

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 2012, 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 and
3 803 of the chapter as subchapter I entitled "General Provisions".

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5 of the Federated States of Micronesia, is hereby repealed in its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

7 "Section 801. Short title.

8 This chapter may be cited as the Revenue Administration
9 Act of 2012."

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11 of the Federated States of Micronesia, is hereby repealed in its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

13 "Section 802. Definitions.

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

17 (1) 'Arrangement' means any contract, agreement, plan,

1 or understanding whether expressed or implied and
2 whether or not enforceable in legal proceedings.

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

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

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

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

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

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

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

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

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

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

25 (12) 'Prescribed' means prescribed by the Secretary in

1 regulations.

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

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

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

7 (16) 'Public ruling' means a ruling made under sections
8 881, 882, and 883 of this title.

9 (17) 'Representative' means:

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

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

17 (c) in the case of a partnership, any partner in
18 the partnership;

19 (d) in the case of a trust, any trustee of the
20 trust;

21 (e) in the case of an unincorporated association
22 or other business entity (other than a
23 company, corporation, or partnership), any individual
24 responsible for accounting for the receipt or payment of
25 moneys or funds on behalf of the association;

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

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

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

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

22 (18) 'Revenue law' means:

23 (a) any chapter under this title;

24 (b) a law of the FSM imposing a tax or duty
25 if the law provides that the Authority has the

1 responsibility for administering the tax or duty; and

2 (c) a law of a State imposing a tax that the
3 Authority is permitted to administer by virtue of the
4 laws of such State.

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

8 (20) 'Secretary' means the Secretary of the FSM
9 Department of Finance and Administration.

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

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

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

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

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

20 (26) 'Tax assessment' means:

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

23 (b) a self-assessment;

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

1 (d) an assessment of penalty under section 896 of
2 this title.

3 (27) 'Tax decision' means:

4 (a) a tax assessment; or

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

11 (28) 'Tax period' means:

12 (a) in the case of tax imposed on wages
13 and salaries payable by the employer by withholding
14 under section 132 of this title or payable by the
15 employee under section 138 of this title, the
16 quarter;

17 (b) in the case of the net profits tax or
18 presumptive tax, the tax year;

19 (c) in the case of installments of net profit
20 tax, the period to which the installment relates;

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

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

25 (f) in any other case, the period for which the

1 tax or duty is reported.

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

4 (30) 'Tax warrant' means a warrant issued under section
5 852 of this title.

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

8 (a) an employer liable to withhold tax from a
9 payment of wages and salaries under section 132 of this
10 title; and

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

13 (32) 'Taxpayer Identification Number' means a Taxpayer
14 Identification Number issued under section 865 of this
15 title.

16 (33) 'VAT' means valued added tax imposed under a
17 revenue Law.

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

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

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

25 "Section 803. References to terms used in other laws.

1 When this chapter applies in respect of a revenue law,
2 any term not defined in this chapter has the meaning
3 that it has for the purposes of the revenue law."

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

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

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

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

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

18 (1) A taxpayer required to file a tax return may
19 apply, at any time and in writing, to the CEO for an
20 extension of time to file the return.

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

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

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

10 "Section 812. Tax return duly made.

11 A tax return purporting to be filed by or on behalf of a
12 taxpayer is treated as having been filed by the taxpayer
13 or with the taxpayer's authority unless the contrary is
14 proved."

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

18 Section 11. Title 54 of the Code of the Federated States of
19 Micronesia is hereby amended by adding a new section 821 to
20 subchapter III of chapter 8 to read as follows:

21 "Section 821. Self-assessments.

22 (1) For the purposes of this chapter:

23 (a) a self-assessment taxpayer who has filed a
24 self-assessment return is treated as having made an
25 assessment of the amount of tax payable for the tax

1 period to which the return relates being that amount as
2 set out in the return; and

3 (b) a self-assessment return furnished by a self-
4 assessment taxpayer is treated as a notice of the
5 assessment served by the CEO on the taxpayer on the date
6 the return was filed.

7 (2) Reserved."

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

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

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

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

22 (a) the amount of tax payable;

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

25 (c) the tax period in respect of which the

1 assessment relates;

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

3 (e) the due date for payment of the tax payable
4 under the notice."

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

8 "Section 823. Advanced tax assessments.

9 (1) The CEO may make an assessment of the tax payable
10 for the tax period and the tax is payable on the date
11 set out in the notice of assessment served on the
12 taxpayer if, in any tax period:

13 (a) a taxpayer liable for tax on an assessment
14 basis under a revenue law ceases to carry on a trade,
15 business, profession, vocation, or employment; or

16 (b) the CEO has reasonable grounds to believe
17 that a taxpayer liable for tax on an assessment basis
18 under a revenue law may leave, or has left, the FSM
19 without filing a return as required under the revenue
20 law for the tax period.

21 (2) The CEO must serve a taxpayer assessed under
22 subsection (1) of this section with notice, in writing,
23 of the assessment as soon as is practicable after making
24 the assessment, and such notice must set out the matters
25 specified in section 822(2) of this title.

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

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

9 "Section 824. Amendment of tax assessments.

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

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

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

25 (a) in the case of fraud or willful neglect,

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

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

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

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

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

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

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

24 (7) An amended assessment is treated in all respects
25 as a tax assessment for the purposes of this chapter

1 (other than subsection (1) or (2) of this section) and
2 the revenue law under which the original assessment has
3 been made.

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

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

12 "Section 825. Validity of tax decisions.

13 (1) The validity of a tax decision, a notice of a tax
14 decision, or any other document purporting to be made or
15 executed under a revenue law, if it is, in substance and
16 effect, in conformity with the law under which it has
17 been made, issued, or executed and the person assessed,
18 or intended to be assessed or affected by the decision
19 or document, is designated in it according to common
20 understanding:

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

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

25 (2) Reserved."

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

4 "Section 826. Correctness of tax decisions.

