

3 (a) in the case of a tax assessment, the
4 burden is on the taxpayer to prove that the assessment
5 is excessive; or

6 (b) in the case of a tax decision (other
7 than a tax assessment), the burden is on the person
8 objecting to the decision to prove that the decision
9 should not have been made or should have been made
10 differently.

11 (2) In an action for review by a court under
12 section 832 of this title, the person bringing the
13 action is limited to the grounds stated in the person's
14 objection to the CEO.

15 (3) To the extent necessary for the making of a
16 decision and when presented, the reviewing court shall
17 decide all relevant questions of law and fact,
18 interpret constitutional and statutory provisions, and
19 determine the meaning or applicability of the terms of
20 any action taken by the CEO.

21 (4) The reviewing court shall:

22 (a) compel any action of the CEO unlawfully
23 withheld or unreasonably delayed; and

24 (b) hold unlawful and set aside any actions
25 and decisions of the CEO found to be:

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- 1 (i) arbitrary, capricious, an abuse of
2 discretion, or otherwise not in accordance with law;
3 (ii) contrary to constitutional right,
4 power, privilege, or immunity;
5 (iii) in excess of statutory
6 jurisdiction, authority, or limitations, or a denial of
7 legal rights;
8 (iv) without substantial compliance with
9 the procedures required by law; or
10 (v) unwarranted by the facts.

11 (5) Subject to subsection (6) of this section,
12 the tax due under a tax assessment is payable
13 notwithstanding that an objection has been lodged or an
14 action for judicial review under section 832 of this
15 title has been instituted by the taxpayer in respect of
16 the assessment.

17 (6) The CEO may, upon application in writing by a
18 taxpayer, agree to stay recovery of a tax in dispute
19 under a tax assessment up to a maximum of fifty percent
20 (50%) of the disputed tax, but only if the taxpayer has
21 paid the entire amount of tax due under the assessment
22 that is not in dispute."

23 Section 22. Title 54 of the Code of the Federated States of
24 Micronesia is hereby amended by adding a new subchapter V to
25 chapter 8 to be entitled "Recovery of Unpaid Tax".

1 Section 23. Title 54 of the Code of the Federated States of
2 Micronesia is hereby amended by adding a new section 841 to
3 subchapter V of chapter 8 to read as follows:

4 "Section 841. Payment of tax.

5 (1) A taxpayer must pay tax in the prescribed
6 manner.

7 (2) Any unpaid tax may be sued for and recovered
8 in any court of competent jurisdiction by the CEO suing
9 in his or her official capacity as collection agent for
10 the National or State Governments, as the case may be.

11 (3) In any suit under subsection (2) of this
12 section, the production of a certificate signed by the
13 CEO stating the name and address of the taxpayer and
14 the amount of tax due is sufficient evidence that the
15 amount of tax is due by the taxpayer and sufficient
16 authority for the court to give judgment with full
17 costs of suit against the taxpayer."

18 Section 24. Title 54 of the Code of the Federated States Of
19 Micronesia is hereby amended by adding a new section 842 to
20 subchapter V of chapter 8 to read as follows:

21 "Section 842. Extension of time to pay tax.

22 (1) A taxpayer may apply, in writing, to the CEO
23 for an extension of time to pay tax due under a revenue
24 law.

25 (2) If an application has been made under this

1 section, the CEO may, having regard to the
2 circumstances of the case:

3 (a) grant the taxpayer an extension of time
4 for payment of the tax due; or

5 (b) require the taxpayer to pay the tax due
6 in such installments as the CEO may determine, and the
7 CEO must serve the taxpayer with written notice of the
8 decision.

9 (3) If a taxpayer permitted to pay tax by
10 installments defaults in the payment of an installment,
11 the whole balance of the tax outstanding, at the time
12 of default, is immediately payable.

13 (4) The grant of an extension of time or
14 permission to pay tax due by installments does not
15 preclude the liability for late payment interest
16 arising from the original date the tax was due for
17 payment."

18 Section 25. Title 54 of the Code of the Federated States of
19 Micronesia is hereby amended by adding a new section 843 to
20 subchapter V of chapter 8 to read as follows:

21 "Section 843. Trustees, liquidators, and executors.

22 (1) In this section:

23 (a) "trustee" means:

24 (i) a liquidator of a company being
25 wound up;

1 (ii) a receiver for debenture holders
2 who has taken possession of any assets of a company;
3 (iii) a trustee in bankruptcy;
4 (iv) a mortgagee in possession;
5 (v) an executor of a deceased
6 estate; or
7 (vi) any other person holding a
8 similar office or acting in a similar capacity; and

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

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

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

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

24 (a) must not, without the leave of
25 the CEO, dispose of any asset of the taxpayer until a

1 notice has been served on the trustee under subsection
2 (3) of this section;

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

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

12 (5) A trustee may pay the expenses properly
13 incurred by the trustee in the capacity as such,
14 including the trustee's remuneration, in priority to
15 the amount notified under subsection (3) of this
16 section.

17 (6) If two or more persons are trustees in
18 respect of a taxpayer, the obligations and liabilities
19 under this section apply jointly and severally to the
20 trustees but may be discharged by any of them.

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

1 Section 26. Title 54 of the Code of the Federated States of
2 Micronesia is hereby amended by adding a new section 844 to
3 subchapter V of chapter 8 to read as follows:

4 "Section 844. Recovery of unpaid tax from third party.

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

6 (a) owes or may subsequently owe money to a
7 taxpayer;

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

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

12 (d) has authority from some other person to
13 pay money to a taxpayer.

14 (2) This section applies if a taxpayer is liable
15 to pay tax and the tax has not been paid by the
16 taxpayer by the due date for payment. This remedy shall
17 be in addition to any right of levy and execution set
18 forth in subchapter VI of this chapter.

19 (3) If this section applies, the CEO may, by
20 notice in writing, require a payer in respect of the
21 taxpayer to pay the amount specified in the notice to
22 the CEO, being an amount that does not exceed the
23 amount of tax that has not been paid.

24 (4) A payer must pay the amount specified in a
25 notice under subsection (3) of this section by the date

1 specified in the notice, being a date that is not
2 before the date that the amount owed to the taxpayer
3 becomes due to the taxpayer or held on the taxpayer's
4 behalf.

5 (5) If a notice served under subsection (3) of
6 this section requires a payer to deduct amounts from
7 wages or salaries, the amount required to be deducted
8 by the payer from each payment must not exceed twenty
9 percent of the amount of each payment of wages or
10 salaries.

11 (6) If a person served with a notice under
12 subsection (3) of this section is unable to comply with
13 the notice by reason of lack of moneys owing to, or
14 held for, the taxpayer, the person must notify the CEO,
15 in writing, setting out the reasons for the person's
16 inability to comply.

17 (7) If a notice is served on the CEO under
18 subsection (6) of this section, the CEO may, by notice
19 in writing:

20 (a) accept the notification and cancel or
21 amend the notice issued under subsection (3) of this
22 section; or

23 (b) reject the notification.

24 (8) The CEO must, by notice in writing to the
25 payer, revoke or amend a notice served under subsection

1 (3) of this section if the taxpayer has paid the whole
2 or part of the tax due or has made an arrangement
3 satisfactory to the CEO for payment of the tax.

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

6 (10) An amount deducted from a payment by a payer
7 pursuant to a notice served on a payer under this
8 section is held by the payer in trust for the
9 Authority.

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

14 (12) The CEO must apply any amount paid by a payer
15 under this section to the tax owing by the taxpayer.

16 (13) A payer who, without reasonable cause, fails
17 to comply with a notice under this section is
18 personally liable for the amount specified in the
19 notice.

20 (14) The amounts referred to in subsections (10)
21 and (13) of this section are treated as if they were
22 tax payable by the payer as taxpayer for the purposes
23 of this subchapter, subchapter VI of this chapter, and
24 section 871 of this title."

25 Section 27. Title 54 of the Code of the Federated States of

1 Micronesia is hereby amended by adding a new section 845 to
2 subchapter V of chapter 8 to read as follows:

3 "Section 845. Seizure of goods.

4 (1) In addition to any other right of levy and
5 execution set forth in subchapter VI of this chapter
6 and the powers of forfeiture under subchapter IV of
7 chapter 2 of this title, the CEO or a revenue officer
8 authorized by the CEO in writing for the purposes of
9 this section may seize any goods if the VAT that is
10 payable in respect of the supply or the import duty in
11 respect of the import of those goods has not been paid
12 or the CEO or authorized officer has reasonable grounds
13 to believe that such VAT or import duty will not be
14 paid.

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

18 (3) If goods have been seized under subsection(1)
19 of this section, the CEO or authorized officer must, as
20 soon as is practicable after the seizure, serve on the
21 owner of the goods or the person who had custody or
22 control of the goods immediately before the seizure, a
23 notice in writing:

24 (a) identifying the goods;

25 (b) stating that the goods have been seized

1 under this section and the reason for seizure; and

2 (c) setting out the terms of subsections
3 (6), (7), and (8) of this section.

4 (4) The CEO or authorized officer is not required
5 to serve a notice under subsection (3) of this section
6 if, after making reasonable enquiries, the CEO or
7 authorized officer does not have sufficient information
8 to identify the person on whom the notice should be
9 served.

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

16 (6) The CEO or authorized officer may authorize
17 any goods seized under subsection (1) of this section
18 to be delivered to the person on whom a notice under
19 subsection (3) of this section has been served if that
20 person has paid, or makes an arrangement satisfactory
21 to the CEO or authorized officer for payment of, the
22 VAT that is payable in respect of the supply or import
23 duty in respect of the import of the goods.

24 (7) Except if subsection (6) of this section
25 applies, the CEO or authorized officer must detain the

1 goods seized under subsection (1) of this section:

2 (a) in the case of perishable goods, for
3 such period as the CEO or authorized officer considers
4 reasonable having regard to the condition of the goods;
5 or

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

8 (8) If the detention period in subsection (7) of
9 this section has expired, the CEO or authorized officer
10 may sell the goods by public auction or, in the case of
11 perishable goods, may sell the goods in such manner as
12 the CEO or authorized officer determines, and apply the
13 proceeds of sale as follows:

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

16 (b) then towards payment of any VAT that is
17 payable in respect of the supply or import duty in
18 respect of the import of the goods;

19 (c) then towards payment of any other tax
20 due by the person whose goods have been seized; and

21 (d) the remainder of the proceeds, if any,
22 must be paid to the person whose goods have been
23 seized.

24 (9) If the proceeds of disposal are less than the
25 sum of the cost of taking, keeping, and selling the

1 goods seized and the VAT or import duty due, the CEO or
2 authorized officer may proceed under this chapter to
3 recover the excess.

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

9 Section 28. Title 54 of the Code of the Federated States of
10 Micronesia is hereby amended by adding a new section 846 to
11 subchapter V of chapter 8 to read as follows:

12 "Section 846. CEO may require security.
13 The CEO may, for the purposes of securing payment of
14 any tax that is or will become due, require a taxpayer
15 to give security in such amount and in such manner as
16 the CEO thinks fit."

17 Section 29. Title 54 of the Code of the Federated States of
18 Micronesia is hereby amended by adding a new section 847 to
19 subchapter V of chapter 8 to read as follows:

20 "Section 847. Taxpayer leaving the FSM.
21 (1) If the CEO has reasonable grounds to believe
22 that a taxpayer may leave the FSM before the due date
23 for payment of any tax and the taxpayer has not made an
24 arrangement satisfactory to the CEO for payment of the
25 tax, the tax is due on such date as specified by the

1 CEO by notice in writing to the taxpayer.

2 (2) If the CEO has reasonable grounds to believe
3 that a taxpayer may leave the FSM without paying tax
4 due, the CEO may issue a certificate containing those
5 grounds and the particulars of the tax due to the FSM
6 Department of Justice and requesting the prevention of
7 the taxpayer from leaving the FSM until the taxpayer:

8 (a) makes payment of the tax due in full; or

9 (b) makes an arrangement satisfactory to the
10 CEO for payment of the tax due.

11 (3) The CEO must serve a copy of a certificate
12 issued under subsection (2) of this section on the
13 taxpayer named in the certificate if it is practicable
14 to do so.

15 (4) Payment of the tax specified in the
16 certificate to a customs or immigration officer or the
17 production of a certificate signed by the CEO stating
18 that the tax has been paid or satisfactory arrangements
19 for payment have been made is sufficient authority for
20 allowing the taxpayer to leave the FSM."

21 Section 30. Title 54 of the Code of the Federated States of
22 Micronesia is hereby amended by adding a new section 848 to
23 subchapter V of chapter 8 to read as follows:

24 "Section 848. Temporary closure of business.

25 (1) If a taxpayer fails to pay VAT or tax

1 withheld from wages and salaries on or before the due
2 date, the CEO or a revenue officer authorized by the
3 CEO, in writing, for the purposes of this section may
4 notify the taxpayer in writing of the intention to
5 close down part or the whole of the taxpayer's business
6 unless the taxpayer pays the tax due within seven days
7 of the date of the notice.

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

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

19 (4) The CEO or authorized officer shall affix, in
20 a conspicuous place on the front of the premises of the
21 business or part of the business which has been closed
22 under an order issued under subsection (2) of this
23 section, a notice in the following words 'CLOSED
24 TEMPORARILY FOR NOT COMPLYING WITH TAX OBLIGATIONS BY
25 ORDER OF THE CEO OF THE FSM UNIFIED REVENUE AUTHORITY

1 UNDER SECTION 848 OF THE REVENUE ADMINISTRATION ACT'.

2 (5) If the tax due is paid in full within the
3 period of closure, or a satisfactory arrangement is
4 reached with the CEO with respect to payment of the
5 tax, the order issued under subsection (2) of this
6 section ceases to have effect and the CEO must
7 immediately arrange for removal of the notice referred
8 to in subsection (4) of this section."

9 Section 31. Title 54 of the Code of the Federated States of
10 Micronesia is hereby further amended by adding a new subchapter VI
11 to chapter 8 to be entitled "Levy and Execution".

12 Section 32. Title 54 of the Code of the Federated States of
13 Micronesia is hereby amended by adding a new section 851 to
14 subchapter VI of chapter 8 to read as follows:

15 "Section 851. Tax as lien on property.

16 (1) If any taxpayer neglects or refuses to pay,
17 or withhold and pay, or collect and pay any tax that is
18 due after assessment or demand for payment as provided
19 in this title, the amount of the tax shall be a lien in
20 favor of the Authority on all the property of that
21 taxpayer as allowed hereunder.

22 (2) The lien imposed by subsection (1) of this
23 section shall arise at the time that the assessment or
24 demand has been made as provided in this chapter, and
25 shall continue until the liability for payment of the

1 amount assessed or demanded is satisfied or
2 extinguished.

3 (3) As against any mortgagee, pledgee, purchaser,
4 judgment creditor, lienor or other encumbrance for
5 value, the lien imposed by subsection (1) of this
6 section shall not be considered to have arisen or have
7 any effect whatever unless notice of the lien has been
8 filed. Against all subsequently arising interests, the
9 lien shall have priority.

10 (4) The notice of lien must be filed in the
11 Supreme Court of the State in which the property is
12 located and a copy thereof sent by certified or
13 registered mail to the taxpayer not less than 45 days
14 after the assessment or demand for payment as provided
15 in this title. The notice of lien:

16 (a) shall identify the taxpayer whose
17 liability for taxes is sought to be enforced, the type
18 or nature of the tax, the amount of the tax due on the
19 date that the notice is filed plus any penalty or
20 interest that may be chargeable, the date or
21 approximate date on which the tax became due, and the
22 date on which the assessment or demand for payment was
23 delivered or mailed; and

24 (b) shall state:

25 (i) that the Authority claims a lien for

1 the entire amount of tax asserted to be due, including
2 applicable interest and penalties, and including any
3 additional amounts that may become due after the notice
4 is filed; and

5 (ii) that the lien may result in the
6 levy and sale of the property if the amounts asserted
7 to be due are not paid in full.