5 (1) Except in proceedings under subchapter IV of this
6 chapter:

7 (a) no tax decision can be disputed in any court
8 or in any other proceedings on any ground whatsoever;

9 (b) the production of the original notice of a
10 tax assessment or a document under the hand of the CEO
11 purporting to be a copy of a notice of such assessment
12 is conclusive evidence of the making of the assessment
13 and that the amount and particulars of the assessment
14 are correct; and

15 (c) in the case of a self-assessment taxpayer,
16 the production of the original self-assessment return or
17 a document under the hand of the CEO purporting to be a
18 copy of such return is conclusive evidence of the
19 contents of the return.

20 (2) A court must, in all proceedings, take judicial
21 notice of the signature of the CEO in either the
22 original or copy of a notice of a tax decision."

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

1 "Section 827. Rectification of mistakes.
2 If the CEO is satisfied that an order made or document
3 issued by the CEO under a revenue law contains a mistake
4 that is apparent on the face of the record or document
5 and the mistake does not involve a dispute as to the
6 interpretation of the law or facts of the case, the CEO
7 may, for the purposes of rectifying the mistake, amend
8 the order or document any time before the expiry of six
9 years from the date of making or issuing the order or
10 document."

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

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

17 "Section 831. Objection to tax decision.

18 (1) A person dissatisfied with a tax decision must
19 lodge an objection to the decision with the CEO within
20 30 days of service of the notice of the decision.

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

1 on the taxpayer or an existing liability is increased.

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

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

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

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

22 (7) The CEO must serve notice of the objection
23 decision on the person objecting as soon as practicable
24 after making the decision."

25 Section 20. Title 54 of the Code of the Federated States of

1 Micronesia is hereby amended by adding a new section 832 to
2 subchapter IV of chapter 8 to read as follows:

3 "Section 832. Judicial review.

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

10 (a) assignments of errors alleged to have been
11 committed by the CEO in making the objection decision;

12 (b) the facts relied upon to sustain such
13 assignments of errors; and

14 (c) a prayer for appropriate relief.

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

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

21 (4) When the decision of the court or an appeal there
22 from becomes final, the CEO must, upon presentment of a
23 certified copy of the decree, make such adjustments to
24 comply with the decree as are necessary to correct,
25 amend, or abate the assessment, and determine whether an

1 additional amount of tax is to be assessed.

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

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

9 "Section 833. General provisions relating to objections
10 and appeals.

11 (1) In any proceeding under this chapter:

12 (a) in the case of a tax assessment, the burden
13 is on the taxpayer to prove that the assessment is
14 excessive; or

15 (b) in the case of a tax decision (other than a
16 tax assessment), the burden is on the person objecting
17 to the decision to prove that the decision should not
18 have been made or should have been made differently.

19 (2) In an action for review by a court under section
20 832 of this title, the person bringing the action is
21 limited to the grounds stated in the person's objection
22 to the CEO.

23 (3) To the extent necessary for the making of a
24 decision and when presented, the reviewing court shall
25 decide all relevant questions of law and fact, interpret

1 constitutional and statutory provisions, and determine
2 the meaning or applicability of the terms of any action
3 taken by the CEO.

4 (4) The reviewing court shall:

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

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

9 (i) arbitrary, capricious, an abuse of
10 discretion, or otherwise not in accordance with law;

11 (ii) contrary to constitutional right, power,
12 privilege, or immunity;

13 (iii) in excess of statutory jurisdiction,
14 authority, or limitations, or a denial of legal rights;

15 (iv) without substantial compliance with the
16 procedures required by law; or

17 (v) unwarranted by the facts.

18 (5) Subject to subsection (6) of this section, the tax
19 due under a tax assessment is payable notwithstanding
20 that an objection has been lodged or an action for
21 judicial review under section 832 of this title has been
22 instituted by the taxpayer in respect of the assessment.

23 (6) The CEO may, upon application in writing by a
24 taxpayer, agree to stay recovery of a tax in dispute
25 under a tax assessment up to a maximum of fifty percent

1 (50%) of the disputed tax, but only if the taxpayer has
2 paid the entire amount of tax due under the assessment
3 that is not in dispute."

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

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

10 "Section 841. Payment of tax.

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

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

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

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

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

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

4 (2) If an application has been made under this
5 section, the CEO may, having regard to the circumstances
6 of the case:

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

9 (b) require the taxpayer to pay the tax due in
10 such installments as the CEO may determine, and the CEO
11 must serve the taxpayer with written notice of the
12 decision.

13 (3) If a taxpayer permitted to pay tax by installments
14 defaults in the payment of an installment, the whole
15 balance of the tax outstanding, at the time of default,
16 is immediately payable.

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

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

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

25 (1) In this section:

1 (a) "trustee" means:

2 (i) a liquidator of a company being wound
3 up;

4 (ii) a receiver for debenture holders who has
5 taken possession of any assets of a company;

6 (iii) a trustee in bankruptcy;

7 (iv) a mortgagee in possession;

8 (v) an executor of a deceased
9 estate; or

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

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

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

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

25 (4) Subject to subsection (5) of this section, a

1 trustee:

2 (a) must not, without the leave of the CEO,
3 dispose of any asset of the taxpayer until a notice has
4 been served on the trustee under subsection (3) of this
5 section;

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

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

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

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

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

1 chapter, and section 871 of this title.”

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

5 “Section 844. Recovery of unpaid tax from third party.

6 (1) In this section, “payer” means a person who:

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

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

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

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

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

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

25 (4) A payer must pay the amount specified in a notice

1 under subsection (3) of this section by the date
2 specified in the notice, being a date that is not before
3 the date that the amount owed to the taxpayer becomes
4 due to the taxpayer or held on the taxpayer's behalf.

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

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

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

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

21 (b) reject the notification.

22 (8) The CEO must, by notice in writing to the payer,
23 revoke or amend a notice served under subsection (3) of
24 this section if the taxpayer has paid the whole or part
25 of the tax due or has made an arrangement satisfactory

1 to the CEO for payment of the tax.

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

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

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

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

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

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

21 Section 27. Title 54 of the Code of the Federated States of
22 Micronesia is hereby amended by adding a new section 845 to
23 subchapter V of chapter 8 to read as follows:

24 "Section 845. Seizure of goods.

25 (1) In addition to any other right of levy and

1 execution set forth in subchapter VI of this chapter and
2 the powers of forfeiture under subchapter IV of chapter
3 2 of this title, the CEO or a revenue officer authorized
4 by the CEO in writing for the purposes of this section
5 may seize any goods if the VAT that is payable in
6 respect of the supply or the import duty in respect of
7 the import of those goods has not been paid or the CEO
8 or authorized officer has reasonable grounds to believe
9 that such VAT or import duty will not be paid.

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

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

19 (a) identifying the goods;

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

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

24 (4) The CEO or authorized officer is not required to
25 serve a notice under subsection (3) of this section if,

1 after making reasonable enquiries, the CEO or authorized
2 officer does not have sufficient information to identify
3 the person on whom the notice should be served.

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

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

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

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

25 (b) in any other case, for ten days after seizure

1 of the goods.

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

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

10 (b) then towards payment of any VAT that is
11 payable in respect of the supply or import duty in
12 respect of the import of the goods;

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

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

17 (9) If the proceeds of disposal are less than the sum
18 of the cost of taking, keeping, and selling the goods
19 seized and the VAT or import duty due, the CEO or
20 authorized officer may proceed under this chapter to
21 recover the excess.

22 (10) The costs of taking, keeping, and selling the
23 seized goods is treated as if they were tax payable by
24 the person whose goods have been seized as taxpayer for
25 the purposes of this subchapter and section 871 of this

1 title.”

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

5 “Section 846. CEO may require security.

6 The CEO may, for the purposes of securing payment of any
7 tax that is or will become due, require a taxpayer to
8 give security in such amount and in such manner as the
9 CEO thinks fit.”

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

13 “Section 847. Taxpayer leaving the FSM.

14 (1) If the CEO has reasonable grounds to believe that
15 a taxpayer may leave the FSM before the due date for
16 payment of any tax and the taxpayer has not made an
17 arrangement satisfactory to the CEO for payment of the
18 tax, the tax is due on such date as specified by the CEO
19 by notice in writing to the taxpayer.

20 (2) If the CEO has reasonable grounds to believe that
21 a taxpayer may leave the FSM without paying tax due, the
22 CEO may issue a certificate containing those grounds and
23 the particulars of the tax due to the FSM Department of
24 Justice and requesting the prevention of the taxpayer
25 from leaving the FSM until the taxpayer:

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

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

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

7 (4) Payment of the tax specified in the certificate to
8 a customs or immigration officer or the production of a
9 certificate signed by the CEO stating that the tax has
10 been paid or satisfactory arrangements for payment have
11 been made is sufficient authority for allowing the
12 taxpayer to leave the FSM."

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

16 "Section 848. Temporary closure of business.

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

25 (2) If a taxpayer fails to comply with a notice under

1 subsection (1) of this section, the CEO or authorized
2 officer may issue an order to close down part or the
3 whole of the business of that person for a period not
4 exceeding 14 days.

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

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

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

25 Section 31. Title 54 of the Code of the Federated States of

1 Micronesia is hereby further amended by adding a new subchapter VI
2 to chapter 8 to be entitled "Levy and Execution".

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

6 "Section 851. Tax as lien on property.

7 (1) If any taxpayer neglects or refuses to pay, or
8 withhold and pay, or collect and pay any tax that is due
9 after assessment or demand for payment as provided in
10 this title, the amount of the tax shall be a lien in
11 favor of the Authority on all the property of that
12 taxpayer as allowed hereunder.

13 (2) The lien imposed by subsection (1) of this section
14 shall arise at the time that the assessment or demand
15 has been made as provided in this chapter, and shall
16 continue until the liability for payment of the amount
17 assessed or demanded is satisfied or extinguished.

18 (3) As against any mortgagee, pledgee, purchaser,
19 judgment creditor, lienor or other encumbrance for
20 value, the lien imposed by subsection (1) of this
21 section shall not be considered to have arisen or have
22 any effect whatever unless notice of the lien has been
23 filed. Against all subsequently arising interests, the
24 lien shall have priority.

25 (4) The notice of lien must be filed in the Supreme

1 Court of the State in which the property is located and
2 a copy thereof sent by certified or registered mail to
3 the taxpayer not less than 45 days after the assessment
4 or demand for payment as provided in this title. The
5 notice of lien:

6 (a) shall identify the taxpayer whose liability
7 for taxes is sought to be enforced, the type or nature
8 of the tax, the amount of the tax due on the date that
9 the notice is filed plus any penalty or interest that
10 may be chargeable, the date or approximate date on which
11 the tax became due, and the date on which the assessment
12 or demand for payment was delivered or mailed; and

13 (b) shall state:

14 (i) that the Authority claims a lien for the
15 entire amount of tax asserted to be due, including
16 applicable interest and penalties, and including any
17 additional amounts that may become due after the notice
18 is filed; and

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

22 (5) Notwithstanding any other provision of this
23 chapter, the following described property shall be
24 exempt from the taking of liens and subsequent
25 attachment and execution as imposed under this chapter:

1 (a) *personal and household goods*. All necessary
2 household furniture, cooking and eating utensils, and
3 all necessary wearing apparel, bedding, and provisions
4 for household use sufficient for four months;

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

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

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

24 "Section 852. Warrant for collection of tax;
25 issuance; effect; levy and sale.