8 (5) Notwithstanding any other provision of this
9 chapter, the following described property shall be
10 exempt from the taking of liens and subsequent
11 attachment and execution as imposed under this chapter:

12 (a) *personal and household goods.* All
13 necessary household furniture, cooking and eating
14 utensils, and all necessary wearing apparel, bedding,
15 and provisions for household use sufficient for four
16 months;

17 (b) *necessities for trade or occupation.* All
18 tools, implements, utensils, work animals and vehicles
19 that are not used for personal transportation,
20 including travel from residence to place of employment
21 and return thereto, and equipment necessary to enable
22 the person against whom the attachment or execution is
23 issued to carry on his usual occupation; and

24 (c) *certain interests in land.* All interests
25 in land, exclusive of leasehold interests, except where

1 such interests can be shown to have been acquired to
2 avoid attachment or execution with respect to the cause
3 of action to which the attachment or execution is
4 ordered, or where attachment or execution against such
5 interest in land is specifically permitted under a real
6 property mortgage statute or real property deed of
7 trust statute for the State in which the interest is
8 located."

9 Section 33. Title 54 of the Code of the Federated States of
10 Micronesia is hereby amended by adding a new section 852 to
11 subchapter VI of chapter 8 to read as follows:

12 "Section 852. Warrant for collection of tax;
13 issuance; effect; levy and sale.

14 (1) If, within thirty (30) day's time following
15 filing of the notice of lien pursuant to section 851 of
16 this title, the delinquent taxpayer fails or refuses to
17 pay all sums secured by the same, or to enter into
18 other arrangements for the payment of the same, as
19 provided in this title, the Authority may issue a tax
20 warrant for the enforcement of such lien and for the
21 collection of any tax secured by the lien. Upon issuing
22 the tax warrant, any property of the delinquent
23 taxpayer, except as provided in section 851(5) of this
24 title, may be levied and converted to money in
25 accordance with this chapter.

1 (2) A levy shall be executed by taking possession
2 of the taxpayer's property pursuant to authority
3 contained in the tax warrant or by serving the warrant
4 upon the taxpayer, upon any other person in possession
5 of property of the taxpayer, or upon any person or
6 depository, including any officer or employee of any
7 governmental entity, subdivision or agency, who owes or
8 who will owe money to the taxpayer, who is holding
9 funds of the taxpayer, and ordering him to reveal the
10 extent thereof and surrender it to the state forthwith
11 or agree to surrender it or the proceeds therefrom in
12 the future, but, in any case, on the terms and
13 conditions stated in the tax warrant.

14 (3) The tax warrant shall be directed to and
15 executed by the Department of Justice of the Federated
16 States of Micronesia, or, to the extent required by
17 State law, by the Attorney General of the State in
18 which the property may be located. Except as provided
19 otherwise by this title, the tax warrant shall be
20 levied and the sale or other disposal made in the same
21 manner and with the same effect as a levy and sale
22 under a writ of execution.

23 (4) A tax warrant shall:

24 (a) bear on its face a statement of the
25 authority for its issuance and service, compel

1 compliance with its terms, and shall be attested to,
2 under oath, by the CEO;

3 (b) identify the taxpayer whose liability
4 for taxes is sought to be enforced, the amount thereof,
5 and the date or approximate date on which the tax
6 became due;

7 (c) state that the Authority claims a lien
8 for the entire amount of tax asserted to be due,
9 including applicable interest and penalties;

10 (d) order the person on whom it is served to
11 reveal all property in his possession, custody or
12 control that belongs to the taxpayer and the extent of
13 his own interest therein; and to reveal the amount and
14 kind of property of the taxpayer that, to the best of
15 his knowledge, is in the possession, custody or control
16 of others;

17 (e) order the person on whom it is served to
18 surrender the property forthwith, but may allow him to
19 agree, in writing, to surrender the property or the
20 proceeds therefrom on a certain date in the future when
21 the taxpayer's right to it would otherwise mature; and

22 (f) state on its face the penalties for
23 willful failure by any person upon whom it is served to
24 comply with its terms.

25 (5) Whenever any property upon which levy has

1 been made by virtue of a tax warrant is not sufficient
2 to satisfy the claim for which levy is made, the CEO,
3 thereafter, and as often as may be necessary, may
4 proceed to levy in like manner upon any other property
5 of the taxpayer against whom the claim exists, until
6 the amount due from the taxpayer is fully paid.

7 Section 34. Title 54 of the Code of the Federated States of
8 Micronesia is hereby amended by adding a new section 853 to
9 subchapter VI of chapter 8 to read as follows:

10 "Section 853. Surrender of property subject to levy;
11 penalty and notice.

12 (1) Upon receipt of a tax warrant issued pursuant
13 to section 852 of this title, any person in possession
14 or control of property subject to levy under a tax
15 warrant shall immediately surrender the property or
16 discharge the obligation to the CEO; PROVIDED, HOWEVER,
17 that the property or part of the property, that is
18 already the subject of a bona fide attachment,
19 execution, levy or other similar process need not be
20 surrendered.

21 (2) Any person who receives a tax warrant and
22 wrongfully fails or refuses to comply therewith shall
23 be liable in his own person and estate to the Authority
24 in a sum equal to the value of the property not so
25 surrendered or paid over, but not exceeding the amount

1 of the taxes for the collection of which such levy has
2 been made, together with penalties and interest on such
3 sum from the date of such levy, plus the costs of
4 executing the warrant.

5 (3) As soon as practicable after the levy, the
6 CEO shall notify the taxpayer of the amount and kind of
7 property seized and of the total amount demanded in
8 payment of tax."

9 Section 35. Title 54 of the Code of the Federated States of
10 Micronesia is hereby amended by adding a new section 854 to
11 subchapter VI of chapter 8 to read as follows:

12 "Section 854. Notice of sale; redemption.

13 (1) As soon as practicable after the levy and
14 seizure of the property pursuant to section 852 of this
15 title, the CEO shall decide on a date, time and place
16 for the sale of any property, excepting cash or liquid
17 deposits, which may be immediately applied pursuant to
18 section 856 of this title, and shall make a diligent
19 inquiry as to the identity and whereabouts of the owner
20 of the property and persons having an interest therein,
21 and shall notify the owner and such persons of the time
22 and place for the sale.

23 (2) Notice of the sale must be given to the
24 delinquent taxpayer, in writing, at least thirty (30)
25 days before the date set for the sale. Such notice

1 shall contain a description of the property to be sold,
2 a statement of the amount due, including interest,
3 penalties and costs, the name of the delinquent
4 taxpayer, and a statement that, unless the amount due
5 plus interest, penalties and costs are paid on or
6 before the time fixed in the notice for the sale, the
7 property, or so much of it as is necessary, will be
8 sold in accordance with law and the notice.

9 (3) No sale of imperishable property shall be
10 held until after the expiration of thirty (30) days
11 from the date of the levy thereon; PROVIDED, HOWEVER,
12 that perishable property may be sold immediately after
13 seizure without notice of the sale. The CEO shall make
14 special efforts pursuant to rules and regulations to
15 give notice of the sale to persons with a particular
16 interest in special property, and, apart from the
17 requirements stated above, shall advertise the sale in
18 a manner appropriate to the kind of property to be
19 sold.

20 (4) If any property of the taxpayer subject to
21 levy cannot be reasonably divided so as to enable the
22 CEO to sell a part thereof to raise the whole amount of
23 the tax and expenses, the whole of the taxpayer's
24 interest in the property shall be sold.

25 (5) The levy and sale shall not be made, or the

1 levy and sale shall be terminated and released if the
2 taxpayer pays the entire amount due, furnishes
3 security, or makes other arrangements for payment that
4 are acceptable to the CEO as provided in this title.
5 Upon making such payment or arrangements the CEO shall
6 restore the property to the taxpayer, and all further
7 proceedings in connection with the levy and sale of the
8 property shall cease from the time of the payment or
9 signing of an agreement with the Authority."

10 Section 36. Title 54 of the Code of the Federated States of
11 Micronesia is hereby amended by adding a new section 855 to
12 subchapter VI of chapter 8 to read as follows:

13 "Section 855. Sale; delivery of bill of sale;
14 disposition of unsold portion.

15 (1) Except as provided in subsection (4) of this
16 section, the Authority shall sell the property,
17 excluding cash and liquid deposits, at a public auction
18 and in accordance with the notice of sale, and shall
19 deliver to the purchaser a bill of sale for the
20 property sold.

21 (2) Except as provided in subsection (4) of this
22 section, payment must be in full, in cash or its
23 equivalent, and made immediately after the acceptance
24 of a bid for the property.

25 (3) The unsold portion of any property seized may

1 be left at the place of sale at the risk and cost of
2 the delinquent taxpayer.

3 (4) The foregoing notwithstanding, stocks, bonds,
4 certificates of deposit, promissory notes or other
5 securities which have a specific value or prevailing
6 market price may be sold by the Authority at a private
7 sale at a price not lower than the specific price or
8 prevailing market price, or may otherwise be liquidated
9 to their cash value in accordance with the regulations
10 promulgated by the CEO. No such liquidation may occur
11 sooner than the date scheduled for the sale as stated
12 in the notice."

13 Section 37. Title 54 of the Code of the Federated States of
14 Micronesia is hereby amended by adding a new section 856 to
15 subchapter VI of chapter 8 to read as follows:

16 "Section 856. Proceeds of levy and sale.

17 (1) Money realized by levy or sale under this
18 title shall be first applied against the expenses of
19 the proceedings;

20 (2) The amount remaining, if any, then shall be
21 applied to the liability for the tax, interest and
22 penalties for which the levy was pursued;

23 (3) Except as provided in subsection (4) of this
24 section, the balance, if any, shall be returned to the
25 taxpayer or the person legally entitled thereto and a

1 receipt obtained;

2 (4) If, before the sale, any person having an
3 interest in or lien upon the property files with the
4 Authority notice of his interest or lien, the Authority
5 shall withhold any excess, pending a determination of
6 the rights of the respective parties to it by a Court
7 of competent jurisdiction."

8 Section 38. Title 54 of the Code of the Federated States of
9 Micronesia is hereby further amended by adding a new subchapter
10 VII to chapter 8 to be entitled "Record Keeping and Information
11 Collection".

12 Section 39. Title 54 of the Code of the Federated States of
13 Micronesia is hereby amended by adding a new section 861 to
14 subchapter VII of chapter 8 to read as follows:

15 "Section 861. Accounts and records.

16 (1) Every taxpayer must, for the purposes of a
17 revenue law, maintain in the FSM such accounts,
18 documents, and records (including in electronic form)
19 as may be required under the revenue law and such
20 accounts, documents, and records must be retained by
21 the taxpayer for six years after the end of the tax
22 period to which they relate.

23 (2) If any accounts, documents, or records
24 referred to in subsection (1) of this section are not
25 in English, the CEO may, by notice in writing, require

1 the person keeping the accounts, documents, or records
2 to provide, at the person's expense, a translation into
3 English by a translator approved by the CEO."

4 Section 40. Title 54 of the Code of the Federated States of
5 Micronesia is hereby amended by adding a new section 862 to
6 subchapter VII of chapter 8 to read as follows:

7 "Section 862. Power to enter and search.

8 (1) For the purposes of administering a revenue
9 law, the CEO or a revenue officer authorized by the
10 CEO, in writing, for the purposes of this section:

11 (a) must have, upon presentation of a
12 warrant issued by a court of competent jurisdiction,
13 full and free access to any premises, place, property,
14 book, record, or data storage device;

15 (b) may, upon presentation of a warrant
16 issued by a court of competent jurisdiction, make an
17 extract or copy of any accounts, documents, books, or
18 records (including in electronic form) to which access
19 is obtained under paragraph (a) of this subsection;

20 (c) may, upon presentation of a warrant
21 issued by a court of competent jurisdiction, seize any
22 accounts, documents, books, or records that, in the
23 opinion of the CEO or authorized officer, afford
24 evidence that may be material in determining the tax
25 liability of a taxpayer;

1 (d) may retain any accounts, documents,
2 books, or records seized under paragraph (c) of this
3 subsection for as long as they may be required for
4 determining a taxpayer's tax liability or for any
5 proceeding under a revenue law; and

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

11 (2) A revenue officer is not entitled to enter or
12 remain on any premises or place if, upon request by the
13 owner or lawful occupier, the officer is unable to
14 produce the CEO's written authorization permitting the
15 officer to exercise powers under subsection (1) of this
16 section.

17 (3) The CEO or authorized officer may require a
18 police officer to be present for the purposes of
19 exercising powers under this section.

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

1 authorized officer.

2 (5) A person whose accounts, documents, books, or
3 records have been seized under subsection (1) of this
4 section may examine them and make copies, at the
5 person's expense, during office hours.

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

11 (7) The CEO or authorized officer must sign for
12 all accounts, documents, books, records, or data
13 storage devices removed and retained under this section
14 and return them to the owner within 14 days of the
15 conclusion of the investigation to which they relate
16 and all related proceedings.

17 (8) This section has effect notwithstanding:

18 (a) any law relating to privilege or the
19 public interest with respect to the giving of
20 information or the production of any property,
21 accounts, documents, books, or records (including in
22 electronic form); or

23 (b) any contractual duty of confidentiality."

24 Section 41. Title 54 of the Code of the Federated States of
25 Micronesia is hereby amended by adding a new section 863 to

1 subchapter VII of chapter 8 to read as follows:

2 "Section 863. Administrative summons.

3 (1) The CEO may, for the purposes of
4 administering any revenue law, by notice in writing,
5 require any person:

6 (a) to furnish such information as the CEO
7 may require;

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

10 (c) to produce all accounts, books,
11 documents, and records (including in electronic form)
12 in the person's custody or under the person's control
13 relating to that person's or any other person's tax
14 affairs.

15 (2) If a notice served under subsection (1) of
16 this section requires the production of accounts,
17 books, documents, or records (including in electronic
18 form), it is sufficient if such accounts, books,
19 documents, or records are described in the notice with
20 reasonable certainty.

21 (3) A notice issued under this section must be
22 served personally upon the person to whom it is
23 directed or left at the person's last known usual place
24 of business or abode and the certificate of service
25 signed by the person serving the notice is conclusive

1 evidence of the facts stated therein.

2 (4) The CEO may require the information or
3 evidence referred to in subsection (1) of this section
4 to be given under oath, verbally or in writing, and,
5 for that purpose, the CEO may administer the oath.

6 (5) This section has effect notwithstanding:

7 (a) any law relating to privilege or the
8 public interest with respect to the giving of
9 information or the production of any property,
10 accounts, documents, books, or records (including in
11 electronic form); or

12 (b) any contractual duty of confidentiality.”

13 Section 42. Title 54 of the Code of the Federated States of
14 Micronesia is hereby amended by adding a new section 864 to
15 subchapter VII of chapter 8 to read as follows:

16 “Section 864. Audit of taxpayer’s tax affairs.

17 (1) The CEO may select any taxpayer for an audit
18 of the taxpayer’s tax affairs for the purpose of a
19 revenue law having regard to:

20 (a) the taxpayer’s history of compliance or
21 non-compliance with the revenue law or any other
22 revenue law;

23 (b) the amount of tax payable by the
24 taxpayer;

25 (c) the class of business conducted by the

1 taxpayer; or

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

4 (2) The fact that a taxpayer has been audited in
5 relation to a tax period does not preclude the taxpayer
6 from being audited again in the relation to the next
7 and following tax periods if there are reasonable
8 grounds for the audits, particularly having regard to
9 the matters referred to in subsection (1) of this
10 section.

11 (3) An audit of a taxpayer's tax affairs may be
12 conducted for the purposes of more than one revenue
13 law."

14 Section 43. Title 54 of the Code of the Federated States of
15 Micronesia is hereby amended by adding a new section 865 to
16 subchapter VII of chapter 8 to read as follows:

17 "Section 865. Issue of Taxpayer Identification
18 Numbers.

19 (1) The CEO may, for the purposes of
20 identification and cross-checking, require a taxpayer
21 to apply for a Taxpayer Identification Number.

22 (2) An application for a Taxpayer Identification
23 Number must be:

24 (a) in the prescribed form;

25 (b) accompanied by documentary evidence of

1 the person's identity as prescribed; and

2 (c) lodged in the prescribed manner.

3 (3) If a person has applied for a Taxpayer
4 Identification Number under subsection (1) of this
5 section and the CEO is satisfied that the applicant's
6 identity has been established, the CEO must issue a
7 Taxpayer Identification Number to the applicant by
8 written notice.

9 (4) The CEO must refuse an application under this
10 section:

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

13 (b) if the applicant has already been issued
14 with a Taxpayer Identification Number that is still in
15 force; or

16 (c) for any other reason the CEO considers
17 appropriate.

18 (5) The CEO must serve the applicant with written
19 notice of the decision to refuse an application under
20 this section within fourteen days after making the
21 decision.