1 (1) If, within thirty (30) day's time following filing
2 of the notice of lien pursuant to section 851 of this
3 title, the delinquent taxpayer fails or refuses to pay
4 all sums secured by the same, or to enter into other
5 arrangements for the payment of the same, as provided in
6 this title, the Authority may issue a tax warrant for
7 the enforcement of such lien and for the collection of
8 any tax secured by the lien. Upon issuing the tax
9 warrant, any property of the delinquent taxpayer, except
10 as provided in section 851(5) of this title, may be
11 levied and converted to money in accordance with this
12 chapter.

13 (2) A levy shall be executed by taking possession of
14 the taxpayer's property pursuant to authority contained
15 in the tax warrant or by serving the warrant upon the
16 taxpayer, upon any other person in possession of
17 property of the taxpayer, or upon any person or
18 depository, including any officer or employee of any
19 governmental entity, subdivision or agency, who owes or
20 who will owe money to the taxpayer, who is holding funds
21 of the taxpayer, and ordering him to reveal the extent
22 thereof and surrender it to the state forthwith or agree
23 to surrender it or the proceeds therefrom in the future,
24 but, in any case, on the terms and conditions stated in
25 the tax warrant.

1 (3) The tax warrant shall be directed to and executed
2 by the Department of Justice of the Federated States of
3 Micronesia, or, to the extent required by State law, by
4 the Attorney General of the State in which the property
5 may be located. Except as provided otherwise by this
6 title, the tax warrant shall be levied and the sale or
7 other disposal made in the same manner and with the same
8 effect as a levy and sale under a writ of execution.

9 (4) A tax warrant shall:

10 (a) bear on its face a statement of the authority
11 for its issuance and service, compel compliance with its
12 terms, and shall be attested to, under oath, by the CEO;

13 (b) identify the taxpayer whose liability for
14 taxes is sought to be enforced, the amount thereof, and
15 the date or approximate date on which the tax became
16 due;

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

20 (d) order the person on whom it is served to
21 reveal all property in his possession, custody or
22 control that belongs to the taxpayer and the extent of
23 his own interest therein; and to reveal the amount and
24 kind of property of the taxpayer that, to the best of
25 his knowledge, is in the possession, custody or control

1 of others;

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

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

10 (5) Whenever any property upon which levy has been
11 made by virtue of a tax warrant is not sufficient to
12 satisfy the claim for which levy is made, the CEO,
13 thereafter, and as often as may be necessary, may
14 proceed to levy in like manner upon any other property
15 of the taxpayer against whom the claim exists, until the
16 amount due from the taxpayer is fully paid.

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

20 "Section 853. Surrender of property subject to levy;
21 penalty and notice.

22 (1) Upon receipt of a tax warrant issued pursuant to
23 section 852 of this title, any person in possession or
24 control of property subject to levy under a tax warrant
25 shall immediately surrender the property or discharge

1 the obligation to the CEO; PROVIDED, HOWEVER, that the
2 property or part of the property, that is already the
3 subject of a bona fide attachment, execution, levy or
4 other similar process need not be surrendered.

5 (2) Any person who receives a tax warrant and
6 wrongfully fails or refuses to comply therewith shall be
7 liable in his own person and estate to the Authority in
8 a sum equal to the value of the property not so
9 surrendered or paid over, but not exceeding the amount
10 of the taxes for the collection of which such levy has
11 been made, together with penalties and interest on such
12 sum from the date of such levy, plus the costs of
13 executing the warrant.

14 (3) As soon as practicable after the levy, the CEO
15 shall notify the taxpayer of the amount and kind of
16 property seized and of the total amount demanded in
17 payment of tax."

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

21 "Section 854. Notice of sale; redemption.

22 (1) As soon as practicable after the levy and seizure
23 of the property pursuant to section 852 of this title,
24 the CEO shall decide on a date, time and place for the
25 sale of any property, excepting cash or liquid deposits,

1 which may be immediately applied pursuant to section 856
2 of this title, and shall make a diligent inquiry as to
3 the identity and whereabouts of the owner of the
4 property and persons having an interest therein, and
5 shall notify the owner and such persons of the time and
6 place for the sale.

7 (2) Notice of the sale must be given to the delinquent
8 taxpayer, in writing, at least thirty (30) days before
9 the date set for the sale. Such notice shall contain a
10 description of the property to be sold, a statement of
11 the amount due, including interest, penalties and costs,
12 the name of the delinquent taxpayer, and a statement
13 that, unless the amount due plus interest, penalties and
14 costs are paid on or before the time fixed in the notice
15 for the sale, the property, or so much of it as is
16 necessary, will be sold in accordance with law and the
17 notice.

18 (3) No sale of imperishable property shall be held
19 until after the expiration of thirty (30) days from the
20 date of the levy thereon; PROVIDED, HOWEVER, that
21 perishable property may be sold immediately after
22 seizure without notice of the sale. The CEO shall make
23 special efforts pursuant to rules and regulations to
24 give notice of the sale to persons with a particular
25 interest in special property, and, apart from the

1 requirements stated above, shall advertise the sale in a
2 manner appropriate to the kind of property to be sold.

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

8 (5) The levy and sale shall not be made, or the levy
9 and sale shall be terminated and released if the
10 taxpayer pays the entire amount due, furnishes security,
11 or makes other arrangements for payment that are
12 acceptable to the CEO as provided in this title. Upon
13 making such payment or arrangements the CEO shall
14 restore the property to the taxpayer, and all further
15 proceedings in connection with the levy and sale of the
16 property shall cease from the time of the payment or
17 signing of an agreement with the Authority."

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

21 "Section 855. Sale; delivery of bill of sale;
22 disposition of unsold portion.

23 (1) Except as provided in subsection (4) of this
24 section, the Authority shall sell the property,
25 excluding cash and liquid deposits, at a public auction

1 and in accordance with the notice of sale, and shall
2 deliver to the purchaser a bill of sale for the property
3 sold.

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

8 (3) The unsold portion of any property seized may be
9 left at the place of sale at the risk and cost of the
10 delinquent taxpayer.

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

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

24 "Section 856. Proceeds of levy and sale.