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

25 Section 44. Title 54 of the Code of the Federated States of

1 Micronesia is hereby amended by adding a new section 866 to
2 subchapter VII of chapter 8 to read as follows:

3 "Section 866. Cancellation of Taxpayer Identification
4 Number.

5 (1) A person who ceases to be a taxpayer must
6 apply to the CEO, in the prescribed form, for
7 cancellation of the person's Taxpayer Identification
8 Number within thirty (30) days of the date on which the
9 person ceased to be a taxpayer.

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

12 (a) if the person has ceased to be a
13 taxpayer;

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

17 (c) if the person has already been issued
18 with a Taxpayer Identification Number that is still in
19 force; or

20 (d) for any other reason the CEO considers
21 appropriate.

22 (3) The CEO may, at any time, by notice in
23 writing, cancel the Taxpayer Identification Number
24 issued to a person and issue the person with a new
25 Taxpayer Identification Number."

1 Section 45. Title 54 of the Code of the Federated States of
2 Micronesia is hereby amended by adding a new section 867 to
3 subchapter VII of chapter 8 to read as follows:

4 "Section 867. Quotation of Taxpayer Identification
5 Number.

6 The CEO may require a taxpayer to state the taxpayer's
7 Taxpayer Identification Number in any tax return,
8 notice, or other document used for the purposes of any
9 revenue law."

10 Section 46. Title 54 of the Code of the Federated States of
11 Micronesia is hereby further amended by adding a new subchapter
12 VIII to chapter 8 to be entitled "Representatives".

13 Section 47. Title 54 of the Code of the Federated States of
14 Micronesia is hereby amended by adding a new section 871 to
15 subchapter VIII of chapter 8 to read as follows:

16 "Section 871. Liabilities and obligations of
17 representatives.

18 (1) Every representative of a taxpayer is
19 responsible for performing any duties or obligations
20 imposed by a revenue law on the taxpayer, including the
21 payment of tax.

22 (2) A representative making a payment of tax on
23 behalf of a taxpayer is treated as acting under the
24 authority of the taxpayer and is hereby indemnified in
25 respect of the payment.

1 (3) Subject to subsection (4) of this section,
2 any tax that, by virtue of subsection (1) of this
3 section, is payable by a representative of a taxpayer
4 is recoverable from the representative only to the
5 extent of any assets of the taxpayer that are
6 in the possession or under the control of the
7 representative.

8 (4) Subject to subsection (5) of this section, a
9 representative is personally liable for the payment of
10 any tax due by the representative in that capacity if,
11 while the amount remains unpaid, the representative
12 disposes of or parts with any moneys or funds belonging
13 to the taxpayer that are in the possession of the
14 representative or which come to the representative
15 after the tax is payable, if such tax was required by
16 law to have been paid from or out of such moneys or
17 funds.

18 (5) Nothing in subsection (3) of this section
19 prevents a representative paying an amount on behalf of
20 a taxpayer that has priority over the revenue payable
21 by the taxpayer.

22 (6) If there are two or more representatives of a
23 taxpayer, the duties or obligations referred to in this
24 section apply jointly and severally to the
25 representatives but may be discharged by any of them.

1 (7) Nothing in this section relieves a taxpayer
2 from performing any duties or obligations imposed on
3 the taxpayer under a revenue law that the
4 representative of the taxpayer has failed to perform.

5 (8) The amount that a representative is liable
6 for under subsection (4) of this section is treated as
7 if it were tax payable by the representative for the
8 purposes of subchapters V and VI of this chapter, and
9 section 891 of this title."

10 Section 48. Title 54 of the Code of the Federated States of
11 Micronesia is hereby amended by adding a new section 872 to
12 subchapter VIII of chapter 8 to read as follows:

13 "Section 872. Liability for tax payable by a company
14 left with insufficient assets.

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

19 (2) Subject to subsection (3) of this section, if
20 this section applies, every person who was a director
21 or controlling shareholder of the company at the time
22 the arrangement was entered into is jointly and
23 severally liable for the tax liability of the company.

24 (3) The amount that a person is liable for under
25 subsection (2) of this section is treated as if it were

1 tax payable by the person for the purposes of
2 subchapters V and VI of this chapter, and section 891
3 of this title.

4 (4) A director of a company is not liable under
5 this section for the tax liability of the company if
6 the CEO is satisfied that the director derived no
7 financial or other benefit from the arrangement and:

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

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

14 (i) the director was not involved in
15 the executive management of the company; and

16 (ii) the director had no knowledge of,
17 and could not reasonably have been expected to know of
18 the arrangement.

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

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

25 (b) more than fifty percent (50%) of the

1 rights to dividends; or

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

4 Section 49. Title 54 of the Code of the Federated States of
5 Micronesia is hereby further amended by adding a new subchapter IX
6 to chapter 8 to be entitled "Rulings".

7 Section 50. Title 54 of the Code of the Federated States of
8 Micronesia is hereby amended by adding a new section 881 to
9 subchapter IX of chapter 8 to read as follows:

10 "Section 881. Binding public rulings.

11 (1) The CEO may make a public ruling in
12 accordance with section 882 of this title setting out
13 the CEO's interpretation on the application of a
14 revenue law.

15 (2) A public ruling made in accordance with
16 section 882 of this title is binding on the CEO until
17 withdrawn.

18 (3) A public ruling is not binding on a
19 taxpayer."

20 Section 51. Title 54 of the Code of the Federated States of
21 Micronesia is hereby amended by adding a new section 882 to
22 subchapter IX of chapter 8 to read as follows:

23 "Section 882. Making a public ruling.

24 (1) The CEO shall print and maintain a gazette or
25 other publication of public rulings to be made

1 available free of charge to the public. The CEO shall
2 make a public ruling by publishing a notice of the
3 ruling in such gazette.

4 (2) A public ruling must state that it is a
5 public ruling and have a number and subject heading by
6 which it can be identified.

7 (3) A public ruling applies from the date
8 specified in the ruling and if no date is specified,
9 from the date of publication in the gazette identified
10 in subsection (1) of this section."

11 Section 52. Title 54 of the Code of the Federated States of
12 Micronesia is hereby amended by adding a new section 883 to
13 subchapter IX of chapter 8 to read as follows:

14 "Section 883. Withdrawal of a public ruling.

15 (1) The CEO may withdraw a public ruling, in
16 whole or part, by publishing notice of the withdrawal
17 in the gazette identified in section 882 of this title.

18 (2) If legislation is passed, or the CEO makes
19 another public ruling, that is inconsistent with an
20 existing public ruling, the existing ruling is treated
21 as withdrawn to the extent of the inconsistency.

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

24 (a) if subsection (1) of this section
25 applies, from the date specified in the notice of

1 withdrawal and if no date is specified, from the date
2 notice of the withdrawal is published in the gazette;
3 or

4 (b) if subsection (2) of this section
5 applies, from the date of application of the
6 inconsistent legislation or public ruling.

7 (4) A public ruling that has been withdrawn in
8 whole or in part:

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

11 (b) does not apply to a transaction
12 commenced after the ruling was withdrawn to the extent
13 that the ruling is withdrawn."

14 Section 53. Title 54 of the Code of the Federated States of
15 Micronesia is hereby amended by adding a new section 884 to
16 subchapter IX of chapter 8 to read as follows:

17 "Section 884. Binding private rulings.

18 (1) Subject to section 885 of this title, the CEO
19 shall, upon application in writing by a taxpayer, issue
20 to the taxpayer a private ruling setting out the CEO's
21 position regarding the application of a revenue law to
22 a transaction entered into, or proposed to be entered
23 into, by the taxpayer.

24 (2) If the taxpayer has made a full and true
25 disclosure of all aspects of the transaction relevant

1 to the making of a private ruling and the transaction
2 has proceeded in all material respects as described in
3 the taxpayer's application for the ruling, the ruling
4 is binding on the CEO in relation to the taxpayer.

5 (3) A private ruling is not binding on the
6 taxpayer to whom it is issued.

7 (4) If a private ruling is inconsistent with an
8 existing public ruling, the private ruling has priority
9 to the extent of the inconsistency."

10 Section 54. Title 54 of the Code of the Federated States of
11 Micronesia is hereby amended by adding a new section 885 to
12 subchapter IX of chapter 8 to read as follows:

13 "Section 885. Refusing an application for a private
14 ruling.