25 (1) Money realized by levy or sale under this title

1 shall be first applied against the expenses of the
2 proceedings;

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

6 (3) Except as provided in subsection (4) of this
7 section, the balance, if any, shall be returned to the
8 taxpayer or the person legally entitled thereto and a
9 receipt obtained;

10 (4) If, before the sale, any person having an interest
11 in or lien upon the property files with the Authority
12 notice of his interest or lien, the Authority shall
13 withhold any excess, pending a determination of the
14 rights of the respective parties to it by a Court of
15 competent jurisdiction."

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

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

23 "Section 861. Accounts and records.

24 (1) Every taxpayer must, for the purposes of a revenue
25 law, maintain in the FSM such accounts, documents, and

1 records (including in electronic form) as may be
2 required under the revenue law and such accounts,
3 documents, and records must be retained by the taxpayer
4 for six years after the end of the tax period to which
5 they relate.

6 (2) If any accounts, documents, or records referred to
7 in subsection (1) of this section are not in English,
8 the CEO may, by notice in writing, require the person
9 keeping the accounts, documents, or records to provide,
10 at the person's expense, a translation into English by a
11 translator approved by the CEO."

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

15 "Section 862. Power to enter and search.

16 (1) For the purposes of administering a revenue law,
17 the CEO or a revenue officer authorized by the CEO, in
18 writing, for the purposes of this section:

19 (a) must have, upon presentation of a warrant
20 issued by a court of competent jurisdiction, full and
21 free access to any premises, place, property, book,
22 record, or data storage device;

23 (b) may, upon presentation of a warrant issued by
24 a court of competent jurisdiction, make an extract or
25 copy of any accounts, documents, books, or records

1 (including in electronic form) to which access is
2 obtained under paragraph (a) of this subsection;

3 (c) may, upon presentation of a warrant issued by
4 a court of competent jurisdiction, seize any accounts,
5 documents, books, or records that, in the opinion of the
6 CEO or authorized officer, afford evidence that may be
7 material in determining the tax liability of a taxpayer;

8 (d) may retain any accounts, documents, books, or
9 records seized under paragraph (c) of this subsection
10 for as long as they may be required for determining a
11 taxpayer's tax liability or for any proceeding under a
12 revenue law; and

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

17 (2) A revenue officer is not entitled to enter or
18 remain on any premises or place if, upon request by the
19 owner or lawful occupier, the officer is unable to
20 produce the CEO's written authorization permitting the
21 officer to exercise powers under subsection (1) of this
22 section.

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

1 (4) Upon presentation by the CEO or authorized officer
2 of a warrant issued by a court of competent
3 jurisdiction, the owner or lawful occupier of the
4 premises or place to which an exercise of power under
5 subsection (1) of this section relates must provide all
6 reasonable facilities and assistance to the CEO or
7 authorized officer.

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

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

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

22 (8) This section has effect notwithstanding:

23 (a) any law relating to privilege or the public
24 interest with respect to the giving of information or
25 the production of any property, accounts, documents,

1 books, or records (including in electronic form); or

2 (b) any contractual duty of confidentiality.”

3 Section 41. Title 54 of the Code of the Federated States of
4 Micronesia is hereby amended by adding a new section 863 to
5 subchapter VII of chapter 8 to read as follows:

6 “Section 863. Administrative summons.

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

9 (a) to furnish such information as the CEO may
10 require;

11 (b) to attend and give evidence concerning that
12 person’s or any other person’s tax affairs; or

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

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

23 (3) A notice issued under this section must be served
24 personally upon the person to whom it is directed or
25 left at the person’s last known usual place of business

1 or abode and the certificate of service signed by the
2 person serving the notice is conclusive evidence of the
3 facts stated therein.

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

8 (5) This section has effect notwithstanding:

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

13 (b) any contractual duty of confidentiality.”

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

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

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

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

24 (b) the amount of tax payable by the 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 and
7 following tax periods if there are reasonable grounds
8 for the audits, particularly having regard to the
9 matters referred to in subsection (1) of this section.

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

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

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

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

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

23 (a) in the prescribed form;

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

1 (c) lodged in the prescribed manner.

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

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

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

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

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

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

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

24 Section 44. Title 54 of the Code of the Federated States of
25 Micronesia is hereby amended by adding a new section 866 to

1 subchapter VII of chapter 8 to read as follows:

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

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

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

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

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

15 (c) if the person has already been issued with a
16 Taxpayer Identification Number that is still in force;

17 or

18 (d) for any other reason the CEO considers
19 appropriate.

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

24 Section 45. Title 54 of the Code of the Federated States of
25 Micronesia is hereby amended by adding a new section 867 to

1 subchapter VII of chapter 8 to read as follows:

2 "Section 867. Quotation of Taxpayer Identification
3 Number.

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

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

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

14 "Section 871. Liabilities and obligations of
15 representatives.

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

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

24 (3) Subject to subsection (4) of this section, any tax
25 that, by virtue of subsection (1) of this section, is

1 payable by a representative of a taxpayer is recoverable
2 from the representative only to the extent of any assets
3 of the taxpayer that are in the possession or under the
4 control of the representative.

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

14 (5) Nothing in subsection (3) of this section prevents
15 a representative paying an amount on behalf of a
16 taxpayer that has priority over the revenue payable by
17 the taxpayer.

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

22 (7) Nothing in this section relieves a taxpayer from
23 performing any duties or obligations imposed on the
24 taxpayer under a revenue law that the representative of
25 the taxpayer has failed to perform.

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

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

9 "Section 872. Liability for tax payable by a company
10 left with insufficient assets.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Section 49. Title 54 of the Code of the Federated States of

1 Micronesia is hereby further amended by adding a new subchapter IX
2 to chapter 8 to be entitled "Rulings".

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

6 "Section 881. Binding public rulings.

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

10 (2) A public ruling made in accordance with section
11 882 of this title is binding on the CEO until withdrawn.

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

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

16 "Section 882. Making a public ruling.

17 (1) The CEO shall print and maintain a gazette or
18 other publication of public rulings to be made available
19 free of charge to the public. The CEO shall make a
20 public ruling by publishing a notice of the ruling in
21 such gazette.

22 (2) A public ruling must state that it is a public
23 ruling and have a number and subject heading by which it
24 can be identified.

25 (3) A public ruling applies from the date specified in

1 the ruling and if no date is specified, from the date of
2 publication in the gazette identified in subsection (1)
3 of this section."

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

7 "Section 883. Withdrawal of a public ruling.

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

11 (2) If legislation is passed, or the CEO makes another
12 public ruling, that is inconsistent with an existing
13 public ruling, the existing ruling is treated as
14 withdrawn to the extent of the inconsistency.

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

17 (a) if subsection (1) of this section applies,
18 from the date specified in the notice of withdrawal and
19 if no date is specified, from the date notice of the
20 withdrawal is published in the gazette; or

21 (b) if subsection (2) of this section applies,
22 from the date of application of the inconsistent
23 legislation or public ruling.

24 (4) A public ruling that has been withdrawn in whole
25 or in part:

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

3 (b) does not apply to a transaction commenced
4 after the ruling was withdrawn to the extent that the
5 ruling is withdrawn."

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

9 "Section 884. Binding private rulings.

10 (1) Subject to section 885 of this title, the CEO
11 shall, upon application in writing by a taxpayer, issue
12 to the taxpayer a private ruling setting out the CEO's
13 position regarding the application of a revenue law to a
14 transaction entered into, or proposed to be entered
15 into, by the taxpayer.

16 (2) If the taxpayer has made a full and true
17 disclosure of all aspects of the transaction relevant to
18 the making of a private ruling and the transaction has
19 proceeded in all material respects as described in the
20 taxpayer's application for the ruling, the ruling is
21 binding on the CEO in relation to the taxpayer.

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

24 (4) If a private ruling is inconsistent with an
25 existing public ruling, the private ruling has priority

1 to the extent of the inconsistency.”

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

5 “Section 885. Refusing an application for a private
6 ruling.

7 (1) The CEO may refuse an application for a private
8 ruling if:

9 (a) the CEO has already decided the matter that
10 is the subject of the application in a tax assessment;

11 (b) the CEO is of the opinion that an existing
12 public ruling adequately covers the matter that is the
13 subject of the application;

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

16 (d) the application is frivolous or vexatious;

17 (e) the arrangement to which the application
18 relates has not been carried out and there are
19 reasonable grounds to believe that it will not be
20 carried out;

21 (f) the applicant has not provided the CEO with
22 sufficient information to make a private ruling; or

23 (g) in the opinion of the CEO, it would be
24 unreasonable to comply with the application having
25 regard to the resources needed to comply and any other

1 matters the CEO considers relevant, such as disadvantage
2 to other taxpayers.

3 (2) The CEO shall serve the applicant with a written
4 notice of the refusal to make a private ruling."

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

8 "Section 886. Making a private ruling.

9 (1) The CEO must make a private ruling unless section
10 885 of this title applies.

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

13 (3) The CEO may make a private ruling on the basis of
14 assumptions about a future event or other matter as
15 considered appropriate.

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

18 (a) the taxpayer;

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

20 (c) the tax period to which the ruling applies;

21 (d) the arrangement to which the ruling relates;

22 and

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

24 (5) A private ruling is made at the time the applicant
25 is served with notice of the ruling and remains in force

1 for the period specified in the ruling.

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

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

7 "Section 887. Withdrawal of a private ruling.

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

11 (2) If legislation is passed, or the CEO publishes a
12 public ruling, that is inconsistent with a private
13 ruling, the private ruling is treated as withdrawn to
14 the extent of the inconsistency.

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

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

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

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

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

25 (b) does not apply to a transaction commenced

1 after the ruling was withdrawn to the extent that the
2 ruling is withdrawn.

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

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

8 "Section 888. Publication of private rulings.

9 The CEO shall include in the gazette or other
10 publication referred to in section 882(1) of this title
11 an edited version of a binding private ruling issued to
12 a taxpayer. The edited version must not disclose the
13 identity of the taxpayer."

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

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

21 "Section 891. Late payment interest.

22 (1) A person who fails to pay any tax due on or before
23 the due date for payment is liable for late payment
24 interest at the rate of six percent per annum on the
25 amount unpaid calculated from the date the payment was

1 due to the date the payment is made.

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

6 (3) Late payment interest payable by a person is borne
7 personally by the person and is not recoverable from any
8 other person:

9 (a) in respect of tax withheld by the person
10 under chapter 1 or 5 of this title from a payment made
11 by the person; or

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

15 (4) Late payment interest payable under this section
16 is simple interest.

17 (5) Late payment interest payable under this section
18 is treated as tax payable by a taxpayer for the purposes
19 of subchapter V of this chapter and sections 871 of this
20 title.

21 (6) Late payment interest payable under this section
22 is in addition to any penalty imposed under this
23 subchapter or any fine or imprisonment imposed under
24 subchapter XI of this chapter in respect of the same act
25 or omission."

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

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

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

9 (a) in the case of a failure to file a tax return
10 under which tax is payable, for a penalty of one percent
11 (1%) of the amount of tax payable under the return for
12 each month or part of a month that the return remains
13 unfiled; or

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

16 (2) A taxpayer served with a notice of assessment by
17 the CEO under section 822 of this title is liable for a
18 penalty of twenty five percent (25%) of the tax assessed
19 (taking into account any subsequent amendment of the
20 assessment) in addition to the penalty imposed under
21 subsection (1)(a) of this section.

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

25 Section 61. Title 54 of the Code of the Federated States of

1 Micronesia is hereby amended by adding a new section 893 to
2 subchapter X of chapter 8 to read as follows:

3 "Section 893. Penalty for failure to pay tax by due
4 date.