15 (1) The CEO may refuse an application for a
16 private ruling if:

17 (a) the CEO has already decided the matter
18 that is the subject of the application in a tax
19 assessment;

20 (b) the CEO is of the opinion that an
21 existing public ruling adequately covers the matter
22 that is the subject of the application;

23 (c) the application relates to a matter that
24 is the subject of a tax audit or an objection;

25 (d) the application is frivolous or

1 vexatious;

2 (e) the arrangement to which the application
3 relates has not been carried out and there are
4 reasonable grounds to believe that it will not be
5 carried out;

6 (f) the applicant has not provided the CEO
7 with sufficient information to make a private ruling;
8 or

9 (g) in the opinion of the CEO, it would be
10 unreasonable to comply with the application having
11 regard to the resources needed to comply and any other
12 matters the CEO considers relevant, such as
13 disadvantage to other taxpayers.

14 (2) The CEO shall serve the applicant with a
15 written notice of the refusal to make a private
16 ruling.”

17 Section 55. Title 54 of the Code of the Federated States of
18 Micronesia is hereby amended by adding a new section 886 to
19 subchapter IX of chapter 8 to read as follows:

20 “Section 886. Making a private ruling.

21 (1) The CEO must make a private ruling unless
22 section 885 of this title applies.

23 (2) The CEO makes a private ruling by serving
24 written notice of the ruling on the applicant.

25 (3) The CEO may make a private ruling on the

1 basis of assumptions about a future event or other
2 matter as considered appropriate.

3 (4) A private ruling must set out the matter
4 ruled on identifying:

5 (a) the taxpayer;

6 (b) the revenue law relevant to the ruling;

7 (c) the tax period to which the ruling
8 applies;

9 (d) the arrangement to which the ruling
10 relates; and

11 (e) any assumptions on which the ruling is
12 based.

13 (5) A private ruling is made at the time the
14 applicant is served with notice of the ruling and
15 remains in force for the period specified in the
16 ruling.

17 (6) The making of a private ruling is not a tax
18 decision for the purposes of this chapter."

19 Section 56. Title 54 of the Code of the Federated States of
20 Micronesia is hereby amended by adding a new section 887 to
21 subchapter IX of chapter 8 to read as follows:

22 "Section 887. Withdrawal of a private ruling.

23 (1) The CEO may, for reasonable cause, withdraw a
24 private ruling, in whole or part, by written notice
25 served on the applicant.

1 (2) If legislation is passed, or the CEO
2 publishes a public ruling, that is inconsistent with a
3 private ruling, the private ruling is treated as
4 withdrawn to the extent of the inconsistency.

5 (3) The withdrawal of a private ruling, in whole
6 or part, has effect:

7 (a) if subsection (1) of this section
8 applies, from the date specified in the notice of
9 withdrawal; or

10 (b) if subsection (2) of this section
11 applies, from the date of application of the
12 inconsistent legislation or public ruling.

13 (4) A private ruling that has been withdrawn:

14 (a) continues to apply to a transaction
15 commenced before the ruling was withdrawn; and

16 (b) does not apply to a transaction
17 commenced after the ruling was withdrawn to the extent
18 that the ruling is withdrawn.

19 (5) A decision to withdraw a private ruling is
20 not a tax decision for the purposes of this chapter."

21 Section 57. Title 54 of the Code of the Federated States of
22 Micronesia is hereby amended by adding a new section 888 to
23 subchapter IX of chapter 8 to read as follows:

24 "Section 888. Publication of private rulings.
25 The CEO shall include in the gazette or other

1 publication referred to in section 882(1) of this title
2 an edited version of a binding private ruling issued to
3 a taxpayer. The edited version must not disclose the
4 identity of the taxpayer."

5 Section 58. Title 54 of the Code of the Federated States of
6 Micronesia is hereby further amended by adding a new subchapter X
7 to chapter 8 to be entitled "Interest and Administrative
8 Penalties".

9 Section 59. Title 54 of the Code of the Federated States of
10 Micronesia is hereby amended by adding a new section 891 to
11 subchapter X of chapter 8 to read as follows:

12 "Section 891. Late payment interest.

13 (1) A person who fails to pay any tax due on or
14 before the due date for payment is liable for late
15 payment interest at the rate of six percent per annum
16 on the amount unpaid calculated from the date the
17 payment was due to the date the payment is made.

18 (2) Late payment interest paid by a person under
19 subsection (1) of this section must be refunded to the
20 person to the extent that the principal amount to which
21 the interest relates is found not to have been payable.

22 (3) Late payment interest payable by a person is
23 borne personally by the person and is not recoverable
24 from any other person:

25 (a) in respect of tax withheld by the person

1 under chapter 1 or 5 of this title from a payment made
2 by the person; or

3 (b) in respect of an amount referred to in
4 sections 843(7), 844(14), or 871(8) of this title
5 payable by the person.

6 (4) Late payment interest payable under this
7 section is simple interest.

8 (5) Late payment interest payable under this
9 section is treated as tax payable by a taxpayer for the
10 purposes of subchapter V of this chapter and sections
11 871 of this title.

12 (6) Late payment interest payable under this
13 section is in addition to any penalty imposed under
14 this subchapter or any fine or imprisonment imposed
15 under subchapter XI of this chapter in respect of the
16 same act or omission."

17 Section 60. Title 54 of the Code of the Federated States of
18 Micronesia is hereby amended by adding a new section 892 to
19 subchapter X of chapter 8 to read as follows:

20 "Section 892. Penalty for failure to file a tax return
21 or lodge other document.

22 (1) A person who fails to file a tax return or
23 lodge any other document as required under any revenue
24 law is liable:

25 (a) in the case of a failure to file a tax

1 return under which tax is payable, for a penalty of one
2 percent (1%) of the amount of tax payable under the
3 return for each month or part of a month that the
4 return remains unfiled; or

5 (b) in any other case, for a penalty of ten
6 dollars (\$10) for each day of default.

7 (2) A taxpayer served with a notice of assessment
8 by the CEO under section 822 of this title is liable
9 for a penalty of twenty five percent (25%) of the tax
10 assessed (taking into account any subsequent amendment
11 of the assessment) in addition to the penalty imposed
12 under subsection (1)(a) of this section.

13 (3) For the purposes of subsection (1)(b) of this
14 section, a person ceases to be in default at the time
15 the document is received by the CEO."

16 Section 61. Title 54 of the Code of the Federated States of
17 Micronesia is hereby amended by adding a new section 893 to
18 subchapter X of chapter 8 to read as follows:

19 "Section 893. Penalty for failure to pay tax by due
20 date.

21 (1) A taxpayer who fails to pay a tax when due is
22 liable for a penalty equal to 10 percent of the amount
23 of tax due for each month, or part of a month, that the
24 tax remains unpaid subject to a maximum penalty of 100
25 percent of the unpaid tax.

1 (2) The penalty imposed under subsection (1) of
2 this section is in addition to interest payable under
3 section 891 of this title for late payment of tax. The
4 ceiling on the amount of penalty payable under
5 subsection (1) of this section does not apply to or
6 take into account interest payable under section 891 of
7 this title.

8 (3) The reference to "tax" in subsection (1) of
9 this section does not include penalty."

10 Section 62. Title 54 of the Code of the Federated States of
11 Micronesia is hereby amended by adding a new section 894 to
12 subchapter X of chapter 8 to read as follows:

13 "Section 894. Penalty for failure to maintain proper
14 records.

15 (1) A taxpayer who fails to maintain accounts,
16 documents, or records as required under a revenue law
17 is liable:

18 (a) if the failure was knowingly or recklessly
19 made, for a penalty equal to 50 percent of the amount
20 of tax payable by the taxpayer for the tax period to
21 which the failure relates; or

22 (b) in any other case, for a penalty equal to ten
23 percent of the amount of tax payable by the taxpayer
24 for the tax period to which the failure relates.

25 (2) Reserved."

1 Section 63. Title 54 of the Code of the Federated States of
2 Micronesia is hereby amended by adding a new section 895 to
3 subchapter X of chapter 8 to read as follows:

4 "Section 895. Penalty for making false or misleading
5 statement.

6 (1) This section applies to a person:

7 (a) who makes a statement to a revenue
8 officer that is false or misleading in a material
9 particular or omits from a statement made to a revenue
10 officer any matter or thing without which the statement
11 is false or misleading in a material particular; and

12 (b) whose statement results in the tax
13 liability of any person computed on the basis of the
14 statement being less than it would have been if the
15 statement had not been false or misleading (the
16 difference being referred to as the "tax shortfall").