5 (1) A taxpayer who fails to pay a tax when due is
6 liable for a penalty equal to 10 percent of the amount
7 of tax due for each month, or part of a month, that the
8 tax remains unpaid subject to a maximum penalty of 100
9 percent of the unpaid tax.

10 (2) The penalty imposed under subsection (1) of this
11 section is in addition to interest payable under section
12 891 of this title for late payment of tax. The ceiling
13 on the amount of penalty payable under subsection (1) of
14 this section does not apply to or take into account
15 interest payable under section 891 of this title.

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

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

21 "Section 894. Penalty for failure to maintain proper
22 records.

23 (1) A taxpayer who fails to maintain accounts,
24 documents, or records as required under a revenue law is
25 liable:

1 (a) if the failure was knowingly or recklessly
2 made, for a penalty equal to 50 percent of the amount of
3 tax payable by the taxpayer for the tax period to which
4 the failure relates; or

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

8 (2) Reserved."

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

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

14 (1) This section applies to a person:

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

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

25 (2) Subject to subsection (3) of this section, a

1 person to whom this section applies is liable:

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

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

7 (3) No penalty is payable under subsection (2) of this
8 section if:

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

13 (b) the tax shortfall arose as a result of a
14 self-assessment taxpayer taking a reasonably arguable
15 position on the application of a revenue law to the
16 taxpayer's circumstances in filing a self-assessment
17 return.

18 (4) Nothing in subsection (3) of this section prevents
19 the imposition of late payment interest under section
20 891 of this title in respect of a tax shortfall if the
21 tax is not paid by the due date.

22 (5) A reference in this section to a statement made to
23 a revenue officer means a statement made in writing or
24 orally to a revenue officer acting in the performance of
25 the officer's duties under a revenue law, and includes a

1 statement made:

2 (a) in any application, certificate, declaration,
3 notification, tax return, objection, or other document
4 furnished or lodged under a revenue law;

5 (b) in any information required to be furnished
6 under a revenue law;

7 (c) in any document furnished to a revenue
8 officer;

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

11 (e) to another person with the knowledge or
12 reasonable expectation that the statement would be
13 passed on to a revenue officer."

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

17 "Section 896. Collection of penalty.

18 (1) A liability for penalty is calculated separately
19 with respect to each section imposing a penalty under
20 this subchapter.

21 (2) If a penalty has been paid under this title and
22 the CEO institutes a prosecution under subchapter XI of
23 this chapter in respect of the same act or omission, the
24 CEO must refund the amount of the penalty paid, and no
25 penalty is payable unless the prosecution is withdrawn.

1 (3) The CEO must:

2 (a) make an assessment of penalty imposed under
3 this subchapter; and

4 (b) serve a notice of the assessment on the
5 person subject to the penalty, which notice must state
6 the amount of penalty payable and the due date for
7 payment.

8 (4) A person liable to pay a penalty may apply, in
9 writing, to the CEO for remission of the penalty
10 payable.

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

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

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

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

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

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

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

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

6 “Section 902. Offense for failure to comply with
7 obligations under this chapter.

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

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

10 (i) comply with section 843 of this title;

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

13 (iii) provide security as required under
14 section 846 of this title;

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

17 (v) comply with a notice under section 863
18 of this title; or

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

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

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

3 Section 68. Title 54 of the Code of the Federated States of
4 Micronesia is hereby amended by adding a new section 903 to
5 subchapter XI of chapter 8 to read as follows:

6 "Section 903. Offense for failure to maintain proper
7 records.

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

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

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

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

24 "Section 904. Offenses for improper use of Taxpayer
25 Identification Number.

1 (1) A person who uses a false Taxpayer Identification
2 Number on any tax return or document prescribed or used
3 for the purposes of a revenue law is guilty of an
4 offense.

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

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

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

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

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

25 "Section 905. Offense for making false or misleading

1 statement.

2 (1) A person is guilty of an offense if the person
3 knowingly or recklessly:

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

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

9 (2) *Penalty.* A person convicted of an offense under
10 this section shall be subject to a fine not exceeding
11 fifty thousand dollars (\$50,000), or, if a natural
12 person, imprisoned for not more than one year, 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 the
22 performance of duties under any revenue law is guilty of
23 an offense.

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

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

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

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

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

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

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

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

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

24 (b) before, or at, or after, any seizure of goods
25 under section 845 of this title or proceedings under

1 subchapter VI of this chapter, staves, breaks or
2 destroys any goods, or documents relating to any goods,
3 to prevent:

4 (i) the seizure or the securing of the
5 goods; or

6 (ii) the proof of an offence; or

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

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

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

17 "Section 909. Offenses by revenue officers.

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

25 (2) *Penalty.* A person convicted of an offense under

1 subsection (1) of this section shall be subject to a
2 fine not exceeding fifty thousand dollars (\$50,000), or
3 imprisoned for not more than one year, or both.

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

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

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

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

1 year, or both.

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

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

16 (9) For the purposes of this section, a revenue
17 officer includes any person employed or engaged by the
18 Authority in any capacity and includes a director or
19 former director of the Board, a member or former member
20 of a committee of the Board, a person invited to a Board
21 or committee meeting, or a former officer or employee of
22 the Authority."

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

1 "Section 910. Offenses by companies.

2 (1) If an offense under a revenue law is committed by
3 a company, the offense is treated as having been
4 committed by every person who, at the time the offense
5 was committed, was:

6 (a) the chief executive officer, public officer,
7 managing director, a director, company secretary, or
8 other similar officer of the company; or

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

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

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

14 (b) the person, having regard to the nature of
15 the person's functions and all the circumstances, has
16 exercised reasonable diligence to prevent the commission
17 of the offense."

18 Section 76. Title 54 of the Code of the Federated States of
19 Micronesia is hereby amended by adding a new section 911 to
20 subchapter XI of chapter 8 to read as follows:

21 "Section 911. Failure to comply with a Court Order.