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

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

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

24 (3) No penalty is payable under subsection (2) of
25 this section if:

1 (a) the person who made the statement did
2 not know and could not reasonably be expected to know
3 that the statement was false or misleading in a
4 material particular; or

5 (b) the tax shortfall arose as a result of a
6 self-assessment taxpayer taking a reasonably arguable
7 position on the application of a revenue law to the
8 taxpayer's circumstances in filing a self-assessment
9 return.

10 (4) Nothing in subsection (3) of this section
11 prevents the imposition of late payment interest under
12 section 891 of this title in respect of a tax shortfall
13 if the tax is not paid by the due date.

14 (5) A reference in this section to a statement
15 made to a revenue officer means a statement made in
16 writing or orally to a revenue officer acting in the
17 performance of the officer's duties under a revenue
18 law, and includes a statement made:

19 (a) in any application, certificate,
20 declaration, notification, tax return, objection, or
21 other document furnished or lodged under a revenue law;

22 (b) in any information required to be
23 furnished under a revenue law;

24 (c) in any document furnished to a revenue
25 officer;

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

3 (e) to another person with the knowledge or
4 reasonable expectation that the statement would be
5 passed on to a revenue officer."

6 Section 64. Title 54 of the Code of the Federated States of
7 Micronesia is hereby amended by adding a new section 896 to
8 subchapter X of chapter 8 to read as follows:

9 "Section 896. Collection of penalty.

10 (1) A liability for penalty is calculated
11 separately with respect to each section imposing a
12 penalty under this subchapter.

13 (2) If a penalty has been paid under this title
14 and the CEO institutes a prosecution under subchapter
15 XI of this chapter in respect of the same act or
16 omission, the CEO must refund the amount of the penalty
17 paid, and no penalty is payable unless the prosecution
18 is withdrawn.

19 (3) The CEO must:

20 (a) make an assessment of penalty imposed
21 under this subchapter; and

22 (b) serve a notice of the assessment on the
23 person subject to the penalty, which notice must state
24 the amount of penalty payable and the due date for
25 payment.

1 (4) A person liable to pay a penalty may apply,
2 in writing, to the CEO for remission of the penalty
3 payable.

4 (5) The CEO may, upon application under
5 subsection (4) of this section or on the CEO's own
6 motion, remit, in whole or in part, any penalty payable
7 by a person."

8 Section 65. Title 54 of the Code of the Federated States of
9 Micronesia is hereby further amended by adding a new subchapter XI
10 to chapter 8 to be entitled "Taxation Offenses".

11 Section 66. Title 54 of the Code of the Federated States of
12 Micronesia is hereby amended by adding a new section 901 to
13 subchapter XI of chapter 8 to read as follows:

14 "Section 901. Offense for failure to file tax return.

15 (1) A taxpayer who, without reasonable excuse,
16 fails to file a tax return by the due date is guilty of
17 an offense.

18 (2) Penalty. A person convicted of an offense
19 under this section shall be subject to a fine not
20 exceeding five hundred dollars (\$500), or, if a natural
21 person, imprisoned for not more than six months, or
22 both."

23 Section 67. Title 54 of the Code of the Federated States of
24 Micronesia is hereby amended by adding a new section 902 to
25 subchapter XI of chapter 8 to read as follows:

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

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

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

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

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

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

11 (iv) provide facilities and assistance
12 as required by section 862(4) of this title; or

13 (v) comply with a notice under section
14 863 of this title; or

15 (b) who, knowing that a certificate has been
16 issued under section 847(2) of this title, leaves or
17 attempts to leave the FSM without paying the tax due or
18 making an arrangement satisfactory to the CEO for
19 payment.

20 (2) Penalty. A person convicted of an offense
21 under this section shall be subject to a fine not
22 exceeding five hundred dollars (\$500), or, if a natural
23 person, imprisoned for not more than six months, or
24 both.

25 Section 68. Title 54 of the Code of the Federated States of

1 Micronesia is hereby amended by adding a new section 903 to
2 subchapter XI of chapter 8 to read as follows:

3 "Section 903. Offense for failure to maintain proper
4 records.

5 (1) A taxpayer who knowingly or recklessly fails
6 to maintain accounts, documents, or records as required
7 under a revenue law is guilty of an offense.

8 (2) Penalty. A taxpayer convicted of an offence
9 under subsection (1) of this section shall be subject
10 to a fine not exceeding one thousand dollars (\$1,000),
11 or, if a natural person, imprisoned for not more than
12 one year, or both.

13 (3) A taxpayer convicted of an offense under
14 subsection (1) of this section is subject to the
15 immediate revocation of any existing license to do
16 business in the FSM that has been issued to the
17 taxpayer."

18 Section 69. Title 54 of the Code of the Federated States of
19 Micronesia is hereby amended by adding a new section 904 to
20 subchapter XI of chapter 8 to read as follows:

21 "Section 904. Offenses for improper use of Taxpayer
22 Identification Number.

23 (1) A person who uses a false Taxpayer
24 Identification Number on any tax return or document
25 prescribed or used for the purposes of a revenue law is

1 guilty of an offense.

2 (2) Penalty. A person convicted of an offense
3 under subsection (1) of this section shall be subject
4 to a fine not exceeding one thousand dollars (\$1,000),
5 or, if a natural person, imprisoned for not more than
6 one year, or both.

7 (3) A person who uses the Taxpayer Identification
8 Number of another person is treated as having used a
9 false Taxpayer Identification Number, unless the
10 Taxpayer Identification Number has been used with the
11 permission of that other person on a document relating
12 to the tax affairs of that other person.

13 (4) A person who fails to apply for cancellation
14 of the person's Taxpayer Identification Number as
15 required under section 866 of this title is guilty of
16 an offense.

17 (5) Penalty. A person convicted of an offense
18 under subsection (4) of this section shall be subject
19 to a fine not exceeding five hundred dollars (\$500)."

20 Section 70. Title 54 of the Code of the Federated States of
21 Micronesia is hereby amended by adding a new section 905 to
22 subchapter XI of chapter 8 to read as follows:

23 "Section 905. Offense for making false or misleading
24 statement.

25 (1) A person is guilty of an offense if the

1 person knowingly or recklessly:

2 (a) makes a statement to a revenue officer
3 that is false or misleading in a material particular;
4 or

5 (b) omits from a statement made to a revenue
6 officer any matter or thing without which the statement
7 is false or misleading in a material particular.

8 (2) Penalty. A person convicted of an offense
9 under this section shall be subject to a fine not
10 exceeding fifty thousand dollars (\$50,000), or, if a
11 natural person, imprisoned for not more than one year,
12 or both.

13 (3) Section 895(5) of this title applies in
14 determining whether a person has made a statement to a
15 revenue officer."

16 Section 71. Title 54 of the Code of the Federated States of
17 Micronesia is hereby amended by adding a new section 906 to
18 subchapter XI of chapter 8 to read as follows:

19 "Section 906. Offense for obstruction of revenue
20 officer.

21 (1) A person who obstructs a revenue officer in
22 the performance of duties under any revenue law is
23 guilty of an offense.

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

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

4 Section 72. Title 54 of the Code of the Federated States of
5 Micronesia is hereby amended by adding a new section 907 to
6 subchapter XI of chapter 8 to read as follows:

7 "Section 907. Offense for aiding or abetting a
8 taxation offense.

9 A person who aids, abets, assists, incites, or induces
10 another person to commit an offense under a revenue law
11 (referred to as the "principal offense") is guilty of
12 an offense and is liable for the same penalty as
13 imposed for the principal offense."

14 Section 73. Title 54 of the Code of the Federated States of
15 Micronesia is hereby amended by adding a new section 908 to
16 subchapter XI of chapter 8 to read as follows:

17 "Section 908. Offense relating to seized goods or
18 temporarily closed premises.

19 (1) A person is guilty of an offence if the
20 person:

21 (a) takes any goods that have been seized
22 under section 845 of this title or that are the subject
23 of a warrant under subchapter VI of this chapter or
24 that are in premises the subject of an order under
25 section 848 of this title; or

1 (b) before, or at, or after, any seizure of
2 goods under section 845 of this title or proceedings
3 under subchapter VI of this chapter, staves, breaks or
4 destroys any goods, or documents relating to any
5 goods, to prevent:

6 (i) the seizure or the securing of the
7 goods; or

8 (ii) the proof of an offence; or

9 (c) enters premises the subject of an order
10 under section 848 of this title without the permission
11 of the CEO.