22 Upon conviction of a person of an offense under this
23 subchapter, and the failure of the person to comply with
24 a court order, the person shall be subject to the
25 provisions and penalties of section 119 of title 4 of

1 this code."

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

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

8 "Section 921. Forms and notices; authentication of
9 documents.

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

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

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

25 Section 79. Title 54 of the Code of the Federated States of

1 Micronesia is hereby amended by adding a new section 922 to
2 subchapter XII of chapter 8 to read as follows:

3 "Section 922. Manner of lodging documents.

4 Except as provided in section 924 of this title, a tax
5 return, application, notice, or other document to be
6 filed with the CEO under the revenue law must be
7 delivered by personal delivery or registered post to an
8 office of the Authority."

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

12 "Section 923. Service of notices.

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

18 (a) personally served on the person;

19 (b) left at the person's usual or last known
20 place of abode or business in the FSM; or

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

23 (2) If a notice or other document is served by
24 registered post, service is, in the absence of proof to
25 the contrary, deemed to have been effected at the time

1 at which the notice or other document would be delivered
2 in the ordinary course of post, and in proving such
3 service it is sufficient to prove that the envelope
4 containing the notice or other document was properly
5 addressed and was posted.

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

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

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

18 Section 81. Title 54 of the Code of the Federated States of
19 Micronesia is hereby amended by adding a new section 924 to
20 subchapter XII of chapter 8 to read as follows:

21 "Section 924. Electronic returns and notices.

22 (1) The CEO may establish and operate a procedure
23 (referred to as the "electronic notice system") for
24 electronic filing of tax returns or other documents to
25 the CEO and electronic service of notices and other

1 documents by the CEO and, for this purpose, the CEO may
2 provide written conditions for:

3 (a) the registration of taxpayers to participate
4 in the electronic notice system (referred to as
5 "registered users");

6 (b) the issuing and cancellation of
7 authentication codes to registered users;

8 (c) the tax returns and other documents that may
9 be transmitted through the electronic notice system,
10 including the form and manner in which they are to be
11 transmitted;

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

14 (e) the use of the electronic notice system,
15 including the procedure applicable if there is a
16 breakdown or interruption in the system;

17 (f) the use in any electronic transmission of
18 symbols, codes, abbreviations, or other notations to
19 represent any particulars or information required under
20 a revenue law; and

21 (g) any other matters for the better provision of
22 the electronic notice system.

23 (2) A registered user may, in accordance with the
24 conditions set by the CEO under subsection (1) of this
25 section, file a tax return or other document to the

1 computer account of the CEO.

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

6 (4) If a tax return or other document of a registered
7 user has been transmitted to the computer account of the
8 CEO using the authentication code assigned to the
9 registered user either with or without the authority of
10 the registered user, and before the registered user has
11 applied to the CEO for cancellation of the
12 authentication code, the return or other document is,
13 for the purposes of the revenue law under which it has
14 been filed, presumed to be filed by the registered user
15 unless the registered user proves to the contrary.

16 (5) For the purposes of a revenue law, an electronic
17 tax return, notice, or other document, or a copy
18 thereof, shall not be ruled inadmissible in evidence
19 merely on the basis that it was filed or served without
20 the filing or delivery of any equivalent document or
21 counterpart in paper form.

22 (6) If an electronic tax return, notice, or other
23 document is admissible under subsection (5) of this
24 section, it is presumed that, until the contrary is
25 proved, the contents of the electronic return, notice,

1 or other document have been accurately transmitted.

2 (7) Section 826 shall apply to:

3 (a) an electronic tax assessment served by the
4 CEO on the basis that the reference in section 826(1)(b)
5 of this title to a copy of a notice of a tax assessment
6 includes a certificate under the hand of the CEO
7 identifying the tax assessment, and stating the
8 authentication code of the registered user and the
9 device involved in the production and transmission of
10 the electronic tax assessment; and

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

19 (8) A person furnishing an electronic tax return or
20 other document on behalf of another person must not
21 divulge or disclose the contents of the return or
22 document, or a copy thereof, without the prior written
23 consent of the CEO.

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

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

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

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

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

11 (a) filing a tax return, application, notice, or other
12 document;

13 (b) the payment of tax; or

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

15 (2) Reserved."

16 Section 83. Title 54 of the Code of the Federated States of
17 Micronesia is hereby further amended by adding a new subchapter
18 XIII to chapter 8 to be entitled "Final Provisions".

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

22 "Section 931. Regulations.

23 (1) The Secretary shall, subject to approval of the
24 President, prescribe and have printed reasonable
25 regulations for the enforcement of this chapter and such

1 regulations shall have the force and effect of law if
2 they are not in conflict with the express provisions of
3 this chapter or other laws of the FSM.

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

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

9 "Section 932. Transition.

10 (1) Subject to this section, this chapter applies to
11 any act or omission occurring, or any taxation
12 assessment made, before this chapter came into force.

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

16 (3) If the period for any application, appeal, or
17 prosecution had expired before this chapter came into
18 force, nothing in this chapter shall be construed as
19 enabling the application, appeal, or prosecution to be
20 made under this chapter by reason only of the fact that
21 a longer period is specified in this chapter.

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

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

4 "Section 933. Commencement of administration.
5 Administration of this Act shall commence on the
6 commencement of administration date of the Unified
7 Revenue Authority act as determined by section 769 of
8 this title."

9 Section 87. Title 54 of the Code of the Federated States of
10 Micronesia is hereby amended by adding a new section 934 to
11 subchapter XIII of chapter 8 to read as follows:

12 "Section 934. If any of the four states of the
13 Federated States of Micronesia have not passed into law
14 value added tax legislation as of midnight April 19,
15 2013, this act is null and void."

16
17 Section 88. This act shall become law upon approval by the
18 President of the Federated States of Micronesia or upon its
19 becoming law without such approval.

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23 May 01 _____, 2012

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/s/ Manny Mori

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Manny Mori

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President

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Federated States of Micronesia

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