12 (2) Penalty. A person convicted of an offense
13 under this section shall be subject to a fine not
14 exceeding one thousand dollars (\$1,000), or, if a
15 natural person, imprisoned for not more than one year,
16 or both."

17 Section 74. Title 54 of the Code of the Federated States of
18 Micronesia is hereby amended by adding a new section 909 to
19 subchapter XI of chapter 8 to read as follows:

20 "Section 909. Offenses by revenue officers.

21 (1) A revenue officer who directly or indirectly
22 asks for, or takes in connection with any of the
23 officer's duties, any payment or reward whatsoever,
24 whether pecuniary or otherwise, or promise or security
25 for any such payment or reward, not being a payment or

1 reward that the officer was lawfully entitled to
2 receive is guilty of an offense.

3 (2) Penalty. A person convicted of an offense
4 under subsection (1) of this section shall be subject
5 to a fine not exceeding fifty thousand dollars
6 (\$50,000), or imprisoned for not more than one year, or
7 both.

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

16 (4) Penalty. A person convicted of an offense
17 under subsection (3) of this section shall be subject
18 to a fine not exceeding fifty thousand dollars
19 (\$50,000), or imprisoned for not more than one year, or
20 both.

21 (5) A person who directly or indirectly offers or
22 gives to a revenue officer any payment or reward
23 whatsoever, whether pecuniary or otherwise, or any
24 promise or security for any payment or reward, not
25 being a payment or reward that the officer was lawfully

1 entitled to receive, is guilty of an offense.

2 (6) Penalty. A person convicted of an offense
3 under subsection (5) of this section shall be subject
4 to a fine not exceeding fifty thousand dollars
5 (\$50,000), or, if a natural person, imprisoned for not
6 more than one year, or both.

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

16 (8) Penalty. A person convicted of an offense
17 under subsection (7) of this section shall be subject
18 to a fine not exceeding fifty thousand dollars
19 (\$50,000), or, if a natural person, imprisoned for not
20 more than one year, or both.

21 (9) For the purposes of this section, a revenue
22 officer includes any person employed or engaged by the
23 Authority in any capacity and includes a director or
24 former director of the Board, a member or former member
25 of a committee of the Board, a person invited to a

1 Board or committee meeting, or a former officer or
2 employee of the Authority."

3 Section 75. Title 54 of the Code of the Federated States of
4 Micronesia is hereby amended by adding a new section 910 to
5 subchapter XI of chapter 8 to read as follows:

6 "Section 910. Offenses by companies.

7 (1) If an offense under a revenue law is
8 committed by a company, the offense is treated as
9 having been committed by every person who, at the time
10 the offense was committed, was:

11 (a) the chief executive officer, public
12 officer, managing director, a director, company
13 secretary, or other similar officer of the company; or

14 (b) acting or purporting to act in that
15 capacity.

16 (2) Subsection (1) of this section does not apply
17 to a person if:

18 (a) the offense was committed without that
19 person's consent or knowledge; and

20 (b) the person, having regard to the nature
21 of the person's functions and all the circumstances,
22 has exercised reasonable diligence to prevent the
23 commission of the offense."

24 Section 76. Title 54 of the Code of the Federated States of
25 Micronesia is hereby amended by adding a new section 911 to

1 subchapter XI of chapter 8 to read as follows:

2 "Section 911. Failure to comply with a Court Order.
3 Upon conviction of a person of an offense under this
4 subchapter, and the failure of the person to comply
5 with a court order, the person shall be subject to the
6 provisions and penalties of section 119 of title 4 of
7 this code."

8 Section 77. Title 54 of the Code of the Federated States of
9 Micronesia is hereby further amended by adding a new subchapter
10 XII to chapter 8 to be entitled "Forms and Notices".

11 Section 78. Title 54 of the Code of the Federated States of
12 Micronesia is hereby amended by adding a new section 921 to
13 subchapter XII of chapter 8 to read as follows:

14 "Section 921. Forms and notices; authentication of
15 documents.

16 (1) A form, notice, tax return, statement, table,
17 or any other document prescribed or published by the
18 CEO for the purposes of any revenue law may be in such
19 form as the CEO determines for the efficient
20 administration of the revenue laws.

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

1 (3) A notice or other document issued, served, or
2 given by the CEO under a revenue law is sufficiently
3 authenticated if the name or title of the CEO, or
4 authorized officer, is printed, stamped, or written on
5 the document."

6 Section 79. Title 54 of the Code of the Federated States of
7 Micronesia is hereby amended by adding a new section 922 to
8 subchapter XII of chapter 8 to read as follows:

9 "Section 922. Manner of lodging documents.
10 Except as provided in section 924 of this title, a tax
11 return, application, notice, or other document to be
12 filed with the CEO under the revenue law must be
13 delivered by personal delivery or registered post to an
14 office of the Authority."

15 Section 80. Title 54 of the Code of the Federated States of
16 Micronesia is hereby amended by adding a new section 923 to
17 subchapter XII of chapter 8 to read as follows:

18 "Section 923. Service of notices.

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

24 (a) personally served on the person;

25 (b) left at the person's usual or last known

1 place of abode or business in the FSM; or

2 (c) sent by registered post to the person's
3 usual or last known address in the FSM.

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

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

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

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

25 Section 81. Title 54 of the Code of the Federated States of

1 Micronesia is hereby amended by adding a new section 924 to
2 subchapter XII of chapter 8 to read as follows:

3 "Section 924. Electronic returns and notices.

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

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

13 (b) the issuing and cancellation of
14 authentication codes to registered users;

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

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

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

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

1 represent any particulars or information required under
2 a revenue law; and

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

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

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

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

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

1 copy thereof, shall not be ruled inadmissible in
2 evidence merely on the basis that it was filed or
3 served without the filing or delivery of any equivalent
4 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, notice,
9 or other document have been accurately transmitted.

10 (7) Section 826 shall apply to:

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

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

1 transmission of the electronic tax return.

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

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

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

13 Section 82. Title 54 of the Code of the Federated States of
14 Micronesia is hereby amended by adding a new section 925 to
15 subchapter XII of chapter 8 to read as follows:

16 "Section 925. Due date for documents and tax payments.

17 (1) If the due date for the following is a Saturday, Sunday, or
18 public holiday, the due date is the next following business day:

19 (a) filing a tax return, application, notice, or other
20 document;

21 (b) the payment of tax; or

22 (c) taking any other action under a revenue law.

23 (2) Reserved."

24 Section 83. Title 54 of the Code of the Federated States of
25 Micronesia is hereby further amended by adding a new subchapter

1 XIII to chapter 8 to be entitled "Final Provisions".

2 Section 84. Title 54 of the Code of the Federated States of
3 Micronesia is hereby amended by adding a new section 931 to
4 subchapter XIII of chapter 8 to read as follows:

5 "Section 931. Regulations.

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

12 (2) The regulations shall also provide for
13 matters prescribed under the chapter to be made by
14 regulation."

15 Section 85. Title 54 of the Code of the Federated States of
16 Micronesia is hereby amended by adding a new section 932 to
17 subchapter XIII of chapter 8 to read as follows:

18 "Section 932. Transition.

19 (1) Subject to this section, this chapter applies
20 to any act or omission occurring, or any taxation
21 assessment made, before this chapter came into force.

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

25 (3) If the period for any application, appeal, or

1 prosecution had expired before this chapter came into
2 force, nothing in this chapter shall be construed as
3 enabling the application, appeal, or prosecution to be
4 made under this chapter by reason only of the fact that
5 a longer period is specified in this chapter.

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

10 Section 86. Title 54 of the Code of the Federated States of
11 Micronesia is hereby amended by adding a new section 933 to
12 subchapter XIII of chapter 8 to read as follows:

13 "Section 933. Commencement of administration.
14 Administration of this Act shall commence on the
15 commencement of administration date of the Unified
16 Revenue Authority act as determined by section 769 of
17 this title."

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23 Section 87. This act shall become law upon approval by the
24 President of the Federated States of Micronesia or upon its
25 becoming law without such approval.

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2 Date: 5/26/11

Introduced by: /s/ Florencio S. Harper
Florencio S. Harper
(By request)

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